

REPORT No. 115/11*
PETITION 11.829
ADMISSIBILITY
PEDRO LUIS MEDINA
UNITED STATES
July 22, 2011

I. SUMMARY

1. On September 20, 1997, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission”, “the Commission” or “the IACHR”) received a petition from the American Association of Jurists (hereinafter “the petitioners”) against the Government of the United States of America (hereinafter “the State” or “the United States”). The petition was presented on behalf of Pedro Luis Medina (hereinafter “Mr. Medina” or “the alleged victim”), a Cuban national who was executed in the electric chair in the State of Florida on March 25, 1997.

2. The petition claims that Mr. Medina, a Mariel refugee,¹ was tortured at the moment of his execution. Allegedly, eyewitnesses, including his parents and siblings, saw how Mr. Medina breathed in agony after the electric shocks were sent through him and even saw smoke rising from his head. Therefore, the petitioners complain that the United States uses torture and cruel and inhumane treatment as a method of punishment, resulting in extraordinary suffering, in violation of international law, more particularly Article XXVI of the American Declaration of the Rights and Duties of Man (the “American Declaration”).

3. The petitioners further contend that Mr. Medina was denied a fair trial because several elements, including his state of mind, were not taken into account. Finally, the petitioners allege that because Mr. Medina was sentenced to death by an all-white jury, in a state hostile to Mariel refugees, he was also denied his right to equality before the law. Ultimately, the petition alleges that the State is responsible for the violation of Mr. Medina’s rights under Articles I, II, XVII, XXV and XXVI of the American Declaration.²

4. The State argues that the petition is inadmissible because the petitioners failed to invoke and exhaust domestic remedies following the execution of Mr. Medina, as required by the IACHR’s Rules of Procedure. Moreover, the State claims that the petition fails to state facts that constitute a violation of rights set forth in the American Declaration and is thus manifestly groundless.

5. As set forth in this report, having examined the contentions of the parties on the question of admissibility, and without prejudging the merits of the matter, the Inter-American Commission decides to admit the claims in the present petition in respect of Articles I, II, XVIII and XXVI of the American Declaration. The IACHR also decides to notify the parties, to publish this admissibility report, and to include it in its Annual Report to the OAS General Assembly.

II. PROCEEDINGS BEFORE THE IACHR

6. The petition was lodged with the Inter-American Commission on September 20, 1997. On November 7, 1997, the pertinent parts of the petition were transmitted to the State, with a request that it

* Commissioner Dinah Shelton did not take part in the discussion and voting on this case, pursuant to Article 17(2) of the Inter-American Commission’s Rules of Procedure.

¹ A Mariel refugee or “Marielito” is generally known as one of the 125,000 Cubans who were brought from Cuba in the spring of 1980 to the shores of the United States. Most of the refugees were seeking political freedom, but many were in fact sent by the Cuban Government directly from prisons and mental institutions.

² The Inter-American Commission notes that although the petitioners mention a denial of Mr. Medina’s right to a fair trial, they do not refer to Article XVIII of the American Declaration, but rather explicitly to Article XVII of the Declaration.

submit its observations within three months. On September 2, 1999, the IAHCR reiterated its request to the State; on September 21, 1999, it received the response dated September 17, 1999.

7. By letter dated October 20, 1999, the petitioners requested an additional thirty days to provide their observations to the State's response. On April 9, 2009, the IACHR reiterated its request to the petitioners and asked to be provided with relevant up-dated information. As of the date of this report, the Inter-American Commission has not received observations on the State's response or updated information from the petitioners.

III. POSITIONS OF THE PARTIES

A. Position of the petitioners

8. The petition indicates that Mr. Medina immigrated to the United States in 1980, at the age of 23 years old, as a Mariel refugee. According to the petition, Mr. Medina became a good friend of an American woman named Dorothy James, whom he often visited and who often let him borrow her vehicle. In 1983, Mrs. James was found murdered in her house and Mr. Medina was tried, convicted and sentenced to death for her murder.

