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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 52/09; Petition 216-04
Session: Hundred Thirty-Fourth Regular Session (16 – 27 March 2009)
Title/Style of Cause: Luis Castillo Sepulveda v. Mexico
Doc. Type: Decision to Archive
Decided by: President: Luz Patricia Mejia Guerrero;
First Vice President: Victor Abramovich;
Second Vice President: Felipe Gonzalez;
Commissioners: Sir Clare K. Roberts, Paulo Sergio Pinheiro, Florentin Melendez, Paolo Carozza.
Dated: 27 March 2009
Citation: Castillo Sepulveda v. Mexico, Petition 216-04, Inter-Am. C.H.R., Report No. 52/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009)
Represented by: APPLICANT: Private Assistance Institution “Sin Fronteras”
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ALLEGED VICTIM: Luis Castillo Sepúlveda

PETITIONER: Private Assistance Institution “Sin Fronteras” [Without Borders].

ALLEGED VIOLATIONS: Articles 2, 5, 7, 8, 9, 24, 25, of the American Convention on Human Rights

DATE PROCESSING BEGAN: July 14, 2004.

I. POSITION OF THE PETITIONER:

1. On March 18, 2004, the Inter-American Human Rights Commission received a complaint presented by the private assistance institution “Sin Fronteras” (hereinafter “the petitioner”) for the alleged violation of the rights to humane treatment, personal liberty, a fair trial, freedom from ex post facto laws, equal protection, and judicial protection of Luis Castillo Sepúlveda by the State of Mexico.

2. The petitioner explained that on November 30, 2001, Luis Castillo Sepúlveda, a citizen of the Dominican Republic, was arrested by officials of the National Immigration Institute of Mexico for being without documents in Mexican territory, which he intended to use as a transit country for reaching the United States. The petitioner said that between December 23, 2001, and August 22, 2002, Luis Castillo Sepúlveda was in custody at the Immigration Station of the National Immigration Institute in the Federal District, where he was the victim of consistent

torture in physical, verbal, and psychological aggression by uniformed immigration and police officials, which had seriously injured him.

3. The petitioner said that all available domestic remedies—penal, administrative, and disciplinary—had been exhausted, but they were ineffective because of unjustifiable delays.

II. POSITION OF THE STATE:

4. The State, in its reply of October 15, 2004, admitted that it violated Luis Castillo Sepúlveda's human rights, saying that it had accepted a mediation proposal made by Mexico's National Human Rights Commission. It also said that Mexico had imposed penal and administrative penalties on the official responsible for the injuries sustained by the victim and had taken a series of measures to provide human rights training to officials of the National Immigration Institute, specifically the Immigration Station, and to ensure that they respect those rights when carrying out their duties.

5. The State adds that the National Immigration Institute has been and is willing to make reparation for the damage caused to Luis Sepúlveda, but since November 2003 his legal representatives have not answered communications from the Institute, thereby showing a lack of interest in resolving the matter.

III. PROCESSING BY THE IACHR:

6. On March 18, 2004, the Commission received the petition dated March 16, 2004, and assigned it number P-216-04. On July 14, 2004, it transmitted the pertinent parts to the State, asking it to submit its response within two months, as provided by the Rules of Procedure of the Inter-American Commission on Human Rights then in force. The response was received on October 15, 2004.

7. In addition, the IACHR received information from the petitioners on the following dates: January 3 and 30, February 4, March 1, September 19, October 25, November 3 and 11, 2005; and July 13 and 19, 2006 and June 4, 2008. Said communications were duly forwarded to the State.

8. The IACHR received observations from the State on the following dates: August 22, 2005, September 19, 2005, and January 11, 2008. Said communications were duly forwarded to the petitioners.

9. On August 26, 2005, there was a working meeting at the Secretariat for Foreign Relations of Mexico during the working visit of Commissioner José Zalaquett to that country, in which the possibility of a friendly settlement agreement was discussed.

10. On June 4, 2008, the Commission received a communication dated May 28, 2008, in which the petitioner announced its decision to desist from the petition at the request of the victim, Luis Castillo Sepúlveda. The note said that Mr. Castillo is attempting to start a new life in another country and had expressed the fear that "if his case were declared admissible the effect

would not actually and emotionally be so favorable for the new life he has begun. This is taking into consideration that seven years have elapsed since the rights violations, four years since he presented the case to the IACHR, and nearly a year and a half that he has not received any communication that would lead him to believe that there had been significant progress in consideration of the case.”

IV. BASIS FOR THE DECISION TO ARCHIVE:

11. Both Article 48.b of the American Convention on Human Rights and Article 30.6 of the Rules of Procedure of the Inter-American Commission on Human Rights provide that in the processing of a petition once the observations have been received or the period set has elapsed with no observations received, the IACHR shall verify whether the grounds for the petition exist or subsist, and if they do not it shall order the case archived.

12. Concerning desistance, Article 35 of the IACHR Rules of Procedure states that the petitioner may at any time desist from his or her petition or case, to which effect he or she must so state in writing to the Commission, which may archive the petition or case if it deems this appropriate.

13. In the processing of the present petition, the petitioner expressly desisted in its note of May 28, 2008, which was received by the IACHR in June 4 of the same year. In view of the fact that the petitioner, at the alleged victim’s request, expressly desisted from the petition presented, pursuant to Article 48.b of the Convention and Article 30.6 of the Rules of Procedure, the Commission decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 27th day of the month of March, 2009.
(Signed): Luz Patricia Mejía Guerrero, President; Víctor E. Abramovich, First Vice-President; Felipe González, Second Vice-President; Sir Clare K. Roberts, Paulo Sérgio Pinheiro, Florentín Meléndez, and Paolo Carozza, members of the Commission.