

**REPORT No. 117/11<sup>1</sup>**  
PETITION 12.341  
ADMISSIBILITY  
JAMES WILSON CHAMBERS  
UNITED STATES  
July 22, 2011

**I. SUMMARY**

1. On November 9, 2000, the Inter-American Commission on Human Rights (hereinafter “the Commission,” the “Inter-American Commission,” or “the IACHR”) received a petition filed by James Oury of *Oury Clark Solicitors* (hereinafter “the petitioner) against the United States of America (hereinafter “the United States” or “the State”). The petition was presented on behalf of James Wilson Chambers (hereinafter “the alleged victim” or “Mr. Chambers”), who at the time the petition was filed was imprisoned on death row in the state of Missouri.

2. The petitioner argues that the death sentence given to Mr. Chambers was disproportionate; that the guarantees of due process were violated; that the alleged victim had a low mental capability and was imprisoned in dehumanizing conditions. Mr. Chambers was executed in Missouri on November 15, 2000, despite the fact that the IACHR had requested precautionary measures on his behalf. As of this writing, the State has still not submitted its observations.

3. Without prejudging the merits of the complaint and after examining the petitioner’s position, the Commission, in compliance with the requirements set forth in Articles 31 to 34 of the Commission’s Rules of Procedure, decides that the case is admissible for purposes of an examination of the alleged violation of the rights recognized in articles I, XVIII and XXVI of the American Declaration of the Rights and Duties of Man (hereinafter “the American Declaration”). In keeping with the principle of *iura novit curia*, the Commission also decides to declare the present petition admissible with respect to the alleged violation of the right recognized in Article XXV of the American Declaration. The Commission further decides to notify the parties of this decision, to publish it and include it in its Annual Report to the OAS General Assembly.

**II. PROCESSING WITH THE INTER-AMERICAN COMMISSION**

5. The IACHR received the petition on November 9, 2000 and transmitted a copy of its pertinent parts to the State the following day, giving the State 90 days in which to present its observations, in keeping with the Rules of Procedure in force at that time. On November 14, 2000, the State acknowledged receipt of the communication from the Inter-American Commission. According to the public information available, the alleged victim was executed in the state of Missouri on November 15, 2000.<sup>2</sup>

6. On January 13, 2010, the IACHR requested updated information from the petitioner. As of this writing, the Inter-American Commission has received no further communication from the parties.

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<sup>1</sup> Pursuant to Article 17(2) of the Commission’s Rules of Procedure, Commissioner Dinah Shelton, a national of the United States, did not participate in the deliberations or decision of this case.

<sup>2</sup> Information available at: <http://www.clarkprosecutor.org/html/death/US/chambers675.htm>

### **Precautionary measures**

7. On November 10, 2000, the IACHR notified the State that it had granted precautionary measures on behalf of the alleged victim and requested to stay the execution until the Commission had examined the merits of the case.

### **III. POSITIONS OF THE PARTIES**

#### **A. Position of the petitioner**

8. According to the petitioner, Mr. Chambers, who was convicted three times, was sentenced to death in the state of Missouri for the crime of capital murder. The petitioner states that the first two convictions were overturned as being unconstitutional. The first conviction was reversed on the grounds of an absence of a direction to the jury on self defense, while the second conviction was reversed on the grounds that the defendant had received ineffective assistance of counsel when his counsel failed to call the only witness who would have testified in Mr. Chambers' favor. The petitioner states that all domestic remedies were exhausted and that shortly before turning to the IACHR the United States Supreme Court had denied a Petition for Certiorari. The Missouri Supreme Court issued a warrant of execution and set November 15, 2000 as the execution date.

9. As for the violations of the alleged victim's human rights, the petitioner asserts that the conviction was disproportionate to the offense itself; that due process guarantees were violated; that Mr. Chambers had a low mental capability and was imprisoned under dehumanizing conditions.

10. As for the first allegation, the petitioner contends that the incident giving rise to the capital conviction was entirely disproportionate to the offence itself. He points out that the offence occurred in the context of a brawl outside a bar, which led to the single but fatal shooting of a man. He further points out that there is no record of a verdict of death in such circumstances. The petitioner observes that a similar case was overturned on appeal by the Supreme Court of Nevada on the grounds that the punishment was disproportionate to the crime. He also mentions the fact that the existing evidence indicates that the person whom Mr. Chambers was convicted of killing was violent and had been involved in a number of altercations similar to the incident which led to his death.

11. Regarding the alleged violations of due process, the petitioner asserts that the alleged victim was denied an evidentiary hearing based upon the evidence provided by the key prosecution witness, who had allegedly given four different versions of what happened on the day of the events. The petitioner contends that the witness in question had initially testified that he witnessed the shooting from his bar stool through the window. Later it was allegedly discovered that the window was painted black, whereupon the witness, aided by the prosecution, had purportedly altered his testimony, moving his position to the bar room door itself. The petitioner further alleged that the prosecution did not disclose material evidence favorable to the theory that the alleged victim had acted in legitimate self-defense.