9. The petition, entitled "Complaint presented to the IACHR of the OAS for the murder and torture of Pedro Luis Medina in the electric chair", complains principally of the way in which his execution took place. The petitioners claim that the use of the electrical chair constitutes torture and cruel treatment. In support of this allegation, the petitioners relate the way in which the execution of Mr. Medina took place. They submit that at 7:00 am on March 25, 1997, Mr. Medina was attached to the electric chair with belts around his wrists, chest, shoulder and legs. When he was asked if he wanted to say any last words, Mr. Medina allegedly said "still, I am innocent", after which a belt was put over his mouth. A metal cap with a wet sponge and a leather hood were then put on his head, which had already been coated with a jelly used for the execution. Allegedly, Mr. Medina then received three electric charges, after which flames appeared on his head, to such an extent that the executioners had to open the doors to let the smoke out of the execution room. The petitioners indicate that Ron McAndrew, superintendent of the prison, later stated that when the electric shocks were applied, he could observe Mr. Medina's deep breathing, as well as the fact that he was squeezing his fists and relaxing them, which Mr. McAndrew described as muscular contractions. The petitioners claim that experts in the matter have described this deep breathing as the last moments of a person in agony, and that the preliminary autopsy of Mr. Medina in fact indicated that he suffered burns and pulmonary congestion during the execution.

10. Moreover, the petition indicates that the electric chair used to conduct the execution of Mr. Medina was built in 1923, and that although an incident similar to what is described above occurred in 1990, the government continues to use it, therefore approving, implementing and promoting torture and inhumane treatment as a form of criminal punishment. In this regard, the petition states that the prosecutor of Florida stated that "people who want to commit murders better not do them in Florida because we might have a problem with our electric chair."

11. The petitioners further submit that Mr. Medina did not receive a fair trial.³ In support of this argument, they submit that several key elements were not taken into consideration during the trial of Mr. Medina, including his mental state; the fact that his fingerprints were not found at the crime scene; that there was no trace of Mrs. James' blood in the car or on Mr. Medina; and that the motive for the crime as alleged by the prosecutor was the theft of the car, but that he had no reason to steal the car, as it was always at his disposal. The petitioners also claim that Mr. Medina's right to equality before the law was violated, because he was sentenced to death by an all-white jury, in a state allegedly known for its hostility to Mariel refugees.

³ The IACHR notes that although the petitioners do not refer to Article XVIII of the American Declaration but rather cites specifically "Article XVII Right to Recognition of Juridical Personality and of Civil Rights", they also refer directly to an alleged violation of the right to 'fair trial', petition page 4 "There is evidence that Mr. Medina never received a fair trial".

12. In light of the above, the petitioners argue that the State is responsible for the violation of Mr. Medina's right to life, to equality before the law, to recognition of juridical personality and of civil rights, to protection from arbitrary arrest, and to due process of law, under Articles I, II, XVII, XXV, and XXVI of the American Declaration. Accordingly, the petitioners request that the Inter-American Commission find the State responsible and recommend that it pay fair compensation to the family of the alleged victim.

B. Position of the State

13. The State refutes the allegation that the use of the electric chair constitutes cruel, infamous or unusual punishment. With respect specifically to the execution of Mr. Medina, the State refers to the case of *Jones v. Florida*,⁴ in which the trial court conducted two four-day hearings at which Mr. Medina's execution was allegedly subjected to extensive expert scrutiny and examination and in which extensive evidence was presented, as well as witness and expert testimony. According to the State, the court came to the conclusion that Mr. Medina's brain was instantly and massively depolarized within milliseconds of the initial surge of electricity; that he felt no pain; and that accordingly there was no evidence that the use of electric chair as a mean of execution inflicted "unnecessary and wanton pain" on Mr. Medina, or that it inflicts such pain in general.

14. Moreover, the State submits that the petitioners' claim is inadmissible for failure to invoke and exhaust domestic remedies. According to the State, if the petitioners wanted compensation, they should have filed a civil action based, for instance, on false arrest or wrongful death.⁵ Because they failed to do so, the State argues that the request for compensation must be declared inadmissible.

15. As for the allegations of unfair trial, the State claims that these must be rejected because Mr. Medina had ample opportunity to raise these claims in his various appeals and post-conviction proceedings and indeed did so.⁶ The State argues that because the petitioners are unsatisfied with the result of the domestic proceedings, they ask the IACHR to re-open the entire case by rejecting the findings of fact and law made by each of the domestic courts, something outside the scope of the Commission competence.

