

**REPORT No. 14/13**  
PETITION 12.460  
DECISION TO ARCHIVE  
BRAZIL  
March 20, 2013

**ALLEGED VICTIMS:** Aginaldo Camilo da Silva

**PETITIONER:** Aginaldo Camilo da Silva

**ALLEGED VIOLATIONS:** The petitioner does not expressly allege any specific violations

**INITIATION OF PROCESSING:** October 23, 2003

**I. POSITION OF THE PARTIES**

**A. Position of the petitioner**

1. On April 25, 1996, 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 the processing of the petition for criminal review (*revisão criminal*) of Aginaldo Camilo da Silva (the "alleged victim" or "Mr. Silva").

2. According to the petitioner, the alleged victim had been imprisoned since 1994 due to a conviction and sentence of 31 years and 6 months in prison for kidnapping. The petitioner argued that on July 29, 1996 he filed a petition for criminal review which supposedly remained pending judgment. Therefore, the petitioner alleged that the judicial authorities had unjustifiably delayed their ruling on his petition for criminal review.

**B. Position of the State**

3. The State asserted that there was no unwarranted delay in the processing of the petition for criminal review, and that there was no appeal pending at any instance. Furthermore, the State also pointed out that the legal aid offered by the State to the alleged victim was efficient and thorough. As an example of that, the State referred to several appeals, five writs of *habeas corpus* filed before the Supreme Court of Justice [*Supremo Tribunal Federal*] and two writs of *habeas corpus* filed before the Superior Court of Justice [*Superior Tribunal de Justiça*].

4. Lastly, the State observed that the alleged victim's petition for criminal review had already been decided by means of a judicial decision issued on December 17, 2003. According to the State, this decision determined that the alleged victim's prison sentence be adjusted to 30 years in prison. The State also indicated that this decision is final.

**II. PROCEEDINGS BEFORE THE IACHR**

5. The Inter-American Commission received the petition on April 25, 1996. The petitioner presented additional information on June 18, 1996; July 26, 1996; July 29, 1996; September 23, 1996; October 24, 1996; April 21, 1997; April 3, 2002; April 1<sup>st</sup>, 2003 and July 7, 2003. By means of a note dated October 23, 2003, the IACHR transmitted the pertinent portions of the petition to the Brazilian State. The petitioner sent additional information to the IACHR on February 17, 2004, which was duly transmitted to the State.

6. Given the lack of response from Brazil, on July 8, 2004, the IACHR notified both parties that it had decided to defer its decision of admissibility until the debate and decision on the merits, in conformity with Article 37.3 of its Rules of Procedure.<sup>1</sup> On that same date, the Inter-American Commission requested the petitioner to submit additional observations on the merits.

7. On August 11, 2004, the petitioner sent his observations on the merits. The IACHR also received additional information from the petitioner on the following dates: April 28, 2004; February 2, 2005; April 25, 2005; June 26, 2007; July 27, 2007; April 24, 2008; June 5, 2008 and July 3, 2008. These communications were duly transmitted to the State.

8. On April 30, 2007 the Commission received the State's observations on the merits, in which Brazil indicated that the alleged victim's petition for criminal review had already been decided by means of a final decision in 2003. The State also submitted additional observations on November 9, 2007 and September 29, 2008. These communications were duly forwarded to the other party.

9. Taking into account that, according to the evidence in the file, the final decision on the alleged victim's petition for criminal review was issued in 2003, on April 25, 2011, the IACHR requested updated information on the facts from the petitioner, in order to determine whether the grounds for the petition still existed or subsisted. Given the lack of updated information from the petitioner, on July 28, 2011, the Inter-American Commission reiterated its earlier requests for updated information on the facts, in order to determine whether the grounds for the petition still existed or subsisted, indicating that if it did not receive the requested information, the IACHR could archive the file. To date the petitioner has not submitted the requested information.

### **III. GROUNDS FOR THE DECISION TO ARCHIVE**

10. 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 if it considers that they do not, it may decide to archive the file. 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.

11. More than nine years have elapsed since processing began on October 23, 2003, 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 lacks the information needed to determine whether or not the grounds for this petition still exist or 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.ç

Done and signed in the city of Washington, D.C., on the 20th day of March 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Felipe González, Rodrigo Escobar Gil and Rose-Marie Belle Antoine, Commissioners.

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<sup>1</sup> Article 37.3 of the IACHR's Rules of Procedure then into force was equivalent to Article 36.3 of the IACHR's current Rules of Procedure.