12. According to the petitioner, Mr. Chambers had a low mental capability, with an I.Q. of 78. He states further that this important information was not put before the jury in the sentencing phase of the third trial. Furthermore, the jury foreman purportedly forwarded an unsolicited affidavit to then Missouri Governor Carnahan indicating that he would not have agreed to vote for the death sentence in circumstances where he had been apprised of the mental capacity of Mr. Chambers.

13. Concerning the prison conditions, the petitioner argues that the alleged victim was imprisoned on death row for over 15 years; that during that period he received two warrants for execution; and that between 1982 and 1989, he was housed in the basement of the Missouri State Penitentiary in Jefferson City. He states that the cruel and dehumanizing living conditions in that prison resulted in the filing of a federal lawsuit by Mr. Chambers and other death row inmates in August 1985. That federal lawsuit was allegedly the subject of an out-of-Court settlement prompted by the state government.

14. Lastly, the petitioner states that the majority of the delays in the trial conducted against Mr. Chambers were the result of errors by the state of Missouri, in particular, its failure to provide a self defense instruction to the jury in 1982, and the continually ineffective trial counsel in 1985. He concludes that the alleged victim spent 9 years and 7 months in prison because of the unconstitutionality of the first two trials. Based on the foregoing, the petitioner alleges that the State violated the rights recognized in articles I, XVIII and XXVI of the American Declaration to the detriment of Mr. Chambers.

#### **B. Position of the State**

15. On November 14, 2000, the State acknowledged receipt of the IACHR's communication and indicated that it would immediately forward the information to the respective state authorities for their consideration. As of the date of approval of this report, the Inter-American Commission has not received the State's observations regarding the petitioner's allegations.

### **IV. ANALYSIS ON COMPETENCE AND ADMISSIBILITY**

#### **A. Competence**

16. Under Article 23 of the Commission's Rules of Procedure, the petitioner is, in principle, authorized to file a petition. The individual named as the alleged victim in the petition is a person whose rights under the American Declaration the United States undertook to respect and guarantee. As for the State, the Inter-American Commission observes that under the OAS Charter, Article 20 of the Statute of the Commission, and Article 51 of its Rules of Procedure, the United States is bound by the provisions of the American Declaration. The United States has been a member state of the Organization of American States since June 19, 1951, the date on which it deposited its instrument of ratification of the OAS Charter,<sup>3</sup> and has been subject to the jurisdiction of the Inter-Commission since its creation. Hence, the Commission is competent *ratione personae* to examine the petition.

17. The Inter-American Commission is also competent *ratione loci* to take cognizance of the petition inasmuch as it alleges violations of rights protected by the American Declaration said to have occurred within the territory of the United States. The IACHR is also competent *ratione temporis* because the obligation to respect and guarantee the rights protected in the American Declaration was already in effect for the United States on the date on which the facts alleged in the petition were said to have occurred. Finally, the Commission is competent *ratione materiae* because the petitioner alleges possible violations of human rights protected by the American Declaration.

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<sup>3</sup> See, also, I/A Court H.R., Interpretation of the American Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights, OC-10/89, paragraph 45 (July 14, 1989).

## **B. Admissibility Requirements**

### **1. Exhaustion of domestic remedies**

18. Article 31(1) of the Commission's Rules of Procedure provides that in order for a petition filed with the Commission to be admissible, the remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to give the national authorities an opportunity to take cognizance of the alleged violation of a protected right and, if appropriate, resolve the matter before it is brought to the attention of an international body.

19. The petitioner alleges that all domestic remedies were exhausted. While he does not provide the details of every remedy pursued, he does indicate that a Petition for Certiorari filed with the United States Supreme Court was denied shortly before the petition was filed with the IACHR (he does not specify the date of the notification of the Supreme Court's denial). Furthermore, according to the public information available, on November 14, 2000, i.e., subsequent to the filing of the petition with the IACHR, a petition for writ of certiorari and for a stay of execution were filed with the Missouri Supreme Court, but denied.<sup>4</sup> Furthermore, by the time the petition was filed with the IACHR, the Missouri Supreme Court had issued a warrant for execution of the death sentence, which shows that there were no other remedies available at the domestic level.

20. Hence, the Commission concludes that in the instant case, the remedies under domestic law have been pursued and exhausted in accordance with Article 31(1) of the Commission's Rules of Procedure.

### **2. Timeliness of the petition**

21. Article 32(1) of the Commission's Rules of Procedure requires that for a petition or communication to be admitted, it must be lodged within a period of six months from the date on which the party alleging the violation of his rights was notified of the final judgment. In the case under analysis, two petitions were denied subsequent to the date on which the petition was filed with the Commission. The Commission therefore concludes that the present petition satisfies the requirement specified in Article 32(1) of the Commission's Rules of Procedure.