16. With respect to his competency, the State submits that Mr. Medina was extensively examined prior to his trial, again prior to his execution, and was determined competent on both occasions. According to the State, prior to his trial, Mr. Medina was given a psychiatric evaluation in which he was examined by two psychiatrists, both of whom concluded that he was competent to stand trial. Thus, the State argues that the capacity of Mr. Medina to defend himself, to understand legal proceedings and to choose a competent attorney were all factors considered at pre-trial stage, when the court determined that he was competent to stand trial. The State contends that not only the trial court reach this conclusion, but it was affirmed by a federal district court, the United States Court of Appeals for the Eleventh Circuit and the United States Supreme Court. Concerning his competency to be executed, the State submits that the issue was also extensively considered by domestic courts, all of which determined that Mr. Medina was competent.⁷

⁴ *Jones v. Florida*, 701 So.2d 76, 77 (Fla. 1997). In addition to arguing that execution *per se* was cruel and unusual punishment, Leo Alexander Jones pointed to the circumstances surrounding the execution of Pedro Medina. Decision obtained by the Executive Secretariat from a public source.

⁵ The State refers to section 1983 (statutory remedy for alleged federal constitutional violations) and Fla. Stat. Ann. § 768.28(1), authorizing civil suits seeking redress against the State of Florida for governmental torts.

⁶ For example, the State refers to *Medina v. Florida*, 466 So. 2d 1046 (Fla. 1985); *Medina v. Florida*, 573 So. 2d 293 (Fla. 1990).

⁷ The State contends that: Mr. Medina claimed his incompetence in a petition for a state writ of habeas corpus, which was considered and denied (*Medina v. Dugger*, 586 So 2d 317 (Fla. 1991)) and a petition for a federal writ of habeas corpus, which was denied on the merits. Mr. Medina then appealed to the United States Court of Appeals for the Eleventh Circuit (the "11th Circuit") which, after a review of the trial court's finding that Mr. Medina was competent to stand trial and to be executed affirmed the lower court's denial of his request for habeas relief (*Medina v. Singletary*, 59 F. 3d 1095 (11th Cir. 1995)). The State submits that the United States Supreme Court denied Medina's petition for writ of certiorari on June 10, 1996; that in December 1996, Medina again claimed his incompetence to be executed, and after appointing three psychiatrists to evaluate the issue, the 11th Circuit court

17. The State submits that arising from one of Mr. Medina's petitions for post-conviction relief; an exhaustive hearing was held on February 24, 1997 to determine whether he was competent to be executed.⁸ According to the State, Mr. Medina was represented by three lawyers and the court appointed two independent experts who, after performing comprehensive personal evaluations of Medina, concluded that he was competent to be executed; the court agreed, and held that Mr. Medina's death sentence could be carried out. Mr. Medina appealed this decision to the Florida Supreme Court, which affirmed the trial court's decision⁹ and the United States Supreme Court later denied his second request for a writ of *certiorari*.¹⁰ The State indicates that a third motion for post-conviction relief was filed in March 1997, for which the court denied all claims, a holding that the Florida Supreme Court affirmed on the same day.¹¹ Accordingly, the State claims that the petitioners' claims regarding unfair trial and denial of due process should be declared inadmissible pursuant to Article 34 of the IACHR's Rules of Procedure.

18. In light of the above, the State maintains that the allegation of violation of the right to life should be rejected because it has no basis in fact or in law. In this regard, the State further argues that the death penalty is not prohibited by either international law or the American Declaration and that, accordingly, the fact that Mr. Medina was sentenced to death by itself does not violate any international obligation.

19. The State also refutes the allegation of violation of the right to equality before the law because the petitioners did not provide any factual support for it. The State submits that nothing indicates that the State of Florida is actually hostile to Mariel refugees; that Mr. Medina's jury was hostile to Mariel refugee; or that the jury convicted him of murder because he was a Mariel refugee. In fact, the State underscores that the reason why the trial court followed the jury's recommendation and sentenced Mr. Medina to death was rather the fact that the one mitigating circumstance found by the court --the fact that Mr. Medina had no prior history of criminal activity-- was outweighed by two aggravating circumstances, namely the especially heinous, atrocious and cruel murder and the fact that it was committed for pecuniary gain.

