

REPORT Nº 36/10
PETITION 11.718
DECISION TO ARCHIVE
TRINIDAD AND TOBAGO
March 16, 2010

ALLEGED VICTIM: Anthony Johnson

PETITIONER: Saul Lehrfreund

ALLEGED VIOLATIONS: Articles 4, 5, 8, 9 and 24 of the American Convention on Human Rights (the "American Convention") and Articles II, VXIII and XXVI of the American Declaration of the Rights and Duties of Man (the "American Declaration")

INITIATION OF PROCESSING: January 14, 1997

I. POSITION OF THE PETITIONER

1. On November 1, 1996, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a communication from Anthony Nevada Johnson ("Mr. Johnson" or the "alleged victim"), against Trinidad and Tobago (the "State" or "Trinidad & Tobago"), alleging that his rights were violated during a trial that led to his death sentence.

2. On May 19, 1999, Saul Lehrfreund (the "petitioner"), presented a petition on behalf of Mr. Johnson, alleging breaches of Johnson's right to life, to humane treatment, to a fair trial and to equality under the law, under Articles 4(1) and 4(6), 5, 8 and 24 of the American Convention and Articles II, VXIII and XXVI of the American Declaration. In this respect, the petitioner submits that Mr. Johnson has been subjected to the mandatory imposition of the death penalty and denied access to a fair hearing before the State's Advisory Committee on the Power of Pardon. At the time of the petition, Mr. Johnson had a domestic appeal pending before the Judicial Committee of the Privy Council ("JCPC"), in which he was also represented by the petitioner.

3. On November 5, 1999, the petitioner informed the IACHR that Mr. Johnson's appeal was allowed by the JCPC, which subsequently quashed his conviction and remitted the matter to the Court of Appeal of Trinidad & Tobago for it to consider whether the alleged victim should be re-tried. On June 23, 2004, the petitioner informed the IACHR that the Court of Appeal ordered a retrial, in which the alleged victim was subsequently convicted of manslaughter and re-sentenced to seven years imprisonment. Finally, the petitioner informed the IACHR that in a judgment dated July 26, 2002, the Court of Appeal dismissed the appeal lodged by Mr. Johnson against the latter conviction and sentence.¹ The petitioner did not present further complaints following this decision.

II. POSITION OF THE STATE

4. On May 16, 1997 the State responded to the initial petition, arguing that because Mr. Johnson had filed a petition before the JCPC in London, he had not exhausted internal legal remedies. The State added that in the event Mr. Johnson lost his appeal, he would be allowed to apply to the Advisory Committee on the Power and Pardon.

III. PROCESSING BEFORE THE COMMISSION

¹ See *Anthony Nevada Johnson v. The State*, Court of Appeal, Republic of Trinidad and Tobago, CrA No. 15 of 2001, delivered on July 26, 2002.

5. Following receipt of the petition presented by Mr. Johnson, the IACHR transmitted the pertinent parts to the State on January 14, 1997 and notified Mr. Johnson thereof. The petitioner sent additional information on March 14, April 9 and May 5, 1997. On May 19, 1997, the IACHR received the State's observations and transmitted the pertinent parts to Mr. Johnson on July 1 of that year. His response of July 25, 1997 was received by the IACHR on August 19, 1997. On April 23 and May 19, 1999, following a request for updated information, the petitioner presented additional observations, which were transmitted to the State on May 20, 1999.² The Inter-American Commission also received additional information from Mr. Johnson on June 23, 1999 and transmitted it to the petitioner in London the next day.

6. On November 8, 1999, the petitioner informed the IACHR that an appeal had been granted for Mr. Johnson.³ On August 21, 2000, the Inter-American Commission requested the petitioner to provide it with updated information, which was received on August 25, 2000. The IACHR also received additional information from the presumed victim's mother on August 12, 2002, and on May 24, 2004. The IACHR responded on June 9, 2004 and transmitted this information to the petitioner with a request for updated information on the same date. The petitioner provided the IACHR with additional information on June 23, 2004. The Inter-American Commission acknowledged receipt and transmitted the information to the State with a request for observations on June 28.

7. On April 9, 2009 the IACHR requested the petitioner to provide it with updated information, advising the petitioner that in the event no information was received within one month, it might archive the record of the petition in accordance with its Rules of Procedure.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

8. Article 42 of the Rules of Procedure of the Inter-American Commission provides that in the processing of a petition, prior to 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 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.

9. In the present case, a number of important events took place after the presentation of the petition. The appeal on behalf of Mr. Johnson to the JCPC eventually led, in July 2002, to a new trial, a re-conviction for manslaughter and re-sentence to seven years imprisonment, apparently resolving certain complaints contained in the petition. Further, the petitioner has not responded to the Inter-American Commission's requests for updated information made in April 2009, although the IACHR advised him that in the event no response was received, the case might be archived.

10. In these circumstances, the IACHR considers that the information in its possession does not provide adequate grounds for the petition to subsist and, complying with the criteria set forth in its Rules of Procedure, decides to archive the petition.

Done and signed in the city of Washington, D.C., on the 16 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).

² By order dated May 27, 1999, the Inter-American Court, at the request of the Inter-American Commission, amplified the provisional measures in the matter of the Republic of Trinidad and Tobago, James et al. Case, to preserve the life of, among others, Anthony Johnson.

³ Consequently, on August 31, 2000, the IACHR informed the Inter-American Court thereof.