### **3. Duplication of proceedings and international *res judicata***

22. There is no information on the record indicating that the subject matter of this petition is pending with another international organization for settlement or that it is substantially the same as one already examined by this or some other international body. Therefore, the requirements established in Article 33(1) of the Commission's Rules of Procedure have been met.

### **4. Colorable claim**

23. Under Article 34(2) of the Commission's Rules of Procedure, the Commission is to declare any petition or case inadmissible when it does not state facts that tend to establish a violation of the rights referred to in Article 27 thereof, in which case the petition is to be dismissed by virtue of the fact that it is "manifestly groundless" or "out of order", as provided in Article 34(b). The criterion for analyzing a petition's admissibility differs from the one used to analyze its merits, since in the admissibility phase the Inter-American Commission does only a *prima facie* analysis to determine whether a petition establishes the apparent or possible violation of a right guaranteed by the American Declaration. It is a preliminary analysis that does not imply any prejudgment or a preliminary opinion on the merits of the case.

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<sup>4</sup> Information available in the *Journal of the Supreme Court of the United States*, page 315. Available at: <http://www.supremecourt.gov/orders/journal/jnl00.pdf>.

24. The petitioner contends that the incident giving rise to the capital conviction was entirely disproportionate to the offense itself; that he was denied an evidentiary hearing based upon the evidence provided by the key prosecution witness; and that the prosecution failed to disclose material evidence favorable to the alleged victim. He further alleges that Mr. Chambers had a low mental capability, a fact purportedly not disclosed to the jury during the sentencing phase. The petitioner also asserts that the alleged victim was incarcerated on death row for over 15 years; that for six of those years he was held under dehumanizing conditions, and that the delay in the trial was due mainly to errors in the conduct of the state authorities.

25. Given the more rigorous scrutiny that the Commission has practiced in death penalty cases,<sup>5</sup> it observes that if proved, the petitioner's allegations could tend to establish violations of articles I, XVIII and XXVI of the American Declaration and, in application of the principle of *iura novit curia*, article XXV of the Declaration regarding the dehumanizing prison conditions. The IACHR reiterates that it has an enhanced obligation to ensure that any deprivation of life which may occur through the application of the death penalty is in strict compliance with the applicable inter-American human rights instruments, including the American Declaration.<sup>6</sup>

26. Finally, the IACHR observes that the present complaint has implications for the State's obligations vis-à-vis the inter-American human rights system, given the failure to comply with the precautionary measures granted by the Commission. As the Commission has reiterated, "the failure of an OAS member state to preserve a condemned prisoner's life pending review by the Commission of his or her complaint undermines the efficacy of the Commission's process, deprives condemned persons of their right to petition in the inter-American human rights system, and results in serious and irreparable harm to those individuals."<sup>7</sup> While the lack of subsequent, updated information may make the processing of the case more difficult and may result in a decision to close archive, the elements already presented in the instant case tend to establish a violation for purposes of the admissibility decision.

27. In conclusion, the IACHR decides that the petition is not manifestly groundless or out of order and declares that the petitioner has, *prima facie*, complied with the requirements established in Article 34 of the Commission's Rules of Procedure.

## V. CONCLUSIONS

28. The Inter-American Commission concludes that it is competent to take cognizance of the present matter and that the petition is admissible under articles 31 to 34 of its Rules of Procedure. Based on the arguments of fact and of law set forth herein and without prejudging the merits of the case,

### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### DECIDES:

1. To declare the present petition admissible with respect to articles I, XVIII and XXVI of the American Declaration and, by application of the principle of *iura novit curia*, to declare the present petition admissible with respect to Article XXV of that instrument.
2. To notify the parties of this decision.
3. To proceed to the analysis of the merits of the case.

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<sup>5</sup> See IACHR, Report No. 60/11, Petitions P-11.575 and others, Admissibility, Clarence Allen Lackey, March 24, 2011, paragraph 158; Report No. 77/09, Petition 1349-07, Admissibility, Orlando Cordia Hall, United States, August 5, 2009, paragraph 47; and Report No. 61/03, Petition 4446-02, Admissibility, Roberto Moreno Ramos, United States, paragraph 66.

<sup>6</sup> IACHR, Report No. 1/05, Case 12,430, Merits, Roberto Moreno Ramos, United States, January 28, 2005, paragraph 43.

<sup>7</sup> IACHR, Report No. 1/05, Case 12,430, Merits, Roberto Moreno Ramos, United States, January 28, 2005, paragraph 75.

4. To publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Done and signed in the city of Washington, D.C., the 22<sup>nd</sup> day of the month of July 2011. (Signed): José de Jesús Orozco Henríquez, First Vice President; Paulo Sérgio Pinheiro, Felipe González and María Silvia Guillén, Commission Members.