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Title/Style of Cause: Peter Anthony Byrne v. Panama
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Decided by: President: Evelio Fernandez Arevalos;
First Vice-President: Paulo Sergio Pinheiro;
Second Vice-President: Florentin Melendez;
Commissioners: Freddy Gutierrez, Paolo G. Carozza, Victor E. Abramovich.
Dated: 21 October 2006
Citation: Byrne v. Panama, Petition 4593-02, Inter-Am. C.H.R., Report No. 104/06,
OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
Represented by: APPLICANT: Edna Ramos Chue
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I. SUMMARY

1. On December 17, 2002, the Inter-American Commission on Human Rights (hereinafter “the Commission”) received a petition lodged by Edna Ramos Chue (hereinafter “the petitioner”) in which she alleged that the State of Panama (hereinafter “the State”) violated Articles 8 and 25 of the American Convention on Human Rights (hereinafter “the American Convention”) with respect to Peter Anthony Byrne.

2. The petitioners report that on July 30, 1999, Peter Anthony Byrne, a citizen of Ireland, murdered his friend Maxim Conroy, another Irish citizen, in Panama. The complaint states that several expert reports established that, at the time of the incident, Mr. Byrne was suffering an episode of acute paranoid psychosis. However, according to the petitioners, these reports were not properly assessed by the jury that convicted Mr. Byrne or by the Second Superior Court of the Judicial District that ruled the incident aggravated homicide and imposed a sentence of twenty years in prison. That decision was upheld by the Supreme Court, which ruled that Mr. Byrne was competent to stand trial for the crime. In addition, they claim that the right of defense was obstructed – an allegation that, if true, would constitute the violation of various procedural guarantees.

3. The State argues that Mr. Byrne’s procedural guarantees were upheld and that, because of his status as a foreigner, the greatest possible flexibility in the proceedings and in the evidence were allowed. In particular, the State says that the attorney-general’s office and the Supreme Court acted within their spheres of competence and with strict respect for sound reasoning in assessing the evidence, finding that there were contradictions between the expert reports, which meant it was impossible to establish Mr. Byrne’s competence to stand trial with certainty. It

further states that the attorney-general's office did not refuse to conduct evidentiary formalities on behalf of the accused and that the denial of some of the evidence was intended to protect the proceedings from potential delays. As regards the alleged harassment targeting the defense attorney, it is claimed that the petitioner acted unethically by contacting two of the witnesses by telephone, before the hearing, urging them to declare that Mr. Byrne suffered from mental problems. The State also accuses the petitioner of procedural bad faith in the handling of some of the evidence.

4. After examining the positions of the parties in accordance with the admissibility requirements set out in Article 46 of the American Convention, the Commission, in compliance with Article 47(b), decides to declare the case inadmissible because it fails to state facts that could tend to establish a violation of rights protected by this Convention. Consequently, the Commission decides to notify this decision to the parties, to publish this Report on Inadmissibility, and to include it in its Annual Report.

II. PROCESSING BY THE COMMISSION

A. Petition

5. The Commission received the original petition on December 17, 2002, and recorded it as No. P-4593/02. On June 17, 2003, the Commission asked the petitioner for information regarding the notification of the Supreme Court's final decision and regarding the judicial decisions reached during the criminal proceedings. On December 3, 2003, the Commission conveyed the petition to the Government of Panama, in compliance with Article 30(3) of its Rules of Procedure, and asked it to reply within the following two months. On February 27, 2004, the State submitted its reply to the complaint. On March 23, 2004, the Commission conveyed the Panamanian State's reply to the petitioner. On April 23, 2004, the Commission received comments from the petitioner relating to the State's reply. On April 28, 2004, the Commission forwarded those comments and the State gave its response to them in a written submission received on July 6, 2004. On January 9, 2006, the Commission asked the petitioner for information on Mr. Byrne's current situation, and the corresponding information was received on January 24, 2006.

B. Request for information and request for precautionary measures

6. On October 27, 2000, the Commission received information about Peter Byrne's situation during his first months in detention. Mr. Byrne had been held, since September 22, 2000, at the El Renacer detention center. After a psychological evaluation carried out separately by two physicians, it was recommended that, on account of his depressive state and suicide risk, Mr. Byrne be taken to a psychiatric hospital. For this reason, on November 30, 2000, the Commission asked the State to furnish information on the case. In December 2000 Mr. Byrne was transferred to the National Psychiatric Hospital.

