

REPORT No. 92/10¹
Petition 1122-2003
DECISION TO ARCHIVE
BRAZIL
July 15, 2010

Alleged victims: José Quirino Alves Júnior
Petitioner: Jason Barbosa de Faria
Initiation of processing: February 5, 2004
Alleged violations: The petitioner does not allege any specific violations

I. POSITIONS OF THE PARTIES

A. THE PETITIONER

1. On December 22, 2003, the Inter-American Commission on Human Rights (the “Inter-American Commission” or the “IACHR”) received a petition² against the Federative Republic of Brazil (the “State” or “Brazil”), alleging the prolonged pre-trial detention of José Quirino Alves Júnior (“the alleged victim”), since September 21, 2000.

2. According to the documents presented by the petitioner, the alleged victim had been accused of a double homicide, committed on August 9, 2000. Those documents also indicate that an indictment (*sentença de Pronúncia*) was issued by the judicial authority on October 2, 2002, and that consequently the case was to be judged before a Jury Tribunal (*Tribunal do Júri*).

B. THE STATE

3. In its response, the State observed that petition P1122-03 was a copy of a writ of *habeas corpus* presented before the Superior Court of Justice (“STJ”) by the petitioner, on behalf of the alleged victim, on September 25, 2003. Also, Brazil noted that the STJ had rejected that appeal on November 25, 2003, on the basis that the alleged delay in the evidentiary stage had been provoked by the accused himself.

4. In view of the foregoing, the State argued that the petition does not meet the minimum requisites for the processing of petitions required by the American Convention and the Rules of Procedure of the IACHR. Moreover, noting again that the so-called petition was a copy of a writ of *habeas corpus*, Brazil stressed that it had stated clearly that domestic remedies had not been exhausted. In view of the foregoing, the State asserted that the petition does not meet the requirements of Article 28 of the IACHR’s Rules of Procedure and Article 46.1.a of the American Convention. Therefore, Brazil requested that the Inter-American Commission archive and/or declare this petition inadmissible.

¹ Commissioner Paulo Sérgio Pinheiro, a Brazilian national, did not take part in the consideration and adoption of this Report, in compliance with Article 17.2.a of the Commission’s Rules of Procedure.

² The “petition” consisted of a copy of a writ of *habeas corpus* presented before the Superior Court of Justice (*Superior Tribunal de Justiça* – “STJ”), along with other related documents.

II. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION

5. The Inter-American Commission received the petition on December 22, 2003. By communication dated February 5, 2004, the IACHR notified the State of the petition, giving it two months to provide the information it deemed appropriate. The State presented its response on December 1, 2005; the Inter-American Commission duly remitted that response to the petitioner on April 18, 2006 for his observations, and set a one month time period to that effect.

6. Because the petitioner did not present observations regarding the State's response, on February 11, 2009, the Inter-American Commission reiterated its previous request for information. On August 28, 2009, since the period established had elapsed and the information had not been received, the IACHR advised the petitioner that it might order the record to be closed, in conformity with Article 48.1.b of the American Convention. To date, the petitioner has not responded to the IACHR's request nor has he submitted more detailed and up-to-date information regarding the facts referred to in the petition.

III. GROUNDS FOR THE DECISION TO ARCHIVE

7. Articles 48.1.b of the American Convention and 42 of the Rules of Procedure of the IACHR establish that prior to determining admissibility the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist; and that if it considers that they do not, it shall order the case to be archived. In addition, Article 42.1.b 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.

8. More than six years have elapsed since processing began on February 5, 2004, and the Commission lacks the necessary elements for the adoption of a decision on the admissibility of this petition. Specifically, the IACHR does not have information about exhaustion of domestic remedies and the other admissibility requirements. In addition to that, the IACHR has no information as to whether the grounds for the petition still exist.

9. As a result, the Commission hereby decides to archive the file of the present petition, pursuant to Article 48.1.b of the American Convention, as well as Article 42.1.b of the Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 15th day of the month of March, 2010. (Signed): Felipe González, President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Sílvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission).