

REPORT No. 43/11¹
DECISION TO ARCHIVE
PETITION 362-04
CÉSAR AUGUSTO PUERTO NARVÁEZ
MEXICO
March 23, 2011

ALLEGED VICTIM: César Augusto Puerto Narváez

PETITIONER: César Augusto Puerto Narváez

ALLEGED VIOLATIONS The petitioner does not cite specific violations

DATE OF INITIAL PROCESSING: July 21, 2010

I. POSITION OF THE PETITIONER

1. On April 15, 2004, the Inter-American Commission on Human Rights received a petition lodged by César Augusto Puerto Narváez, who requested that the State of Mexico be declared to have international responsibility for the following: the alleged abusive treatment and poor living conditions he suffered in a maximum security prison; restrictions to his right to receive consular assistance; alleged irregularities committed during the criminal proceedings against him; and, failure to respond to the various complaints filed by him.

2. The petitioner, a Colombian citizen and a commercial air pilot, alleges that in February 2003, he was arrested at the airport of the city of Aguas Calientes, after having been forced—allegedly by “paramilitary personnel”—to fly an aircraft from Colombia, transporting cargo, whose contents he was unaware of. He reports that he was tried and convicted for the crime of “importing narcotics” and sentenced to 21 years and 3 months in prison.²

3. He indicates that at the time of his detention, he was transferred to a maximum security prison where he contends that he was discriminated against because of his nationality and subjected to abusive treatment. In this regard he makes the following claims: i) his personal correspondence was violated; ii) communication with his family was restricted; iii) during the “inspections” by prison officers, he was hit on various parts of his body, and he felt sexually harassed and denigrated; and v) he was unfairly punished. He further states that “initially, the formal visit with the consulate was not allowed” and added that the conversations with consular representatives held on other occasions were “through the glass partitions, without more personal contact.”

4. With regard to the criminal proceeding against him, he claims that it was tainted by various irregularities. Specifically, he maintains that, despite repeated requests, he was not given access to the case records until the conviction judgment was handed down. He adds that even his consulate intervened to obtain access to these documents, but that its attempts had also proved fruitless.

5. Moreover, he reports that he lodged a complaint with the Office of the Attorney General of Mexico [*Procuraduría General de la República*] regarding the alleged irregularities committed by public officials, and another complaint with the Public Ministry [*Ministerio Público*], for violation of his correspondence. He indicates that he did not receive a response in either case. He further indicates that he lodged two complaints with the National Human Rights Commission, which were “immediately” closed, with no grounds given.

¹ Pursuant to Article 17.2.a of the Commission’s Rules of Procedure, Commissioner José de Jesús Orozco Henríquez, a Mexican national, did not participate in the deliberations or the decision in the present case.

² On the date this report is drafted, the petitioner is serving his sentence.

6. In addition, he makes reference to general situations, including over-zealous inspections, physical and psychological torture, and abusive treatment and beatings of detainees, some of which occurred in the presence of personnel of the National Human Rights Commission. He also mentions that they repeatedly had to strip naked, and were in some cases subjected to degrading “inspections.” He contends that the prison population at times has no communication, because of interruption of the mail service, that sometimes they are not allowed to bathe for prolonged periods of time, and that “they throw them the food,” poorly prepared and dirty, “through the bars of their cells.”

II. POSITION OF THE STATE

7. In its reply, the Mexican State contends that the petition is inadmissible, because the criminal proceeding against the alleged victim was carried out in accordance with the law. It further indicates that no complaints regarding the abusive treatment received in prison were lodged with the domestic courts.

III. PROCESSING BY THE IACHR

8. The petition was received by the IACHR on April 15, 2004. The petitioner submitted additional information on June 3, 2005 and on July 16, 2009. On July 21, 2010, it was forwarded to the State of Mexico, which was granted two months to respond. After being granted an extension, Mexico sent its response on October 28, 2010.

9. The petitioner submitted additional information on September 21, 2010. On February 15, 2011, the petitioner advised the IACHR of his decision to withdraw the petition to that body, and requested that the reasons for that decision remain confidential.

IV. GROUNDS FOR THE DECISION TO CLOSE THE CASE

10. Article 48.1.b of the American Convention on Human Rights and Article 42.1 of IACHR Rules of Procedure, establish that, at any time after receipt of the information or expiry of the deadlines for receiving it, the IACHR shall verify whether or not grounds of the petition exist or persist. If they do not, the case shall be archived. Moreover, on previous occasions, the IACHR considered that if an alleged victim explicitly desists from pursuing his or her case, that, too, may be considered valid grounds for archiving a petition or a case³. Therefore, pursuant to Article 41 of the Rules of Procedure of the IACHR, the Commission hereby decides to archive this petition.

11. In the instant case, the petitioner explicitly submitted a request to withdraw the petition to this institution. Accordingly, after evaluating the petitioner’s arguments, the IACHR decides to archive the present petition, pursuant to Article 42.1 of its Rules of Procedure.

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

³ IACHR, Report No. 131/09, Archive, Case 12.230, Zoilamérica Narváez Murillo, Nicaragua, November 12, 2009, paragraph 20.