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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 1/91; Case No. 9999
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Title/Style of Cause: Manuel Antonio Alfaro Carmona v. El Salvador
Doc. Type: Report
Decided by: Chairman: Patrick L. Robinson;
First Vice Chairman: Marco Tulio Bruni Celli;
Second Vice Chairman: Oscar Lujan Fappiano;
Members: Gilda M.C.M. de Russomano; Oliver Jackman; Leo Valladares
Lanza; Michael Reisman
Dated: 13 February 1991
Citation: Alfaro Carmona v. El Sal., Case 9999, Inter-Am. C.H.R., Report No. 1/91,
OEA/Ser.L/V/II.79, doc. 12 rev. 1 (1990-1991)

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HAVING SEEN:

1. The denunciation received on June 7, 1988, which reads, "Manuel Antonio Alfaro Carmona, 15 years of age, single, student, captured on November 7, 1986, at 12 o'clock, in his residence at Colonia Quinto No. 2, Pasaje Nejapa, House No. 16. Captors were soldiers of the First Infantry Brigade. The victim was seen in a Treasury Police car and at the headquarters of that agency in San Salvador. Whereabouts still unknown." and transmitted to the Government of El Salvador in a request for information.

2. The response from the Government of El Salvador, including a report from the Human Rights Committee (governmental), transmitted to the claimant on November 28, 1988, which reads:

Case 9999. Manuel Antonio Alfaro Carmona. The CDH has filed the denunciation under reference 1952-86, according to which this person was apprehended on November 7, 1986, at approximately 1:00 a.m. in his residence located on Colonia Qhintu No. 2, Pasaje Nejapa, House No. 16, Access N., Apopa, by a group of heavily armed subjects wearing olive green uniforms, who took him to some unknown place. The young man, Alfaro Carmona, was 16 years of age, single, a masonry helper. This Commission conducted search procedures but has not been able to obtain any positive results regarding his location to this time.

3. The additional information and observations from the complainant to the response from the government, according to which:

Manuel Antonio Alfaro Carmona, 15 years of age, student, was captured on November 7, 1986, at 1:30 a.m., in his residence at Colonia Chintu N 2, in Apopa, department of El Salvador. According to sworn testimony from his mother, Rosaelina Alfaro Hernandez, given at our offices on April 30, 1987, the capture was carried out by uniformed soldiers who identified themselves as elements of the First Infantry

Brigade of the Armed Force, and they took him in a military truck to some unknown place.

In January 1987, Mrs. Alfaro Hernandez saw her son in the custody of soldiers of the First Infantry Brigade as they were conducting an unannounced search in the neighborhood. Even though his face was covered with a handkerchief, both she and other neighbors recognized him. Some 15 days later, the sister of Alfaro Carmona saw him in a Cherokee vehicle, followed by a Treasury Police truck. On April 18, 1987, a man told the sister that he had seen Alfaro Carmona at the central head-quarters of the Treasury Police. This testimony agrees with that of other witnesses in the related cases of Jose Walter Chavez Palacios (Case 10.001) and Wilfredo Najarro Vivas (Case 10.000). Nevertheless, the Treasury Police, as well as the First Infantry Brigade, have denied that they are holding the young man. To this time his whereabouts are unknown.

Even though it has information indicating clearly that the First Infantry Brigade and the Treasury Police are responsible for the event, the Government of El Salvador has not taken worthwhile steps to ascertain the whereabouts of the young man. In its response to this case, the government only says that "this Commission conducted search procedures but has not been able to obtain positive results regarding his location to this time." It does not specify what efforts it made.

We believe that it is important to view the lack of action by the government in this case within the framework of the cases of more than 7,000 disappeared Salvadorans over the nine year course of the war. The lack of protection of rights set out in the American Convention, specifically in Articles 4, 5, 6, 7, and 8, and the failure to bring to justice the elements of the armed force and security forces indicated as the perpetrators of these crimes, have created an environment in which the permanent practice of the vile crime of disappearance can grow; accordingly, we believe that the Government of El Salvador is clearly violating its obligations under Article 1 of the American Convention, as well as the other articles mentioned above.

