

REPORT No. 165/10
PETITION 444-99
DECISION TO ARCHIVE
BARBADOS
November 1, 2010

ALLEGED VICTIMS/ PETITIONERS: Edilberto Muñoz Coronell (or Coronel); Mauricio Alfonso Mejía Lesmes; Rogelio Martínez Ramirez; Eulogio Iguaran Epieyu; Jimmy Nagles Marquez; and Octavio Toro Salazar

INITIATION OF PROCESSING: September 25, 2001

ALLEGED VIOLATIONS: Articles 1.1, 5 and 24 of the American Convention on Human Rights (the "American Convention")

I. POSITIONS OF THE PARTIES

A. THE PETITIONERS

1. On March 10, 1998, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition from the Colombian Embassy in Bridgetown, Barbados, signed by the above mentioned individuals (the "alleged victims")¹ against the State of Barbados (the "State" or "Barbados"), alleging discrimination and inhumane treatment while detained at Her Majesty's Glendairy Prison in that country.

2. According to the petition, each of the alleged victims was accused and convicted of drug trafficking in Barbados between 1994 and 1996 and sentenced to between 10 and 20 years of prison. It is alleged that they are victims of discrimination because they are Colombians accused of involvement in drug-related matters. The alleged victims claim that the conditions of their detention were inhumane; the cells were not ventilated; the sanitary conditions were deplorable; they had no recreation and were forced to stay in their cell 23.5 hours per day; they were not allowed to work, study or exercise; and they were not allowed to communicate with each other in Spanish.

3. Further, the alleged victims allege that they were mostly prevented from communicating with their Embassy, or were subjected to a waiting period of several days under the pretext that an official understanding Spanish had to be present, thus restricting communication and inhibiting consular assistance for their legal defense. Moreover, it is claimed that no consideration was given to their families when they tried to send goods, call or visit them.

4. In a subsequent communication, the Embassy of Colombia informed the IACHR that it was investigating allegations that Mr. Coronell might be a Cuban citizen who obtained Colombian papers by bribery.

B. THE STATE

5. The State rejects the claim of discrimination and specifies that the alleged victims are classified as serious crimes offenders under the laws of Barbados, with high propensity for flight and security risks, which is why they are housed in a maximum security area. The State further claims that despite the absence of Spanish-speaking guards, the alleged victims have a period of organized work every morning in addition to recreational periods of two hours daily. The State rejects the contention that

¹ The Colombian Embassy does not present itself as a petitioner but rather as a messenger on behalf of the alleged victims.

consular visits are denied and provides a list of all visits the alleged victims were granted in 2001. With regard to family access, the State argues that the alleged victims have been afforded more visits and phone calls with their families than other inmates, as there is recognition that those family members wish to maximize their visits while they are in Barbados. The State provided a list of visits and phone calls received by the alleged victims.

6. Upon a specific request to that effect sent by the IACHR on March 25, 2010, the State provided detailed information concerning the specific situation of the alleged victims as well as their release and subsequent deportation. Accordingly, the State presented official records from the Barbados Prison Service and the Immigration & Passport Department, which indicate the date on which each of the following alleged victims was released from prison and deported to Colombia: Jimmy Nagles Marquez, September 25, 2003; Mauricio Alfonso Mejia Lesmes, on March 6, 2006; Rogelio Martinez Ramirez, December 3 and 4, 2005, respectively; Eulogio Iguaran Epieyu, December 3 and 4, 2005, respectively; Octavio Toro Salazar, December 3 and 4, 2005, respectively.

7. Lastly, the State informed that Edilberto Muñoz Coronell (or Coronel) was released from Her Majesty's Glendairy Prison on March 11, 2010. He reportedly now admits that he is Raul Tomas Garcia, born in Cuba on April 9, 1954 to Cuban parents who currently reside in Miami (*supra* para. 3). According to the communication from the Immigration & Passport Department, dated June 23, 2010, Mr. Garcia / Muñoz Coronell was detained by the Immigration Department at Grant Adams International Airport, while arrangements were being made with the authorities at the Cuban Embassy in Barbados to repatriate / deport him to Cuba.

II. PROCESSING BEFORE THE IACHR

8. The IACHR received the petition on March 10, 1999. On April 12, 1999, the IACHR informed the alleged victims that it could not consider the petition on the basis of Article 37 of its Rules of Procedure in force at that moment, since domestic remedies had not been exhausted². On October 29, 1999, the Colombian Embassy in Barbados sent additional information. On February 20, 2001, the IACHR received additional information, including a communication dated December 5, 2000 and a letter dated October 25, 1999. On April 6, 2001, the IACHR transmitted a communication to the alleged victims³ and the Colombian Embassy in Barbados provided further information on May 9 and June 6, 2001.

9. On September 25, 2001, the Inter-American Commission transmitted the pertinent parts of the petition to the State, received its response on November 26, 2001, and transmitted it to the alleged victims on December 17, 2001. On January 17 and March 18, 2002, the alleged victims sent additional information. On February 14 and 25, 2002, the Colombian Embassy sent additional information.

10. On February 20, 2003 the IACHR transmitted this information to the State requesting its observations and notified the petitioners thereof. On May 25 and November 17, 2005, the IACHR reiterated this request for observations to the State. On November 17, 2005, the IACHR requested updated information from the alleged victims; this request was reiterated on January 28, 2008, with a notice that it might archive the petition in the event no information was received within a month.

11. Finally, on March 25, 2010 and June 2, 2010, the IACHR requested the State's observations on specific points regarding this petition, namely, that Barbados submit to the Inter-American Commission the records of release and/or extradition of the six alleged victims; the State presented observations on April 30, 2010 and July 2, 2010.

III. GROUNDS FOR THE DECISION TO ARCHIVE

² A copy was sent to the Colombian Embassy in Barbados.

³ A copy was sent to the Colombian Embassy in Barbados.

12. 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.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.

13. In the present case, it has been over nine years since the last communication from the alleged victims was received, despite the fact that in 2005, 2008 and 2009, the IACHR requested them to provide information in order to enable it to pronounce on the admissibility. The IACHR notes that, according to the documents submitted by the State, all alleged victims have already been released and all the Colombian nationals have also been deported to Colombia; none of them has communicated with the Inter-American Commission. The IACHR has no means of communicating with them following their release from prison, since they never indicated contact information. Moreover, the Executive Secretariat tried to obtain information from the Colombian Embassy in Barbados, but learned that it had been closed; then contact was made with the Colombian Embassy in Kingston, now responsible for the entire Caribbean, again unsuccessfully.

14. Under these circumstances, the IACHR considers that it lacks the necessary elements to make a determination as to whether the grounds underlying the initial petition subsist; to pronounce on admissibility; or to reach a decision on the alleged human rights violations. Therefore, in accordance with Article 48.1.b of the American Convention and Article 42 of its Rules of Procedure, the IACHR decides to archive this petition.