

REPORT No. 26/11
DECISION TO ARCHIVE
CASE 11.685
ARGENTINA
March 23, 2011

ALLEGED VICTIM Ricardo Neira González

PETITIONER: Elisa González Raimonde

ALLEGED VIOLATIONS: The petitioner refers to alleged violations of Articles 5, 8, 25, and 1(1) of the American Convention.

PROCEEDING START DATE: May 10, 1995.

I. POSITION OF THE PETITIONER

1. On May 10, 1995, the Inter-American Commission on Human Rights received the complaint submitted by Elisa González Raimonde for the alleged violation of the rights to humane treatment, due process, and judicial guarantees of her son, Ricardo Neira González. Subsequent to Admissibility Report 04/02, Mrs. González reported that her son had been released on October 6, 1998 and had committed suicide on January 8 as the result of serious depression. Since that time, the IACHR has lost contact with her.

2. According to the petition, Mr. Neira was prosecuted for aggravated theft and acquitted in the first instance court because the information that led to his arrest was obtained by torturing several persons, including Mr. Neira himself, who was arrested and tortured in order to obtain a coerced confession. The petitioner maintains that because of the torture, as recorded in forensic reports, the judge presiding over the proceeding threw out the evidence presented in the indictment, adhering to the "fruit of the poisonous tree" doctrine. The decision to acquit the accused was appealed by the Office of the Public Prosecutor and the private complainants and overturned in the higher court, through proceedings that the petitioner considers arbitrary. Mr. Neira filed an extraordinary appeal against the second instance conviction, but that appeal was rejected. According to the petition, as a result of the above, Mr. Neira's rights to judicial protection and due process as well as humane treatment, as recognized in the American Convention on Human Rights (hereinafter "the American Convention"), were violated.

II. POSITION OF THE STATE

3. The State maintained that the petition was inadmissible because it did not cite facts demonstrating the violation of any right protected by the American Convention. It states that Mr. Neira enjoyed all the due process guarantees when he was tried and that he made no mention of the alleged torture in his defense. The State maintains that Mr. Neira's petition does not demonstrate any violation of his right to an adequate judicial defense or that he was actually subjected to torture. It indicates that the domestic resources were fully exhausted with respect to Mr. Neira's conviction and calls attention, nonetheless, to the fact that he never filed any complaint with the Prison Prosecutor's Office (*Procuraduría Penitenciaria*) regarding the alleged torture.

III. PROCEDURE BEFORE THE IACHR

5. The Commission received the petition on May 10, 1995. The IACHR issued Admissibility Report 4/02 on February 27, 2002. That report was forwarded to the petitioner on April 2, 2002 and, in accordance with the provisions of Article 38(1) of the Rules of Procedure then in effect, allowed a period of two months for submitting observations on the merits. In addition, based on the provisions of Article 38 (2) of the same Rules of Procedure, the IACHR made itself available to the parties for the purpose of reaching a friendly settlement in accordance with Article 48.1(f) of the American Convention. The Admissibility Report was forwarded to the State on April 2, 2002, on which date the State was informed that, in accordance with its Rules of Procedure, the IACHR was making itself available to the parties for the purpose of reaching a friendly settlement.

6. The State submitted its response on June 5, 2002, reporting that the Argentine Government found no evidence that would allow acceptance of the proposed route.

7. Subsequently the petitioner reported that her son had been “released on October 6, 1998 and died on January 8, 1999. He committed suicide due to a serious depression. As you will note in the death certificate, he had already qualified as an attorney. He leaves three children. He felt unprotected, but it’s too late for regrets. I thank you for your good intentions.” All the above communications were duly forwarded to the parties.

8. The IACHR asked for additional information from the petitioner in a communication dated May 19, 2010. Both documents were returned by mail because the person no longer lives at that address. The Secretariat later tried again to communicate by telephone with the petitioner but was informed that Mrs. Neira no longer lived at that address.

IV. LEGAL BASIS FOR THE DECISION TO ARCHIVE THE CASE

9. Both Article 48(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights establish that, in the processing of a petition, once information has been received or the deadline for its receipt has passed, the IACHR shall ascertain whether the grounds for the petition or communication still exist and, if they do not, shall order that the file be archived.

10. To date, the petitioner has not responded to the IACHR request for additional information dated October 15, 1998 and reiterated on May 19, 2010. The IACHR notes that efforts to contact the petitioner have been unsuccessful, so that it will be impossible to have sufficient evidence to reach a decision in the case. Based on the foregoing, in accordance with Article 48(b) of the American Convention as well as Article 42 of its Rules of Procedure, the IACHR has decided to archive this petition.

Done and signed in the city of Washington, D.C., on the 23rd day of March, 2011. (Signed): 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.