

REPORT No. 57/11
PETITION P-1438-05
DECISION TO ARCHIVE
TRINIDAD AND TOBAGO
March 23, 2011

ALLEGED VICTIMS: Marvin Boiselle

PETITIONER: Saul A. Lehfrend and Parvais Jabbar (Simons Muirhead & Burton, Solicitors)

INITIATION OF PROCESSING: January 3, 2006

ALLEGED VIOLATIONS: Articles I, II, XVII, XVIII, and XXVI of the American Declaration of the Rights and Duties of Man (the "American Declaration")

I. POSITIONS OF THE PARTIES

A. THE PETITIONERS

1. On December 13, 2005, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition and a request for precautionary measures from Saul A. Lehfrend and Parvais Jabbar from Simons Muirhead & Burton, Solicitors (the "petitioners"), on behalf of Marvin Boiselle (the "alleged victim"). Mr. Boiselle was convicted of murder on April 1, 2003, and sentenced to death by hanging under Trinidad's mandatory death penalty law.

2. In the original petition, it was submitted that the rights of the alleged victim under the American Declaration were being violated by the State due to the mandatory death penalty; the effect of the Savings Clause in the Constitution; the execution of his death sentence by hanging; and his conditions of confinement and treatment on death row. The petitioners reported that the alleged victim unsuccessfully appealed his conviction and sentence to the Court of Appeal of Trinidad and Tobago, which dismissed his appeal on March 31, 2004. They also noted that on September 17, 2005 the alleged victim was advised by Counsel that it was not possible to discern any point of law that had any prospect of overturning the verdict of the jury in his case. As a consequence, the matter was not appealed to the Judicial Committee of the Privy Council.

3. On August 26, 2009 the petitioners informed that on August 15, 2008 the High Court of Trinidad and Tobago had ordered that the sentence of death imposed on the alleged victim and other applicants (Case of Dottin, Teluck and Others v. Commissioner of Prisons and Others) be commuted to a sentence of life imprisonment. They note that the Constitutional Motion was brought for the benefit of all persons on death row who were sentenced to death before the Privy Council delivered its judgment in *Matthew v. The State* on July 7, 2004, in which the Privy Council recommended that all prisoners then under sentence of death should have their death sentences commuted to life imprisonment.

4. In this same communication the petitioners indicated that they no longer wished to pursue the present petition due to the fact that "each of the alleged breaches has been remedied to the extent that [Mr. Boiselle] is no longer subject to the mandatory death penalty nor the possibility of facing execution by hanging, and finally, he is no longer held on death row".

B. THE STATE

5. The State acknowledged receipt of the petition but has not presented any response to the facts alleged by the petitioners.

II. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION

6. The IACHR received the petition and request for precautionary measures on December 13, 2005. By note of January 3, 2006, the Commission notified the State of the petition, giving it two months to provide the information it deemed appropriate. On January 3, 2006, the Inter-American Commission also issued precautionary measures on behalf of the alleged victim, requesting the State of Trinidad and Tobago to stay the execution. The State acknowledged receipt on January 17, 2006, and informed that the Commission's communication had been transmitted to the Minister of Foreign Affairs.

7. On August 26, 2009, the Commission received a communication from the petitioners expressing their intention to withdraw the present petition.

III. GROUNDS FOR THE DECISION TO ARCHIVE

8. 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.

9. In the present case, the petitioners informed the Commission that the grounds for the petition do not subsist as the alleged victim's death sentence was commuted, and they expressly indicated their wish to desist from the present petition. In accordance with Article 41 of its Rules, which indicates that a petitioner may desist from a petition at any stage, the IACHR hereby decides to archive the present petition.

Done and signed in the city of Washington, D.C., on the 23 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.