

REPORT No. 35/12
PETITION 12.276
DECISION TO ARCHIVE
BRAZIL
March 20, 2012

ALLEGED VICTIMS: Jose P. dos Santos

PETITIONER: Jose P. dos Santos

ALLEGED VIOLATIONS: The petitioner does not expressly allege specific violations.

INITIATION OF PROCESSING: May 4, 2000

I. POSITION OF THE PARTIES

A. Position of the petitioner

1. On May 04, 2000, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition from Jose P. dos Santos alleging the responsibility of the Federative Republic of Brazil (the "State" or "Brazil") for his torture and ill-treatment in a prison in Salvador, Bahia state.

2. According to the petitioner, he and other inmates were taken to a room known as "pantanal," where they were allegedly abused by prison guards with beatings, burns and electrical shocks. Furthermore, the petitioner argues that the presumed victims and others were subjected to solitary confinement, deplorable conditions of detention, lack of recreational activities; and that they were also not allowed to receive visitors.

3. Additionally, the petitioner alleges that there was a gang led by a judge who was responsible for murders inside the prison. The petitioner also refers to a general practice of arbitrary detentions.

4. Finally, the petitioner alleges the impossibility of exhausting domestic remedies due to the fact that a judge is involved in some of the denounced violations.

B. Position of the State

5. The State of Brazil did not respond to any of the requests for information made by the Inter-American Commission.

II. PROCEEDINGS BEFORE THE IACHR

6. The Inter-American Commission received the petition on May 4, 2000. On the same date, the IACHR transmitted the pertinent portions of the petition to the Brazilian State. In the absence of a reply from the State, on April 17, 2001 the Commission reiterated its request for information.

7. Given the lack of response from Brazil, on December 18, 2002, the IACHR notified both parties that it had decided to defer its treatment of admissibility until the debate and decision on the

merits, in conformity with Article 37.3 of its Rules of Procedure.¹ On that same date, the Inter-American Commission asked the petitioner to submit additional observations on the merits.

8. Since the period established had elapsed and no information had been received, on April 23, 2007, the Inter-American Commission reiterated its request for information and additionally inquired whether the grounds for the petition still existed or subsisted. Given the lack of response from the petitioner, on July 28, 2011, the IACHR reiterated its previous request for information. On both occasions, the IACHR advised the petitioner about the possibility of ordering the record closed if it did not receive the requested information, in conformity with Article 48.1.b of the American Convention. To date, no response has been received from the petitioner.

III. GROUNDS FOR THE DECISION TO ARCHIVE

9. Articles 48.1.b of the American Convention and 42 of the Rules of Procedure of the IACHR establish that at any time during the processing, the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist; and that if it considers that they do not, it shall order the case to be archived. In addition, Article 42.1.b of the Inter-American Commission's Rules of Procedure establishes that the IACHR may also decide to archive a case when the information necessary for the adoption of a decision is unavailable.

10. More than eleven years have elapsed since processing began on May 4, 2000, and the Inter-American Commission lacks the necessary elements for the adoption of a decision on this petition. Specifically, the IACHR does not have information about the exhaustion of domestic remedies and the other admissibility requirements; nor does it have information as to whether the grounds for the petition subsist. As a result, the Inter-American Commission hereby decides to archive the present petition, pursuant to Article 48.1.b of the American Convention, as well as Article 42.1.b of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 20th day of the month of March 2012.
(Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.

¹ Article 37.3 of the IACHR's Rules of Procedure then in force was equivalent to Article 36.3 of the IACHR's current Rules of Procedure.