

REPORT No. 128/11¹
DECISION TO CLOSE THE FILE
PETITION 2569-02
LUIS MARTÍNEZ HERNÁNDEZ
MEXICO
October 19, 2011

ALLEGED VICTIM: Luis Martínez Hernández

PETITIONER: Luis Martínez Hernández

VIOLATIONS ALLEGED: Articles 8, 9, 11, 24, 25, and 29 of the American Convention on Human Rights

DATE OF THE START OF THE PROCEEDING: September 23, 2002

I. POSITION OF THE PETITIONER

1. On September 23, 2002, the Inter-American Commission on Human Rights received a complaint submitted by Luis Martínez Hernández over the alleged violation of the rights to judicial guarantees, the principle of legality and retroactivity, the protection of honor and dignity, equal protection, and judicial protection by the State of Mexico.

2. In the complaint, the petitioner claimed to have been arbitrarily detained for the crime of drug trafficking to be driving behind a truck carrying marijuana. He alleges that he was unjustly accused despite the fact that the truck's driver and his companion testified that they had no relation with him and did not know him. He holds that despite this testimony, he was sentenced to 10 years in prison. The judgment was based solely on the police report made by the police officers who stopped him. The report makes reference to several envelopes containing the alleged victim's letterhead that were supposedly found in the truck carrying the drugs. The alleged victim argues that those envelopes were not included in the case file in violation of his right to due process.

II. POSITION OF THE STATE

3. The State maintains that the petitioner's judicial guarantees were respected at all times, having been brought to trial with all due respect for domestic legislation and international human rights standards. It asked that the petition be declared inadmissible for being time-barred, having been submitted after the six-month deadline as counting from the notification of the final judgment. It indicates that the petitioner submitted a complaint before the IACHR more than a year after he was notified of the ruling on an *amparo* request in 2002.

4. It holds that with his action brought before the Inter-American system, the petitioner only seeks to question legitimate rulings of the bodies that mete out justice in Mexico, making the IACHR into a "fourth instance."

¹ Commissioner José de Jesús Orozco Henríquez, of Mexican nationality, did not participate in the deliberations nor in the decision in this case, in keeping with the provisions of Article 17(2)(a) of the Rules of Procedure of the Commission.

III. PROCEEDING BEFORE THE IACHR

5. The petition was received by the Commission on July 29, 2002. Through a note dated on April 9, 2003, and pursuant to Article 34 of its Rules of Procedure in force at that time, the Commission began processing the case and asked the State for pertinent information, granting it a time period of two months to provide it.

6. On July 14, 2003, the State provided its response. It was forwarded to the petitioner on August 25, 2003. There was no response.

7. On February 27, 2007, with the purpose of updating the processing of the petition, the IACHR asked the petitioner to submit any information considered appropriate within a time period of three months. There was no response.

8. On July 6, 2010, the IACHR repeated its request made on February 27, 2007, to the petitioner and asked for updated information to determine whether the basis for the petition persisted. Likewise, the petitioner was informed that on failing to receive information within the time period of one month, the IACHR could close the file on the petition, pursuant to Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the IACHR.

IV. BASIS FOR THE DECISION TO CLOSE THE FILE

9. Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the IACHR establish that, prior to determining admissibility, the Inter-American Commission must verify whether the basis for the protection continues to exist or persists and, in the event that it does not, order the case file closed.

10. In this case, nearly four years have passed since the request for information was made to the petitioner on February 27, 2007. Given the lack of response from the petitioner, the request for information was repeated on July 6, 2010, through which the petitioner was also informed of the possibility that the case file would be closed. As of this date, the IACHR has not received the necessary information to update the processing of the petition, as was requested.

11. Consequently, the Commission does not have the necessary information to determine whether the motivation behind the original complaint persists, nor to formulate a final decision on the human rights violation alleged. For this reason, pursuant to Article 48(1)(b) of the Convention and Article 42 of its Rules of Procedure, the Commission decides to close the file on this petition.

Done and signed in the city of Washington, D.C., on the 19th day of the month of October, 2011.
(Signed): Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, and María Silvia Guillén, Commissioners.