IV. ANALYSIS ON COMPETENCE AND ADMISSIBILITY

A. Competence

20. The petitioners are entitled, under Article 23 of the IACHR's Rules of Procedure, to lodge complaints with the IACHR. The petition names, as its alleged victim, an individual whose rights are protected under the American Declaration. The State is bound to respect the provisions of the American Declaration, and the IACHR is competent to receive petitions alleging violations of that instrument by the State by virtue of its ratification of the OAS Charter on June 19, 1951 and in conformity with Article 20 of the IACHR's Statute and Article 51 of its Rules of Procedure.¹² The Commission therefore has

accepted their unanimous conclusion: that he "understood the nature and effect of the death penalty and why it has been imposed on him" (re Medina, 109 F.3d 1556, 1559 (11th Cir. 1997)).

⁸ No reference provided. However, the State submits that this decision was appealed by Mr. Medina to the Supreme Court of Florida, which confirmed the decision, save for the motion for evidentiary hearing to determine whether Mr. Medina was sane for the purposes of carrying out his sentence (Medina v. State, 690 So.2d 1241 (Fla. 1997)). Mr. Medina appealed the part of the decision denying his appeal to the United States Supreme Court, which denied *certiorari* (Medina v. Florida, 117 S. Ct. 1330 (1997)).

⁹ The State refers to Medina v. State, 690 So, 2d 1255 (Fla. 1997).

¹⁰ No reference provided.

¹¹ The State further submits that: Mr. Medina filed another habeas corpus petition on March 21, 1997 in the United States District Court for the Middle District of Florida, which was denied; that he filed an appeal of this decision with the 11th Circuit, which affirmed the district court's denial of habeas relief, (re Medina, 109 F.3d 1566 (1997)); and that the United States Supreme Court denied his third request for a writ of *certiorari* (no reference provided).

¹² Article 20(b) of the Statute of the IACHR provides that, in respect of those OAS member states that are not parties to the American Convention on Human Rights, the IACHR may examine communications submitted to it and any other available information, to address the government of such states for information deemed pertinent by the IACHR, and to make

competence *ratione personae* to examine the complaint. The Commission has also competence *ratione loci* to deal with the petition since it alleges violations of rights protected by the American Declaration occurring within the territory of the United States, which is a state party to that Declaration.

21. The Commission has competence *ratione temporis* since the obligation of respecting and ensuring the rights protected by the American Declaration was already in force for the State on the date on which the incidents described in the petition allegedly occurred. Finally, the Commission has competence *ratione materiae* since the petition describes possible violations of human rights that are protected by the American Declaration.

B. Exhaustion of domestic remedies

22. The Inter-American Commission must verify whether the remedies of the domestic system have been pursued and exhausted in accordance with generally recognized principles of international law, pursuant to with Article 31(1) of its Rules of Procedure. Article 31(2) of the Rules of Procedure, however, specifies that this requirement does not apply if the domestic legislation of the state concerned does not afford due process of law for protection of the right allegedly violated, if the party alleging the violation has been denied access to domestic remedies or is prevented from exhausting them, or if there has been an unwarranted delay in reaching a final judgment under the domestic remedies.

23. In the present case, the information before the Commission indicates that the petitioners' claims concerning Mr. Medina's right to a fair trial, competence to stand trial and to be executed, and to equality before the law were raised before and evaluated by the domestic courts prior to his execution. The State has raised no objection with respect to the exhaustion of domestic remedies with respect to these claims. In fact, in its response the State provides a detailed background of the procedures followed by Mr. Medina to challenge the conduct of his trial and to challenge his competence, both to stand trial and to be executed. This information indicates that, with respect to the conduct of his trial, the domestic courts, including the United States Supreme Court, either denied or declined to address the claims raised by Mr. Medina, and with respect to his competency, the domestic courts all determined that he was competent, both to stand trial and to be executed. The IACHR thus considers that in this regard, the petitioners have no further domestic remedies to exhaust and concludes that this claim is not barred from consideration under Article 31(1) of its Rules of Procedure.

