

REPORT No. 111/13
PETITION 4468-02
DECISION TO ARCHIVE
ARGENTINA
November 5, 2013

ALLEGED VICTIM: Francisco Javier Trusso

AND PETITIONER: Francisco Eduardo Trusso

ALLEGED VIOLATIONS: Articles 5, 7, 8, 9, 25, and 28 of the American Convention on Human Rights

DATE PROCESSING BEGAN: July 28, 2005

I. POSITION OF THE PETITIONER

1. On November 11, 2002, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition submitted by Francisco Javier Trusso (hereinafter “the petitioner”) alleging the violation of personal liberty, delays in the decision on appeals for release from prison, as well degrading treatment by a judge, protracted and arbitrary pre-trial detention, and incarceration for the failure to pay debts, to the detriment of his son Francisco Javier Trusso (hereinafter “the alleged victim”). The petitioner alleged that his son was tried in criminal court for the crimes of swindling and fraud in two cases processed in 1998. On April 14, 2000, his son was arrested and imprisoned in “Florencio Varela” penitentiary unit No. 23 under warrants for pretrial detention issued against him in both proceedings.

2. Two years after his son’s imprisonment, the petitioner said that he requested his son’s release in accordance with Article 1 of Law 24.390. He alleged that the Supreme Court of Justice reached a decision on said release almost six months later, on December 18, 2002. Likewise, he maintained that the lower courts had refused to comply with the release order issued by the Supreme Court.

3. As concerns the exhaustion of domestic remedies, the petitioner alleged that no decision had been reached on an extraordinary federal appeal for over a year. He therefore called for application of the exception provided for in Article 46.2.c of the American Convention on Human Rights.

B. Position of the State

4. The State referred to the arrest warrant issued against the alleged victim, as a member of the Board of Directors of the Commercial Credit Bank, as part of an investigation initiated against 15 people. It maintained that the alleged victim had been detained by Interpol in Brazil and had escaped from the Regional Superintendency of the Federal Police Department between December 2000 and August 2001, when he was once again detained.

5. The State claimed that the release request dated May 6, 2002, was rejected in first instance and granted by the Supreme Court of Justice on December 18, 2002. The granting of that request was allegedly subsequently revoked.

6. It said that on April 11, 2003, the Prosecutor charged the alleged victim and requested a nine-year prison term in prison. On January 18, 2003, he was sentenced in first instance to eight years in prison. On November 21, 2003, the alleged victim was released on bail set at one million pesos. Both the defense and the Prosecutor's Office appealed the decision and the sentence was therefore reduced to five years because the statute of limitations had run for certain crimes and the charge of fraudulent management had been dismissed. Accordingly, the alleged victim remained free.

7. The State indicated that when the petition was submitted the petitioner had not fully complied with the exhaustion of domestic remedies requirement since the issues regarding his pre-trial detention had still not been resolved by the domestic courts. Likewise, it argued that the suitability and effectiveness of said remedies been demonstrated when he was granted an ordinary release from prison, even though a first-instance judge had sentenced him to an eight-year term. It alleged that the American Convention on Human Rights had not been violated.

II. PROCESSING BY THE IACHR

8. The petition was transmitted to the Argentine State on July 28, 2005, for its observations. On May 23, 2006, the State submitted its response, which was forwarded to the petitioner on August 17, 2006, for his observations. On May 20, 2009, the IACHR reiterated said request for information. On December 21, 2011, the IACHR reiterated the request for information and said that if it did not receive the information within three months it might archive the petition.

III. BASIS FOR THE DECISION TO ARCHIVE

9. 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 whether the period established has elapsed without its receipt, the IACHR will ascertain whether the grounds for the petition or communication still exist or subsist and, if they do not, will order the file archived.

10. As of the date of approval of the present report, the petitioner has not responded to the IACHR requests for information dated August 17, 2006; May 20, 2009; and December 11, 2011. Having made the corresponding analysis, the Commission considers that it does not have the necessary information to reach a decision on the petition, despite the efforts made to obtain said information, and that the petitioner's unjustified procedural inactivity is a serious indication of a lack of interest in moving forward with the petition. As a result, the Commission hereby decides to archive the present petition, pursuant to Article 48.1.b of the 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.