7. On May 10, 2004, following Mr. Byrne's conviction, the petitioner lodged a request for precautionary measures whereby the Inter-American Commission would instruct the Panamanian Government to place Peter Anthony Byrne in a specialized mental health facility. When the

request was made, Mr. Byrne was still being held at the Panama City Psychiatric Hospital, as had been ordered by the Supreme Court in its judgment of May 22, 2002, in which it upheld the 20-year prison sentence imposed on Mr. Byrne. However, the Court ordered that for the first two years of his sentence, Mr. Byrne was to be kept at that hospital and that, at the end of that period, he would serve out his prison term at the “prison facility of the Republic of Panama deemed appropriate.” The request for precautionary measures was intended to prevent Mr. Byrne’s transfer to a prison unable to safeguard his mental integrity and various other rights.

8. Under the terms of the Strasbourg Convention on the Transfer of Sentenced Persons, Peter Byrne’s defense team requested his transfer to Ireland. He was duly transferred on June 19, 2004. Mr. Byrne is currently being held at Midlands Prison in Ireland and his family report that his detention conditions are reasonable. His medical treatment is ongoing, and he receives 10 mg of Olazpine (Zyprexa) per day.

III. POSITIONS OF THE PARTIES

A. Petitioners

9. The petitioners claim that on July 28, 1999, Mr. Peter Anthony Byrne, an Irish citizen with a Ph.D. in industrial mechanical engineering, arrived in Panama from the United States. In that country he had organized a meeting of the Board of the Society of Mechanical Engineers. According to witnesses, Peter Byrne behaved normally throughout the conference, except for the final day, when he said he was hearing voices and began to interpret everything he saw or heard in an exaggerated fashion.

10. Mr. Byrne went to Panama at the invitation of his childhood friend Maxim Conroy. According to the petitioners, upon arriving in Panama, Mr. Byrne began to give signs of an alteration in his thoughts and emotions. The petition states that Mr. Conroy had expressed an inclination to have Mr. Byrne hospitalized; he feared, however, that doing so would cause Mr. Byrne to lose his job as a university lecturer.

11. The petitioner states that on July 29, 1999, Mr. Byrne tried to leave the country but was unable to do so because he could not get the right tickets. On July 30, 1999, two days after arriving in Panama, the petitioners report that Mr. Byrne’s state was notably altered, shouting that he was being followed and that people wanted to kill him. That night, Mr. Byrne murdered his friend Maxim Conroy by stabbing him 16 times, according to the petitioners, “in the conviction that Max was conspiring to kill him.” After doing so, Mr. Byrne bathed, changed his clothes, and tried to leave the building; he was, however, stopped by the doorman at the victim’s building and later detained by the authorities.

12. The petitioners claim that the psychiatric exams carried out by the Forensic Medical Institute of the Public Prosecution Service, at the request of the attorney-general’s office and the defense team, agreed that at the time of the incident, Mr. Byrne was undergoing an acute paranoid psychotic episode which, under Article 24 of the Criminal Code of Panama, is grounds for ineligibility for prosecution.[FN1] According to the petitioners, an acute paranoid psychotic episode is a kind of “temporary mental instability” that reduces or suppresses the victim’s ability

to understand the illegality of his behavior. They also note that they submitted as evidence information on Mr. Byrne's family history of schizophrenia.[FN2]

[FN1] The articles of the Panamanian Criminal Code that regulate liability for prosecution, its determination, and its effects are the following: "Article 23: For the accused to be declared guilty of an act described in law as punishable, he must be liable for prosecution. In the absence of evidence otherwise, the accused shall be assumed liable for prosecution. Article 24: A person, who, at the time the punishable act is committed, is unable to understand its illegality or to make decisions in accordance with such understanding, shall be not liable for prosecution on the grounds of mental instability. Article 25: Any person who, at the time of the action or failure to act, has incomplete possession of the ability to understand its illegal nature because of a serious mental disturbance shall be deemed to have acted with reduced liability for prosecution."

[FN2] The petitioner states that no attention was paid to the certificates indicating that Mr. Byrne's paternal aunt was hospitalized for one month for endogenous depression, that a maternal uncle (his mother's uncle) was interned for three years because of paranoid hallucinations of a religious nature, and that one of his paternal great-uncles committed suicide. See: Challenge to the appeal against the decision establishing Mr. Byrne's ineligibility for prosecution, p. 14.

