

REPORT Nº 28/10
PETITION 897-03
DECISION TO ARCHIVE
JAMAICA
March 16, 2010

ALLEGED VICTIM (PETITIONER): Canute Cummingham

ALLEGED VIOLATIONS: Not specified by the petitioner (possibly Article 5 of the American Convention on Human Rights)

BEGINNING OF PROCESSING: January 13, 2004

I. POSITION OF THE PARTIES

A. The petitioner

1. On October 28, 2003, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition dated October 12, 2003, from Canute Cummingham (the "petitioner" or "Mr. Cummingham"), against Jamaica (the "State" or "Jamaica"), alleging that he was subjected to inhuman treatment in violation of the American Convention on Human Rights (the "American Convention").

2. According to the petitioner, he has been an inmate at the St. Catherine's Adult Correctional Centre in Jamaica since 1998. He alleges that in May 2000, he and other inmates were subjected to systematic kicking and beatings by correctional officers and military personnel who used guns, batons, and electric wire.

3. Mr. Cummingham states that he sustained injuries to his head, chest and waist as a result of the beatings; that he was bleeding from cuts to his head, nose, and lip. According to the petitioner, it took a week for him to be seen by St. Catherine's Centre's doctor, who diagnosed him as suffering from a fracture to his face, as well as tissue damage to his waist. A few days later, according to the petitioner, he was taken to Spanish Town Hospital for a follow-up treatment, but the doctor told him there was 'nothing wrong' with him. The petition indicates that upon transfer to the Richmond Farm Adult Correctional Centre Mr. Cummingham received pain killers and was, on two occasions, taken to Annotto Bay Hospital. In the hospital the doctors advised him that the x-rays did not disclose a fracture, and that there was nothing wrong with him. Believing that his medical condition would remain unaddressed at Richmond Centre, Mr. Cummingham escaped to see a private doctor, who diagnosed tissue damage around his waist, and prescribed medication. Subsequently, Mr. Cummingham was captured by the police and returned to custody.

4. Finally, Mr. Cummingham states that in October 2003 he was taken to Kingston Public Hospital by the prison authorities, where a doctor advised him that he had a facial fracture, but that it was too 'stale' to be treated. Allegedly, the doctor further remarked that this fracture should have been recognized earlier and that the result of non-treatment meant that he would have to eat soft food for the rest of his life. Consequently, Mr. Cummingham requests payment for the medical treatment required for his medical problems and compensation for the pain he endured.

B. The State

5. The State responded to the petitioner's allegations on March 11, 2004. According to the State, the petitioner was tried on October 29, 1998, on a charge of arson and sentenced to seven years imprisonment at St. Catherine's Centre, where he was assigned to New Hall Block. The State submits that while serving his sentence, the petitioner was transferred to Richmond Centre, from which he escaped in 2001, was recaptured on May 18, 2002, and returned to St. Catherine's Centre.

6. According to the State, the petitioner's medical record revealed that on May 24, 2000, a doctor attended to him for head injuries but did not indicate how the petitioner sustained those injuries. The State claims that it will carry out further research into Mr. Cunningham's claim that he sustained his injuries as a result of an incident in which warders and soldiers engaged in the beating of inmates and will convey this information to the IACHR as soon as possible.

7. The State finally submits that Mr. Cunningham was released from St. Catherine's Centre on February 21, 2004, upon completion of his sentence.

II. PROCESSING BEFORE THE COMMISSION

8. The petition was received by the Commission on October 28, 2003. The Commission acknowledged receipt on November 3 and transmitted the pertinent parts to the State on January 13, 2004. The Commission received the State's observations on March 11, 2004 and transmitted them to the petitioner on March 15, 2004 with a request for observations. The Commission reiterated this request for additional information on April 22, 2009, informing the petitioner that in the event information was not received within one month, it may archive the record of the petition in accordance with Article 48(1)(b) of the American Convention.

III. GROUNDS FOR THE DECISION TO ARCHIVE

9. Article 48.1.b of the American Convention, as well as Article 42 of the Rules of Procedure of the IACHR, both set forth that prior determining admissibility, the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist and if it considers that they do not, it shall order the case to be archived. In addition, Article 42(1)(a) of the Rules establishes that the IACHR may also decide to archive a case when the information necessary for the adoption of a decision is unavailable.

10. In the present case, more than five years have elapsed since the petitioner last provided information to the IACHR; and he has not responded to the IACHR's letter of April 22, 2009, in which the possibility of archiving was mentioned. The Inter-American Commission notes the State's observation that Mr. Cunningham was released on February 21, 2004 accepts this observation as factual. On this basis, it is likely that the petitioner did not receive the IACHR's communications of March 15, 2004 and April 22, 2009 (which were sent to the St. Catherine's Centre). The petitioner did not communicate with the IACHR to provide new contact information and accordingly, the Commission has no updated contact information with which to communicate with the petitioner.

11. Moreover, the information contained in the petition, the only communication received from the petitioner, does not enable the Inter-American Commission to pronounce on the admissibility of the petition. There is no mention of steps undertaken to exhaust domestic remedies, if any. The Inter-American Commission therefore lacks the necessary elements to determine whether the grounds for the original petition subsist or to reach a decision on the alleged human rights violations and considers that the necessary information is unavailable. Therefore, pursuant to Article 48.b of the American Convention and Article 42 of the IACHR's Rules of Procedure decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 16th day of the month of March, 2010. (Signed: Felipe González, President; Paulo Sérgio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission).