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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 55/09; Petition 11.315
Session: Hundred Thirty-Fourth Regular Session (16 – 27 March 2009)
Title/Style of Cause: Rosa Luz Padilla Baca v. Peru
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: Padilla Baca v. Peru, Petition 11.315, Inter-Am. C.H.R., Report No. 55/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009)
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ALLEGED VICTIM: Rosa Luz Padilla Baca

PETITIONER: Rosa Mercedes Baca Vera

ALLEGED VIOLATIONS: Not specified, but inferred are violations of the guarantees enshrined in Articles 8 and 9 of the American Convention on Human Rights

DATE OF INITIAL PROCESSING: June 28, 1994

I. POSITION OF THE PETITIONER

1. The petitioner contends that the alleged victim was prosecuted in two criminal trials on the charge of terrorism, in violation of her judicial guarantees. The petitioner alleges that in the first trial, the Supreme Court imposed a sentence that was inappropriate, in sentencing the victim as a leader of the Túpac Amaru Revolutionary Movement (MRTA), although it was not proven that the victim was an activist of that organization. In addition, the petitioner pointed out that during this trial Ms. Padilla's right to a defense was curtailed, since her attorney was not given an opportunity to address the court in support of a remedy of annulment. The petitioner indicates that in the second trial the alleged victim was sentenced to a 20-year term of imprisonment, despite the fact that her innocence had been proven. Records of the domestic appeals provided mention alleged acts of torture during her detention, as well as the fact that some decisions were handed down by "faceless tribunals" that retroactively applied the law in her sentencing.

2. In response to the State's argument, the petitioner indicated that although an appeal based on procedural violations was still pending in one trial, a final enforceable judgment had already

been rendered in the other. The petitioner alleges that the worst due process violations were committed during the second trial.

II. POSITION OF THE STATE

3. The State alleges that Ms. Padilla Baca was tried and sentenced in accordance with regular procedures provided under Peruvian legislation for crimes of terrorism and those against the public trust. It emphasized that a decision was still pending on a remedy of annulment against the above-mentioned sentence. In this regard, the State argued that the domestic appeals process had not yet been exhausted.

III. PROCESSING BEFORE THE COMMISSION

4. On June 22, 1994, the initial petition was received and assigned case No. 11.315. On June 28, 1994, the petition was transmitted to the State, which was asked to submit its response within a period of three months. The State's response was received on September 8, 1994, and forwarded to the petitioner on October 6, 1994, which was asked to submit any pertinent observation within a period of 45 days. The petitioner presented her observation on December 7, 1994, which was transmitted to the State on December 29, 1994, asking that it submit its observations within one month. On March 16, 1995, the State submitted its observations. On January 7, 2003, the IACHR asked the petitioner to update the information in the petition within a period of one month. On April 5, 2004, the IACHR asked the petitioner to notify it if the facts alleged in the petition subsisted. In this communication, the petitioner was given notice that if no reply were received, the Commission may consider archiving the case in accordance with Article 48(1)(b) of the Convention.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

5. 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 establish that with regard to 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 it considers that they do not exist or subsist, it shall order the case archived.

6. This petition was filed on behalf of a person tried and convicted for terrorism who alleges a series of due process violations, such as the alleged impossibility of presenting an appeal, decisions by secret or "faceless" judges, the alleged retroactive application of the law in her sentencing, and, in general terms, the alleged violation of the guarantee to the presumption of innocence. The information furnished to support these violations is of a general nature, and does not include details on the criminal trial to verify, by use of a prima facie standard, the possibility that they may be true. The Commission has requested information from the petitioner on two occasions, but has yet to receive a response.

7. There is not enough information available to issue a decision on the admissibility or inadmissibility of the petition. Consequently, in accordance with Article 48(b) of the Convention

and Article 30(6) of the IACHR Rules of Procedure, the Commission decides to archive the 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.