13. Mr. Byrne was held for approximately four months and, after several requests, was admitted to Panama City's Hospital América to receive medical treatment. Later, he was detained in an apartment rented by his family. On February 24, 2000, in assessing the committal proceedings, the Second Superior Court of the First Judicial District ordered a definitive dismissal in Peter Byrne's favor. The imposition of curative security measures was ordered, and he was ruled ineligible for prosecution.

14. The Second Superior Prosecutor of the First Judicial District filed an appeal against that decision and the Criminal Chamber of the Supreme Court overturned the decision on July 27, 2000. The Supreme Court determined that the mental stability had not been conclusively established and that there were contradictions between the reports submitted by the psychiatrists, on account of which it had to rule that he was criminally liable.[FN3] The order was then given for the commencement of criminal proceedings against Mr. Byrne, and for his immediate placement in preventive custody. On December 15, 2000, the Supreme Court ordered the transfer of the alleged victim to the National Psychiatric Hospital. On August 13, 2001, a jury declared Mr. Peter Byrne guilty and, on November 23, 2001, the Second Superior Court of the Judicial District ruled that his actions constituted the crime of aggravated culpable homicide and consequently sentenced him to twenty years in prison. The Court determined that the crime was aggravated in that Mr. Byrne had committed murder for a "trivial reason." [FN4]

[FN3] The Supreme Court based its decision on the aforesaid Article 24 of the Criminal Code, which stipulates that "in the absence of evidence otherwise, the accused shall be assumed liable for prosecution."

[FN4] Under Article 132 of the Panamanian Criminal Code, a murder is deemed aggravated when it is committed for a trivial reason. Trivial reasons are those that, vis-à-vis the object of the

crime, are those of slight or no importance, such a person who kills because he dislikes the physical presence of his victim, or his victim's gait or laugh, etc.

15. In February 2002, an appeal was filed. The defense insisted that Mr. Byrne's mental instability was a reason that could not be classified as "trivial" and that it warranted, at the least, a conviction for simple homicide (punishable by a prison term of between five and ten years). In a ruling of May 22, 2002, the Second Criminal Chamber of the Supreme Court upheld the twenty-year prison term and ordered that he be held in the same hospital where he had been kept for two years. The Supreme Court again stated that there were contradictions in the expert statements regarding Mr. Byrne's possible mental instability, which meant it was unable to rule him ineligible for prosecution. For this reason, and because of the statements given by the witnesses who were in the building where the victim lived, it was decided that Mr. Byrne was aware of his actions and, consequently, the reason behind the incident had to be considered trivial. Thus, the ruling of May 22, 2002, upheld the conviction.

16. The petitioner maintains that the attorney-general's office refused to pursue evidence on behalf of the defense, such as reconstructing the narrative offered by Peter Byrne covering the time from his arrival in Panama until his arrest. The defense had requested, inter alia, a reconstruction of Mr. Byrne's visit to the airport the day before the killing, to show that he attempted to leave the country in a state of panic and evident instability. The petitioner also maintains that when the first appeal was decided, in assessing the committal proceedings, and in ruling on the appeal against the judgment, no attention was paid to the existence of expert witness reports indicating that Peter Byrne was not competent to stand trial. In addition, claims the petitioner, the judgment was based on the clearly contradictory opinions of witnesses with no medical training. The petitioner further states that, because of time pressures, the admission of extraordinary evidence submitted in English was denied, in spite of the fact that the law allows such submissions to be ordered translated.

17. Among the obstacles set for the defense, the petitioner maintains that at trial, the order in which the evidence was to be dealt with was changed unnecessarily, which seriously affected the defense strategy. As regards procedural equality, the petitioner claims that extraordinary evidence submitted by the public prosecution service was admitted, while the defense's extraordinary submissions were not. Much emphasis is also placed on the cancellation, a few hours before it was scheduled to begin, of a hearing planned eight months earlier, apparently on account of the possible presentation of expert testimony and witnesses from other countries. Later, when these witnesses were able to give their evidence, the petitioner claims that the number of questions that the parties could asked them was unnecessarily limited to four. Additionally, the petitioner claims that the jury had been manipulated and behaved with clear negligence in assessing the evidence and reaching a decision. Finally, the petitioner reports that she was accused of manipulating witnesses who, at trial, stated that they had never spoken with her.

