

REPORT No. 61/12
DECISION TO ARCHIVE
PETITION 468-03
ASDRÚBAL ARAUJO CASTILLO
MEXICO¹
March 19, 2012

ALLEGED VICTIM: Asdrúbal Araujo Castillo

PETITIONER: Asdrúbal Araujo Castillo

ALLEGED VIOLATIONS: Articles 8, 25, 5, and 7 of the American Convention on Human Rights

DATE PROCESSING BEGAN: September 25, 2003

I. POSITION OF THE PETITIONER

1. On June 13, 2003, the Inter-American Commission on Human Rights received a complaint lodged by Asdrúbal Araujo Castillo against the State of Mexico, on account of the alleged deprivation of liberty, torture, and threats by government agents in connection with events that occurred on November 15, 1999. The complaint also concerned alleged violations of due process and the right to judicial guarantees in criminal proceedings brought against the petitioner, because he alleges he was falsely accused of committing robbery.

2. In his complaint, the petitioner alleges that, following instructions from his employer, he withdrew a sum of money with a debt card that had no name on it. That fact led two months later to his being obliged, by use of force, to sign his resignation and accuse himself of appropriating the card and withdrawing 1,250.00 pesos from an ATM machine. Subsequently, according to the petitioner, he was taken to facilities at the Judicial Police Headquarters in the *Ministerio Público*, tortured, and subjected to death threats by investigative police officers so that he would admit to being guilty of the charges. After two hours, he was presented to an agent at the *Ministerio Público*, where his captors stated that he had given himself up voluntarily. The day after his detention, according to the petitioner, he was asked to pay a sum of money in exchange for his release. On May 26, 2000, the petitioner was allegedly deceived by an official at the *Ministerio Público* into going there in order to work out a possible solution, but there he was arrested and taken to the Reclusorio Oriente detention center, where he was held for four days. On June 10, 2000, after summary proceedings, he was sentenced for robbery to three months in prison and reparation of the damage caused.

3. On December 16, 1999, the petitioner allegedly filed a complaint on account of the crimes of misuse of authority, criminal conspiracy, bribery, kidnapping, torture, intimidation, threats, extortion, and improper use of government services by state agents. The petitioner alleges that in the preparation of the case, relevant inquiries were not made and evidence was discarded, whereby the *Ministerio Público* failed to comply with its obligation to investigate. On October 29, 2005, the Public Prosecutor's office notified the petitioner that a criminal action could not be brought because neither proof of crime nor the likely responsibility of the public servants had been substantiated.

II. POSITION OF THE STATE

4. The State argues that judicial guarantees were observed during the criminal proceedings against the petitioner and that the *Ministerio Público* had acted in accordance with due process of law. It

¹ In accordance with Article 17(2) a. of the Rules of Procedure of the IACHR, Commissioner José de Jesús Orozco Henríquez, a Mexican national, did not participate in the discussion or decision in the present case.

adds that, from the start, the petitioner gave himself up voluntarily to the competent authorities and, after making his statement, had been freed because of the nature of the crime he was accused of.

5. With regard to the complaint of illegal deprivation of liberty and acts of torture by State agents, both the Central Prosecutor's Office and the Attorney General's Office (*Procuraduría General de Justicia*) had decided, in response to a remedy of complaint subsequently filed by the petitioner, that a criminal action suit was not warranted because neither the *corpus delicti* nor the responsibility of the civil servants had been shown.

III. PROCESSING BY THE IACHR

6. The petition was received by the Commission on June 13, 2003. On September 25, 2003, pursuant to Article 29 of its Rules of Procedure in force at that time, the Commission began processing the case and requested pertinent information from the State, to be provided within two months. The State's reply was received on December 22, 2003.

7. The petitioner replied to the State's observations on February 29, 2004, September 23, 2004, and July 26, 2005. For its part, the State replied to the petitioner's observations on June 21, 2004, March 7, 2005, and July 21, 2007. The petitioner did not submit observations -- requested by the Commission on July 25, 2007 -- to the last note from the State.

8. On December 10, 2007, and again on April 13, 2010, the IACHR reiterated the request for information from the petitioner that it had sent on July 25, 2007, asking him also to provide updated information so as to determine whether the grounds for the petition subsisted. The petitioner was also told that if the information was not received within one month, the IACHR could archive the petition under Article 48.1.b of the American Convention on Human Rights and Article 30 of its Rules of Procedure.

IV. BASIS FOR THE DECISION TO ARCHIVE

9. Article 48.1 of the American Convention on Human Rights and Article 42 of the IACHR's Rules of Procedure establish that, before determining admissibility, the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist and if it believes they do not, it shall order the case to be closed. Likewise, Article 42.1.b of its Rules of Procedure establishes that the IACHR may decide to archive a case when the information necessary for the adoption of a decision is unavailable.

10. In the instant case, since July 2007, the petitioner has not replied to the observations of the State, nor has he expanded or updated the information regarding his claims, despite repeated requests to do so by the Commission.

11. The petitioner did not reply to the request by the Commission, on April 13, 2010, for information to determine whether the grounds for the petition subsist. In that communication, the petitioner was also informed of the possibility that the case would be closed.

12. Consequently, the Commission lacks the wherewithal for determining whether the grounds that gave rise to the original complaint subsist and for making a final decision regarding the alleged violation of human rights. Pursuant to Article 48.1.b of the Convention and Article 42 of its Rules of Procedure, it therefore decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 19th day of the month of March 2012.
(Signed): Tracy Robinson, First Vice-President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.