

REPORT No. 42/11
PETITION 264-03
DECISION TO ARCHIVE
JAMAICA
March 23, 2011

ALLEGED VICTIMS: Reagan Beckford, Christopher Grant, Lancebert Clark, Dane Whyte, Curtis Smith, Andre Virgo and Tamayo Wilson (“the Braeton Seven”)

PETITIONER: Rupert Skilbeck and Peter Carter QC

INITIATION OF PROCESSING: July 9, 2003

ALLEGED VIOLATIONS: Articles 1, 4, 8 and 25 of the American Convention on Human Rights (the “American Convention”)

I. POSITIONS OF THE PARTIES

A. THE PETITIONERS

1. On April 9, 2003, the Inter-American Commission on Human Rights (the “Inter-American Commission” or the “IACHR”) received a petition from Rupert Skilbeck and Peter Carter QC (the “petitioners”), on behalf of Reagan Beckford, Christopher Grant, Lancebert Clark, Dane Whyte, Curtis Smith, Andre Virgo and Tamayo Wilson (the “alleged victims”).

2. The petitioners report that the alleged victims had been shot and killed by officers of the Jamaican Constabulary Force on March 14, 2001, in a house in the area of Braeton in Kingston. According to the petitioners, the presumed victims received a total of 46 bullet bounds, 15 to their heads, while none of the police officers involved received injuries. The alleged victims have become known as the “Braeton Seven”.

3. The petitioners assert that, according to the police version, approximately 60 officers arrived at the house and when they verbally identified themselves as police officers and requested that those in the house open the door, they came under heavy fire from those inside. As a consequence, the police returned the fire and after the shooting subsided they discovered the victims’ bodies in the house. According to the petitioners, there is significant evidence to call into question the police version of events and that the police took a number of measures immediately following the incident to undermine any proper investigation.

4. Based upon these facts, the petitioners contend that Jamaica is responsible for the disproportionate use of lethal force by the police; the failure of the State to conduct proper and independent investigations into alleged extrajudicial executions; and the failure of the State to prosecute those responsible for the alleged victims’ deaths.

5. According to the last communication sent by the petitioners, the policemen were charged with murder and tried. However, halfway through the trial the defense made a submission that there was no case to answer and the judge dismissed the charges, finding the policemen not guilty of the killings. The petitioners indicate that many of the family members of the alleged victims moved away. Additionally, the petitioners assert that the pattern of impunity for police killings in Jamaica remains a significant and worsening problem; however, they indicated that they desisted from the petition.

B. THE STATE

6. The State of Jamaica submitted that the petition was inadmissible for lack of exhaustion of domestic remedies. According to the State, contrary to the petitioners’ claims alleging the existence of

a continued failure to prosecute law enforcement officials when there has been a killing, in the instant case six police officers were charged with seven counts of murder on November 3, 2003, and the matter came before the Home Circuit Court. In its response dated September 3, 2004, the State indicated that a trial date had not been set because the defense was not yet ready to agree on the date.

II. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION

7. The IACHR received the petition on April 9, 2003. By means of a note of July 9, 2003, the Commission notified the State of the petition, giving it two months to provide the information it deemed appropriate. The State presented its response on September 3, 2004. The Commission transmitted the pertinent parts to the petitioners on September 7, 2004, and requested that they submit their observations within one month.

8. On April 22 and August 26, 2009, the IACHR reiterated its request to the petitioners. On November 11, 2009, the petitioners indicated that they were in the process of making inquiries with the lawyers in Jamaica in order to ascertain the latest situation with regard to the trial process, and that they would respond to the Commission with full details as soon as possible. On November 17, 2009, the IACHR acknowledged receipt of the communication and requested the petitioners to submit the information as soon as it became available. The request was reiterated on August 25 and October 12, 2010. In this last communication, the Commission indicated that it might archive the petition in the event no information was received within a month.

9. On November 10, 2010, the petitioners stated that "it would be appropriate for the petition to be archived in accordance with Article 48(l)(b) of the Convention and Article 42 of the Rules of Procedure".

III. GROUNDS FOR THE DECISION TO ARCHIVE

10. 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.

11. Given the circumstances of the present case as explained above, following the notification in writing of the petitioners' withdrawal of the petition in accordance with Article 41 of the Rules, the IACHR decides to archive the present matter.

Done and signed in the city of Washington, D.C., on the 23rd day of the month of March, 2011.
(Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero and María Silvia Guillén, Commissioners.