B. State

18. The State presented its claims in a written submission dated February 26, 2004. It states that the Second Superior Attorney of the First Judicial District of the Province of Panama did not refuse to pursue evidence on behalf of the accused. It emphasized that neither the judges nor prosecutors are able to accept any and all petitions from the parties, in order to safeguard the proceedings from potential delays. As regards the alleged harassment targeting the defense attorney, the State claims that the petitioner acted unethically by contacting two of the witnesses by telephone, before the hearing, urging them to declare that Mr. Byrne suffered from mental problems.[FN5] As for the expert reports, the State notes that the decision adopted by the courts was based on three adequate, independent psychiatric reports. The petitioner is also accused of procedural bad faith in the handling of some of the evidence. Finally, the State maintains that all procedural guarantees were observed and that flexibility was shown with respect to the evidence throughout the proceedings.

[FN5] The State notes that “as part of the evidence requested by both the prosecuting attorney and the defense, the witness Yira Flores appeared and said that two witnesses, minutes before the hearing, received telephone calls from Ramos Chue, the accused’s defense attorney, urging them to declare that the accused, Byrne, was mad (mentally ill), which was questioned by the prosecuting attorney as dishonest and unethical behavior. Consequently, Judge Wilfredo Sáenz, presiding, ordered an investigation of Ramos Chue, following the statements made by the witnesses Saturnino Flores, Ursulina Cabrera, and Yira Flores, who stated that they had in fact received telephone calls from the defense attorney, asking them to state that Mr. Byrne was mad.” The State also reports that Edna Ramos was acquitted in those proceedings, with an irrevocable dismissal of the charges.

19. The State says that Mr. Byrne is waiting to be transferred to Ireland. In resolution No. 176 of June 11, 2003, the General Directorate of the Penitentiary System of the Republic of Panama resolved to accept the transfer and to notify the British Embassy. Following this decision, the State reports that it has been pursuing the formalities necessary to affect the transfer.

20. The State concludes by saying that the facts as described clearly indicate that during the prosecution of Peter Anthony Byrne by the Second Superior Attorney of the First Judicial District of Panama for the crime of the homicide of Maxim James Conroy, the accused was given all the constitutional and procedural guarantees due to him under Panamanian law and in no way were his human rights undermined. The Panamanian State, therefore, asked the Commission to declare this petition inadmissible.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

A. Competence

1. Competence *ratione personae*, *ratione loci*, *ratione temporis*, and *ratione materiae* of the Commission

21. The petitioner is entitled, under Article 44 of the American Convention, to lodge complaints with the Commission. The petition names, as its alleged victim, an individual person with respect to whom the Panamanian State had assumed the commitment of respecting and ensuring the rights enshrined in the American Convention. As regards the State, the Commission notes that Panama signed the American Convention on November 22, 1969, and ratified it on June 22, 1978. The Commission therefore has competence, *ratione personae*, to examine the complaint.

22. The Commission has competence, *ratione loci*, to hear the petition since it alleges violations of rights protected by the American Convention occurring within the territory of a state party thereto.

23. The Commission has competence, *ratione temporis*, since the obligation of respecting and ensuring the rights protected by the American Convention was already in force for the State on the date on which the incidents described in the petition allegedly occurred.

24. Finally, the Commission has competence, *ratione materiae*, since the petition describes violations of human rights that are protected by the American Convention.

2. Exhaustion of domestic remedies

25. Article 46(1) of the American Convention rules that for a petition to be admissible, the remedies available under the State's domestic jurisdiction must first have been exhausted. In its reply dated February 24, the State told the Commission that "the British Embassy in Panama, at the request of the Embassy of Ireland in Mexico, requested the sending of the acceptance document of Mr. Byrne's transfer and a copy of the judgment under which he was convicted, together with a declaration stating that said judgment is final and that no appeal proceedings are pending resolution." With this, the State acknowledged the exhaustion of domestic remedies in this case.

3. Filing period

26. According to the petitioner, the decision of the Supreme Court of May 22, 2002, was notified to the parties by means of an edict posted at the court on June 12, 2002, and removed on June 19. The petition was received by fax on December 17, 2002. In this case, therefore, the Commission believes that the six-month deadline commenced on the day the edict was removed from the premises of the court: in other words, on June 19, 2002. Consequently, the petition was lodged within the required period of six months established by Article 46(1)(b) of the Convention.