In view of this, we request the Inter-American Commission on Human Rights to continue its investigation of this case and to condemn the Government of El Salvador owing to its culpability in this event.

4. That on May 11, 1990, the Governmental Human Rights Commission of El Salvador advised that:

This office, has registered under Reference Number 1542-Ac-86, attempts to determine the whereabouts of the youth, Miguel Antonio Alfaro Carmona, 16 years of age, single, mason's helper, resident of Colonia Chintuc, No. 2, of Apopa, who, on November 7, 1986, at about one in the morning was apprehended by a group of uniformed subjects wearing olive green and heavily armed, who took him away to parts unknown. To date his whereabouts continue to be unknown in spite of all search efforts that have been conducted by the Security Corps.

5. That the Commission adopted a Report N 5/90 on this case at its 77th Regular Meeting which was sent to the Government of El Salvador as well as to the claimant to allow both to make their respective observations if they so wished, in a period of sixty days commencing on May 29, 1990, the date of mailing, indicating that if observations were not made, the Report would be published in the Commission's Annual Report to the General Assembly.

CONSIDERING:

1. That the name of the victim, place and date of his arrest, and the responsible parties who appear to have executed the event are sufficiently specified and thus the denunciation meets the formal requirements for admissibility.

2. That this matter, owing to its nature, is not susceptible to friendly solution.

3. That the statements made by the claimant indicate that the young man, Manuel Antonio Alfaro

Carmona, was detained by a large group of military personnel who identified themselves as members of the First Infantry Brigade, who was later seen in the hands of the Treasury Police, and since his detention on November 7, 1986, no information as to his whereabouts has been obtained.

4. That numerous efforts have been made to find the affected party, without any of these efforts having produced positive results.

5. That the response from the Human Rights Commission (governmental) of El Salvador confines itself to stating that the young man Alfaro Carmona is not detained, but does not indicate what efforts have been made to clarify the circumstances of such a notorious event such as the raid of houses at 12 o'clock in Colonia Chintu No. 2, by a large group of soldiers, for the purpose of proceeding to identify them and to ascertain the whereabouts of the detained person.

6. That it is the obligation of the Salvadoran state to investigate exhaustively such a serious denunciation as the arrest and later disappearance of a young man only 15 years of age for the purpose of protecting his liberty and personal integrity and his right to life.

7. That the insufficiency of the answer provided by the government to the Commission lends support to the truth of the denunciation by the claimant and demonstrates that it has not proceeded to investigate the denunciation made with the energy that this case requires.

8. That the Government of El Salvador has made no observation on the Report sent to it on May 29, 1990.

9. That the denounced act constitutes a violation of the rights to personal liberty, personal integrity and life, recognized by Article 7, 5 and 4, respectively, of the American Convention on Human Rights, as well as a failure of duty to guarantee free and full exercise of such rights as prescribed by Article 1.1 of the Convention, of which Salvador is a state party. That in the present case exists the brutal murder of which the presumed victim is a minor.

10. That the General Assembly of the Organization of American States declared in its resolution AG/RES. 666 (XIII-0/83) that the forced disappearance of persons is an affront to the conscience of the hemisphere and constitutes a crime against humanity.

In view of which,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To declare that the Government of El Salvador is responsible for the violation of the right to personal liberty and life of Manuel Antonio Alfaro Carmona, 15 years of age, by virtue of the acts of its agents who detained him at his domicile on November 7, 1986, since which time there has been no knowledge of his whereabouts, all of which constitutes a violation of Articles 4 and 7 of the American Convention on Human Rights, of which El Salvador is a state party.

2. To ask the Government to accept the jurisdiction of the Inter-American Court of Human Rights in the specific case referred to in this report.

3. To recommend to the Government of El Salvador that it undertake an exhaustive investigation into the events in order to clarify the circumstances, in particular the whereabouts of Manuel Antonio Alfaro Carmona, to identify those responsible, and to bring them to justice.

4. To publish this report in its annual report to the General Assembly in accordance with Article 18 e. of the Commission's Statute.