

REPORT No. 98/12
PETITION 1455-06
DECISION TO ARCHIVE
BRAZIL
November 8, 2012

ALLEGED VICTIMS: Thiago Silva Rocha

PETITIONER: *Projeto Legal*

ALLEGED VIOLATIONS: Articles 4, 5, 11 and 25 of the American Convention on Human Rights ("the American Convention")

INITIATION OF PROCESSING: December 5, 2007

I. POSITION OF THE PARTIES

A. Position of the petitioner

1. On December 27, 2006, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition alleging the responsibility of the Federative Republic of Brazil (the "State" or "Brazil") for the unwarranted delay in investigating the traffic accident that killed Thiago Silva Rocha (the "alleged victim" or "Mr. Rocha").

2. The petitioner contends that in 2000 Mr. Rocha was cycling when he got hit by a speeding car driven by a judge. Supposedly after the collision the alleged victim was dragged for a distance of 50 meters because the driver did not stop the car. The driver allegedly left the scene without rendering aid or calling for assistance.

3. Lastly, the petitioner indicates that a criminal investigation on the conduct of the judge was being carried out by the Rio de Janeiro Court of Justice (*Tribunal de Justiça do Estado do Rio de Janeiro*), but that investigation was still pending. Based on the above, the petitioner asserts that there is unwarranted delay in reaching a decision in the domestic remedies, in accordance with Article 46.2.c of the American Convention.

B. Position of the State

4. The State argues that the facts as described in the petition are not consistent with the evidence in the investigation and that all due process guarantees were respected in this process. Brazil asserts that the Rio de Janeiro Court of Justice issued a decision dismissing the judge's indictment and archiving the investigation due to the lack of evidence in 2007. Therefore the State requests the petition be declared inadmissible for failure to comply with the requirement set out in Article 46.1.a of the American Convention.

II. PROCEEDINGS BEFORE THE IACHR

5. The Inter-American Commission received the petition on December 27, 2006. The petitioner submitted additional information on August 15, 2007. By means of a note dated December 5, 2007, the IACHR transmitted the pertinent portions of the petition to the Brazilian State.

6. On October 17, 2008, the IACHR received the State's reply to this petition. The State also presented additional observations on November 4, 2008. These communications were duly forwarded to the petitioner.

7. Since the petitioner did not furnish any additional information, on April 25, 2011, the Inter-American Commission reiterated its previous 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 September 15, 2011 and February 7, 2012 the IACHR reiterated its previous requests for information. On those occasions, the IACHR advised the petitioner about the possibility of ordering the record to be 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

8. Articles 48.1.b of the American Convention and 42 of the Rules of Procedure of the IACHR establish that at any time during 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 its 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.

9. More than four years have elapsed since processing began on December 5, 2007, and the Inter-American Commission still lacks the necessary elements for the adoption of a decision on the admissibility of this petition. Specifically, the IACHR does not have information about the exhaustion of domestic remedies or 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 file of 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 8 day of the month of November, 2012.
(Signed): José de Jesús Orozco Henríquez, President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.