4. Duplication of international proceedings and *res judicata*

27. The case file does not indicate that the substance of the petition is pending in any other international settlement proceeding or that it is substantially the same as another petition already examined by this Commission or any other international body. Hence, the requirements set forth in Articles 46(1)(c) and 47(d) of the Convention have been met.

5. Characterization of the alleged facts

28. At the admissibility stage, the Commission must decide whether the stated facts could tend to establish a violation, as stipulated in Article 47(b) of the American Convention, and whether the petition is “manifestly groundless” or is “obviously out of order,” as stated in section (c) of that same article.

29. The level of conviction regarding those standards is different from that which applies in deciding on the merits of a complaint. The Commission must conduct a prima facie assessment to examine whether the complaint entails an apparent or potential violation of a right protected by the Convention and not to establish the existence of such a violation. That examination is a summary analysis that does not imply prejudging the merits or offering an advance opinion on them.[FN6]

[FN6] IACHR, Report No. 21/04, Petition 12.190, Admissibility, José Luis Tapia González et al., Chile, February 24, 2004, paragraph 33.

30. The petitioner claims that the Second Superior Court judge did not admit evidence that was essential to the defense case and that the jury did not properly assess the evidence presented, particularly as regards Mr. Byrne’s mental state, in declaring him guilty. The Commission notes that the judgment of May 22, 2002, handed down by the Criminal Chamber of Panama’s Supreme Court examined all the irregularities alleged by the petitioner.

31. The Supreme Court reports that at the defense’s request, two specialists in psychiatry conducted an expert examination of Peter Byrne’s condition. The Court emphasizes the evident contradictions between the evaluations submitted by the two specialists. One of the physicians concluded that Byrne was suffering from acute paranoid psychosis, defined as a symptom that presented itself in a brusque, abrupt fashion, from one moment to the next, as a temporary condition, while the other said Byrne had a total incapacity, a permanent condition. According to the second doctor, Byrne’s mind “had disintegrated” and he was “incapable of controlling his actions.”

32. To check the claims of the second expert, the Supreme Court proceeded to examine the statements of the witnesses who were in the building in which the dead man lived. After summarizing the statements of the various victims, the Court concluded that “Byrne’s behavior, after killing Conroy, was not that of a person with altered reasoning or who was unable to control himself or communicate. Contrary to the doctor’s claims (...) Byrne carried out conscious and complete actions to kill Conroy and, after achieving that, attempted to elude his criminal responsibility.” The petitioner claims that the Supreme Court was in error, and if it had received and assessed the defense’s additional evidence, it would have detected the serious nature of Mr. Peter Byrne’s mental illness.

33. The State reports that the highest court in the criminal justice system, the Supreme Court of Panama, ruled that “Byrne did not separate himself from the reality surrounding him at the time that he caused Conroy’s death. Since there were two doctors who personally examined Peter Byrne immediately after he killed Conroy, together with the fact that their opinions concur, the Court believes that Peter Byrne is liable to face the criminal responsibility due to him for the death of Maxim Conroy.”[FN7]

[FN7] At the request of the defense, Drs. Roberto Solórzano Niño and Julio Berguido, both specialists in psychiatry, submitted an expert witness report on Byrne’s condition. Their report stated that: ‘Peter was not aware of what he was doing. Peter was physically able to commit the act, but his mental abilities were severely diminished, which means he is not liable for prosecution on the grounds that he was suffering serious mental instability classified as acute paranoid psychosis.’” (...) “According to Dr. Solórzano Niño, ‘According to our psychiatric study, Peter is not liable, he is unable to respond for his actions, because his mind disintegrated, because his mind is divided, because he is unable to control his actions, because he cannot even control himself, he is a slave to those doubts he has in his mind...’” Dr. Berguido determined that Byrne had a schizoid personality, and he differentiated a paranoid personality from a schizoid one: They are different, but both are more serious personality disorders. When I say schizoid, a schizoid personality is a withdrawn person, uncommunicative, who flees from contact with other people that is schizoid.” According to the Supreme Court, the expert reports of the two psychiatrists were contradictory: Dr. Solórzano Niño says that Byrne was totally incapacitated, a permanent condition, to the extent that at the time of the incident, Byrne’s mind “has disintegrated” and he was “incapable of controlling his actions.” In contrast, Dr. Berguido says that the concept of acute entails a symptom that appears in a brusque, abrupt fashion, from one moment to the next – in other words, a temporary kind of episode.” According to the Supreme Court, the statements of the witnesses who were in the victim’s building concurred that “Byrne’s behavior, after killing Conroy, was not that of a person with altered reasoning or a person unable to control himself or communicate. Contrary to Dr. Solórzano Niño’s claims, Byrne carried out conscious and complete actions to kill Conroy and, after achieving that, attempted to elude his criminal responsibility.”

