

REPORT No. 115/13
PETITION 978-04
DECISION TO ARCHIVE
ARGENTINA
November 5, 2013

ALLEGED VICTIM AND PETITIONER: Jorge Michael Ríos

VIOLATIONS ALLEGED: Articles 5, 8, 24 and 25 of the American Convention on Human Rights

DATE PROCESSING INITIATED: December 21, 2006

I. THE PARTIES' POSITIONS

A. THE PETITIONER

1. On September 30, 2004, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition in which Jorge Michael Ríos (hereinafter "the petitioner") alleged that the Argentine State's international responsibility had been engaged as a result of a Mendoza Province police officer's violation of the petitioner's right to humane treatment.

2. The petitioner alleged that on August 3, 2001, he was traveling in a car when he was followed by a police cruiser in Tupungato. The petitioner claimed that he jumped from the vehicle he was in, with the police officer in pursuit. The petitioner alleged that the police officer tried to shoot him and then beat him "brutally", even though the petitioner demonstrated that he was unarmed.

3. The petitioner alleged that the beating had left him with several injuries: all his upper teeth and molars were lost and he had sustained a deviated septum, facial disfiguration, and other injuries. Because of his injuries, he was allegedly taken to the Lagomaggiorre hospital for treatment and rehabilitation, after which he was incarcerated in the Mendoza prison. The petitioner also claimed that the medical treatment he received had been inadequate and that he had reportedly required constant medical treatment for health problems caused by the beating.

4. The petitioner indicated that a case had been brought against the police office for illegal use of force, but the accused reportedly never gave a preliminary statement and remained on active duty. He further alleged that there was an unwarranted delay in rendering judgment on the police officer's criminal responsibility and in the administrative decision to conduct an internal inquiry with respect to the police officer and provisionally suspend him.

5. As of the date on which the petition was filed, the alleged victim said that he had served five years and eleven months of his prison sentence of eight years and six months, but did not indicate what he was convicted of. The petitioner said that he had requested the prison privileges that the law allows for good behavior, but was not granted them.

6. The petitioner also claimed to have been the victim of abuses of authority while in prison and having suffered discrimination because he was a U.S. citizen. He also said that he had asked to communicate with the embassy of the United States, but his request was ignored. Subsequently, he reported having spoken with the U.S. Embassy by phone, but that the consular officials had not answered his request.

B. The State

7. The State claimed that the criminal case brought against the alleged victim was for weapons abuse, contempt of authority and vandalism. As to the case brought against the police officer, the State alleged that the examining magistrate had concluded that the injuries claimed by the alleged victim could have been caused by the collision that occurred during the police chase. The State also made the argument that the petitioner had not appealed that decision, even though he was a complainant in the case; hence, it argued, the internal remedies had not been exhausted.

8. The State pointed out that the petitioner had been free on bail until bail was revoked when his three convictions combined for a sentence of eight years and six months in prison. It further alleged that in January 2006, the alleged victim was granted privileges under the temporary placement system and that in May and December he was granted the privilege of the semi-liberty system and the assisted liberty system, respectively. It alleged that the petitioner had all the benefits and had even signed every notification document in which he was advised that he had been granted those privileges. It stated that the petitioner had ample access to the graduated sentence system and had had an interview with the Vice Consul of the United States on October 2, 2005. For all these reasons, the State requested that the record on the matter be closed.

II. PROCESSING WITH THE IACHR

9. On July 5, 2005, the petitioner sent additional information. The IACHR forwarded the relevant parts of the petition to the Argentine State on December 21, 2006. The State sent its observations on December 11, 2007, which were forwarded to the petitioner at a private address on March 25, 2008. The latter communication was returned to the Commission because the petitioner was not at that address.¹ On July 12, 2012, the IACHR requested updated information from the petitioner and advised him that if that information was not received within one month's time, it might close the record on his petition.

III. GROUNDS FOR THE DECISION TO CLOSE THE RECORD

10. Both Article 48(1)(b) of the American Convention and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights provide that while a petition is being processed, after the information has been received or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist and, if they do not, shall order the record to be closed.

11. Despite the efforts made to locate the petitioner, he was apparently not at the address to which his correspondence was to be sent. Any and all contact with the petitioner was lost as a result. The petitioner has not contacted the Commission since July 5, 2005. Having done the necessary

¹ Attempts to send correspondence had been made on April 4 and 7, 2008.

analysis, the Commission finds that it does not have the information needed to arrive at a decision on the petition, despite its efforts to obtain that information. The unwarranted procedural inactivity on the part of the petitioner is a serious indication of his disinterest in pursuing the petition. Hence, in accordance with Article 48(1)(b) of the Convention and Article 42 of the Commission's Rules of Procedure, the Commission decides to close the record on this petition.

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.