

REPORT No. 110/13
PETITION 354-03
DECISION TO ARCHIVE
ARGENTINA
November 5, 2013

ALLEGED VICTIM Edgar Rubén Godoy

PETITIONER: Stella Maris Ruiz

ALLEGED VIOLATIONS: The petitioner refers to the alleged violation of Articles 4, 8, and 25 of the American Convention on Human Rights

DATE PROCESSING BEGAN: June 17, 2005

I. POSITION OF THE PETITIONER

1. On May 18, 2003, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received the petition submitted by Stella Maris Ruiz (hereinafter “the petitioner”) on behalf of Edgar Rubén Godoy (hereinafter “the alleged victim”) against the Argentine Republic (hereinafter “the State” or “Argentina”), claiming that the alleged victim had died as a result of blows struck by the police in a police station in Selva, Province of Santiago del Estero, and that no criminal investigation was conducted.

2. The petitioner stated that on April 26, 2005, in Selva, Province of Santiago del Estero, the alleged victim found himself involved in a street fight with two people, as a result of which he was hit on the head. She indicated that one of the people the alleged victim fought with took him to the hospital. The petitioner reported that the alleged victim was treated by a legal medicine physician, who called the police since the alleged victim had used abusive language with him. She said that the police arrested the alleged victim and took him to a police station close to the hospital.

3. The petitioner said that the alleged victim was transferred to the hospital the following day because he could not wake up. She reported that one of the police officers had contacted the alleged victim’s mother to get her come to the hospital and said that when the legal medicine physician arrived he told her that the alleged victim was asleep because he was inebriated. The alleged victim’s mother had asked the physician why the alleged victim had a bruise on his forehead. The physician replied that he had been in a street fight. The petitioner alleged that the legal medicine physician insisted that Edgar Rubén Godoy be taken home because he was drunk and she stated that, when the alleged victim’s sister saw that he was hardly breathing, they decided to transfer him to another hospital, located in Ceres, Province of Santa Fe, 15 kilometers from Selva.

4. The petitioner affirmed that in the Ceres hospital, the orthopedist treating the alleged victim confirmed that he had a skull fracture and broken ribs and that he was in a coma. She reported that the alleged victim was transferred to a third hospital, in the city of Santa Fe, Province of Santa Fe, where, on April 27, 2005, emergency cranial surgery was performed to extract blood clots. The

he died. She indicated that the physicians in the Santa Fe hospital checked the alleged victim's alcohol level and confirmed that it was minimal.

5. The petitioner stated that Oscar Galeano, who was supposedly detained in the same police station as the alleged victim, had heard some police officers hitting him. She also said that they had to find a lawyer in the city of Ceres, Province of Santa Fe, since they did not have confidence in the lawyers in Santiago del Estero. She reported that the judge in Añatuya, Province of Santiago del Estero, who was familiar with the case against the person the alleged victim had fought with, requested Edgar Rubén Godoy's body so that an autopsy could be performed, without authorization from the alleged victim's family members. She indicated that the Añatuya judge had allowed the person Edgar Rubén Godoy had fought with to go free.

6. Subsequently, the attorney handling the criminal case internally informed the Commission that two years after the alleged victim's homicide the only person charged was someone who was not involved in the events.

II. POSITION OF THE STATE

7. The State alleged that the investigations to determine the circumstances of Edgar Rubén Godoy's death were being conducted normally, without any lack of impartiality or independence on the part of the court handling the case. It reported that the Argentine State was following with interest developments in the case, which was now before the local jurisdiction. However, it argued that the domestic resources had not yet been exhausted since the case was still before the courts. Also significant was the number of challenges made, both against judges and prosecutors, by the attorney for the alleged victim's family members.

8. The State reported that it had been in contact with the attorney handling the criminal case concerning the alleged victim's homicide and that it had visited the home of the alleged victim's family members to inform them that the Government of the Province of Santiago del Estero would provide "every resource at its disposal to bring transparency and certainty to the resolution of the case."

9. Nonetheless, the State claimed that some of the facts reported by the alleged victim were not consistent with the internal judicial file. It maintained that the alleged victim's uncle, José Omar Ojeda, had asked the legal medicine physician at the Selva hospital for a new forensic medical report and for an autopsy to be performed by a legal medicine physician to determine which lesions had caused the death. It said that, on two occasions, the Añatuya judge handling the criminal case had urged the examining magistrate for criminal matters for the city of San Cristóbal, Province of Santa Fe, to have the body exhumed and transferred to his jurisdiction so that the autopsy could be performed. It said that, according to the official record of the opening of the coffin, which took place on May 14, 2003, Abel Ramón Castillo attended the event as Teresa Castillo's representative, and the record of the body's transfer bore Teresa Castillo's signature.

10. Likewise, it contended that the criminal file did not contain any information attesting to the fact that Oscar Galeano was actually arrested the same day as the alleged victim and that in confrontations that person had said that people related to the case had given him money to say he had witnessed what happened in the police station.

III. PROCESSING BY THE IACHR

11. The petition was received by the Commission on May 18, 2003. On September 21, 2004, the Commission requested information from the petitioner in order to report on the procedural status of the investigation as well as a copy of the complaint, the autopsy report, and any judicial decision. The attorney in the domestic jurisdiction responded to the Commission's request on May 24, 2005.

12. On June 17, 2005, the petitioner confirmed that she would remain in contact with the IACHR through an e-mail address she provided since she was living in Italy, and on December 14, 2005, she asked the IACHR to communicate with the lawyer who was following developments in the criminal case domestically.

13. The IACHR forwarded the petition to the State on June 17, 2005, and requested it to submit its observations. On October 28, 2005, the State transmitted its response, which was sent to the petitioner on March 7, 2006, asking her to make any observations she deemed appropriate.

14. Given the absence of subsequent communications, on May 20, 2009, and November 18, 2011, the Commission reiterated the request it had made to the petitioner on March 7, 2006, informing her that if no answer was received within three months, the IACHR might archive her case.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

15. Both Article 48.1.b of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights establish that, during the processing of a petition, whether the information requested has been received or the period established has elapsed without its receipt, the Inter-American Commission will ascertain whether the grounds for the petition or communication still exist or subsist and, if they do not, will order the file archived.

16. To date, the petitioner has not submitted the information requested in the communications dated March 7, 2006; May 20, 2009; and November 18, 2011. She has not provided additional information since December 2005. Having made the corresponding analysis, the Commission considers that it does not have sufficient information to determine the admissibility or inadmissibility of the petition, or whether the grounds for the original petition subsist. As a result, the Commission hereby decides to archive the present petition, pursuant to Article 48.1.b of the American Convention and Article 42 of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 5th day of November 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Dinah Shelton, Felipe Gonzalez, Rodrigo Escobar Gil and Rose-Marie Belle Antoine, Commissioners.