34. In general terms, the Commission’s role is to investigate whether a government action violated a right of the petitioner’s which is protected by the American Convention.[FN8] In application of Article 47(b) of the American Convention, claims containing allegations that focus exclusively on the miscarriage of justice are to be rejected. The Commission will not review a judicial decision even when there has been an alleged miscarriage of justice, even if it arises from an independent and impartial judiciary, unless the purported miscarriage of justice entails the violation of a right protected by the inter-American system. It falls to the petitioner to argue and to prove that the judges’ interpretation or the appraisal of evidence ignored the protection underlying those rights.

[FN8] See Resolution 29/88, Case 9260, Clifton Wright (Jamaica), Case 9260, September 14, 1988, para.6.

35. As can be seen, the Commission has repeatedly stated, first, that it cannot act as a court of appeal or review body to rule on errors of fact or of domestic law. This issue is a matter of material competence. Second, the Commission has indicated that certain allegations of problems in judicial proceedings – such as the appraisal of evidence, violations of domestic procedural rules, etc. – do not per se constitute violations of the American Convention unless they are so serious as to undermine the basic principles of due process as defined in that Convention. This issue is a matter of characterization.

36. In the case at hand the petitioner focuses her claims on various violations of procedural guarantees. The Commission notes, however, that all her claims relate to the decision regarding Mr. Byrne's competence to stand trial, an issue that was analyzed in detail by the Supreme Court of Panama in two rulings. The first was given when Mr. Byrne was ruled competent to stand trial and the second was issued as part of the appeal against his conviction. Thus, prima facie, it appears that the focus of discussion is limited to determining whether the final decision of the Supreme Court constituted a miscarriage of justice in its appraisal of the evidence of Mr. Byrne's competence to stand trial. Were that the case, the Inter-American Commission would not be competent to examine the matter.

37. In upholding the conviction, the Panamanian Supreme Court ruled that Mr. Byrne's competence to stand trial had not been conclusively proven, in that the two expert witnesses for the defense contradicted each other about the nature of Mr. Byrne's affliction and its effects in determining his awareness of his actions. Among other issues, the Court noted that one of the experts spoke at times about a schizoid personality and, at others, about a paranoid personality. The Supreme Court stated that one of the expert statements claimed Mr. Byrne's mind was totally disintegrated, irrespective of the temporary affliction. Based on these considerations, the Supreme Court discredited the expert reports that sought to support Mr. Byrne's incompetence. In addition, the Supreme Court does not believe that on the night of the murder, Mr. Byrne was in a state of mental instability that made him unaware of the nature of his actions. The Supreme Court analyzed other expert statements and concluded that Mr. Byrne, "when he committed the crime, was fully capable of understanding its illegality and was capable of acting in accordance with that understanding." [FN9]

[FN9] Supreme Court of Panama, Criminal Chamber. Judgment of May 22, 2002, p. 13.

38. Consequently, the Supreme Court of Panama concluded that the petitioner had not proven her claim that Mr. Byrne was suffering from a mental disability of sufficient severity for him to be ruled incompetent as regards Mr. Conroy's murder. The Inter-American Commission believes that the petitioner has not presented enough information to indicate a level of denial of justice or violation of due process that would enable a substantial claim to be made that the Supreme Court violated any of Mr. Byrne's rights protected under the American Convention.

V. CONCLUSIONS

39. Based on the foregoing considerations of fact and law, and without prejudging the merits of the case, the Commission concludes that the instant case does not satisfy the admissibility requirements set out in Article 46 of the American Convention. Consequently:

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare this petition inadmissible as regards Articles 1(1), 2, 8, 24, and 25 of the American Convention.
2. To give notice of this decision to the State and to the petitioner.
3. To publish this decision and to include it in its Annual Report, to be submitted to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 21 day of the month of October, 2006.
(Signed): Evelio Fernández Arévalos, President; Paulo Sérgio, Pinheiro, First Vice-President; Florentín Meléndez, Second Vice-President; Freddy Gutiérrez, Paolo G. Carozza and Víctor E. Abramovich, Members of the Commission.