24. The State does object that the petitioners failed to exhaust domestic remedies with respect to the manner of Mr. Medina's execution by the electric chair. The IACHR observes that the petitioners do not mention any judicial action undertaken to raise their main claim that Mr. Medina suffered torture during his execution. The State claims that the petitioners did not exhaust domestic remedies and mentions a subsequent case¹³ in which the Supreme Court of Florida analyzed the manner in which Mr. Medina's execution was carried out, and concluded that he had suffered no conscious pain. The State further holds that petitioners should have filed a civil action if they wanted compensation.

25. The IACHR notes that Medina filed a petition for all writs jurisdiction before the Supreme Court of Florida alleging that execution by electrocution was *per se* cruel and/or unusual punishment. The Court denied the petition, as did the Eleventh Circuit Court of Appeals and the United States Court.¹⁴ Given that the method of execution was placed directly before the courts, via multiple levels of appeal and

recommendations to such states, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights. See also Charter of the Organization of American States, Arts. 3, 16, 51, 112, 150; IACHR's Rules of Procedure, Arts 50 and 51; I/A. Court H.R., Advisory Opinion OC-10/8 "Interpretation of the Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights," July 14, 1989, Ser. A N° 10 (1989), paras. 35-45; I/A Comm. H.R., James Terry Roach and Jay Pinkerton v. United States, Case 9647, Res. 3/87, 22 September 1987, Annual Report 1986-87, paras. 46-49.

¹³ Jones v. Florida, 701 So.2d 76, 77 (Fla. 1997).

¹⁴ Medina v. Butterworth, US, 117 S.Ct.553, 136 L.Ed.2d 435 (1996), mentioned in Pedro Medina v. State of Florida, 690 So.2d 1241 (1997).

review, the Commission considers the requirement of exhaustion of remedies to have been met. Additionally, the Commission notes that two weeks after the execution of Mr. Medina, the Supreme Court of Florida relinquished jurisdiction to the trial court in the case of Leo Alexander Jones to conduct an evidentiary hearing on the claim that electrocution in Florida's electric chair was cruel and unusual punishment. On April 21, 1997, following a four-day hearing where the trial court analyzed information that included the manner in which Mr. Medina was executed, it denied the claim.¹⁵ On October 20, 1997, the Supreme Court of Florida concluded that "electrocution in Florida's electric chair in its present condition is not cruel or unusual punishment".¹⁶

26. In summary, the method of execution by electrocution was challenged by Mr. Medina prior to his execution. The claim was pursued through all available levels of appeal, with the finding that the execution should proceed. Shortly after Mr. Medina's execution, another person sentenced to execution challenged the method used in Florida and the State Supreme Court confirmed that it did not consider the method to constitute cruel or unusual punishment. Under the circumstances of the present case, where the method was challenged prior to execution, the Commission finds that domestic remedies were invoked and exhausted for the purposes of admissibility, and that the filing of additional post-execution remedies would not have constituted an effective remedy.

¹⁵ Supreme Court of Florida, *Jones v. Butterworth*, No. 90,231 (May 22, 1997). Decision obtained by the Executive Secretariat from a public source.

¹⁶ *Jones v. Florida*, 701 So.2d 76, 77 (Fla. 1997).

C. Timeliness of the petition

27. Article 32(1) of the IACHR's Rules of Procedure require that for a petition to be admitted, it must be lodged within a period of six months from the date on which the alleged victim of a rights violation was notified of the final judgment. On March 24, 1997, the Eleventh Circuit of the United States Court of Appeals denied all motions and applications filed by Mr. Medina pending in that Court.¹⁷ The petition was lodged on September 20, 1997. Therefore, the IACHR concludes that the requirement of Article 32 of the Rules of Procedure has been fulfilled.

D. Duplication of proceedings and *res judicata*

28. Article 33(1) of the IACHR's Rules of Procedure provides that the admissibility of a petition before the Inter-American Commission requires that the subject of the petition is not pending in another international proceeding for settlement. Based on the information provided to the IACHR in the petition and the silence of the State on this matter, the Commission finds no bar to the admissibility of the petition under Article 33(1) of the IACHR's Rules of Procedure.

E. Colorable claim

29. For admissibility purposes, the Commission must decide whether the alleged facts, if proven, could tend to establish a violation of the American Declaration, as required by Article 34(a) of the IACHR's Rules of Procedure, or whether the petition is "manifestly groundless" or is "obviously out of order," in accordance with section (b) of that same article. The level of conviction regarding those standards is different from that required in deciding on the merits of a complaint; the IACHR must perform a *prima facie* evaluation, not to establish the existence of a violation, but to examine if the petition establishes grounds for a possible or potential violation of a right guaranteed by the Declaration. That determination is a preliminary analysis and does not represent a prejudgment on the merits of the matter.

30. The petitioners allege that the State has violated Mr. Medina's rights under Articles I, II, XVII, XXV and XXVI of the American Declaration. With regard to the way in which the execution took place, petitioners claim that, after receiving three electric charges, Mr. Medina suffered burns and extreme pain due to the method employed. The State refutes the allegation that the use of the electric chair caused pain or constitutes cruel, infamous or unusual punishment. Upon consideration of the above, the Inter-American Commission finds that, without prejudging on the merits of the case, the alleged facts may tend to establish a violation of Article I of the American Declaration.

31. Concerning the allegations of denial of a fair trial and equality before the law, after carefully reviewing the information and arguments provided by the petitioners in light of the heightened scrutiny test applied by the IACHR in capital punishment cases¹⁸, and without prejudging the merits of the matter, the IACHR considers that the petition contains allegations that, if proved, may tend to establish violations of Articles I, II, and XXVI of the American Declaration, as well as, in virtue of the general principle of *iura novit curia*, a potential violation of Article XVIII of the American Declaration.

32. On the other hand, the IACHR observes that the petitioners have not sufficiently substantiated their allegations so as to permit the Commission to determine, for the effects of the admissibility of this petition, that the facts tend to establish *prima facie* violations of Articles XVII and XXV of the American Declaration. With respect to these provisions, this petition is inadmissible in conformity with Articles 34(a) and (b) of the Inter-American Commission's Rules of Procedure.

¹⁷ Pedro Medina, United States Court of Appeals, Eleventh Circuit, No. 97-1089, March 24, 1997.

¹⁸ According to the IACHR's established jurisprudence, it will review and decide capital punishment cases with a heightened level of scrutiny, to ensure that any deprivation of life that an OAS member state proposes to effect through the death penalty complies strictly with the requirements of the applicable inter-American human rights instruments. See IACHR, Report No. 77/09, Petition 1349-07, Admissibility, Orlando Cordia Hall, United States, August 5, 2009, paras. 47; IACHR, Report No 61/03, Petition 4446-02, Admissibility, Roberto Moreno Ramos, United States, October 10, 2003, para. 66; and IACHR, Report N° 41/00, McKenzie et al., Jamaica, April 13, 2000, paras. 169-171.

33. Consequently, the Inter-American Commission finds that the petition is not manifestly groundless or out of order and concludes, under Article 34 of its Rules of Procedure, that it should declare it admissible with regard to alleged violations of Articles I, II, XVIII and XXVI of the American Declaration.

IV. CONCLUSIONS

34. The Inter-American Commission concludes that it is competent to hear this case and that the petition is admissible according to Article 34 of its Rules of Procedure. Based on the arguments in fact and in law set forth above, and with no pre-judgment on the merits of the matters,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS DECIDES TO:

1. Declare the claims in the petition admissible with respect to Articles I, II, XVIII and XXVI of the American Declaration;
2. Declare the claims in the petition inadmissible with respect to Articles XVII and XXV of the American Declaration;
3. Give notice of this decision to the State and to the petitioners;
4. Continue with the analysis of the merits of the case; and
5. Publish this report and include it in the Annual Report to the OAS General Assembly.

Issued and signed in the city of Washington, D.C. on July 22, 2011. (Signed): Jose de Jesus Orozco Henriquez, First Vice President; Paulo Sergio Pinheiro, Felipe Gonzalez, and Maria Silvia Guillen, Members of the Commission.