

WorldCourts™

| | |
|-----------------------|--|
| Institution: | Inter-American Court of Human Rights |
| Title/Style of Cause: | Jorge Carpio Nicolle v. Guatemala |
| Doc. Type: | Order of the Court |
| Decided by: | President: Hector Fix-Zamudio |
| Dated: | 26 July 1995 |
| Citation: | Carpio Nicolle v. Guatemala, Order of the Court (IACtHR, 26 Jul. 1995) |
| Represented by: | APPLICANT: the Center for Justice and International Law |
| Terms of Use: | Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm |

HAVING SEEN:

1. The Order of the President of the Inter-American Court of Human Rights (hereinafter "the President") of June 4, 1995 in which he decided:

1. To request that the Government of the Republic of Guatemala adopt without delay all necessary measures to effectively ensure the protection of the lives and personal integrity of the following persons: MARTA ELENA ARRIVILLAGA DE CARPIO, KAREN FISCHER DE CARPIO, MARIO LÓPEZ-ARRIVILLAGA, ÁNGEL ISIDRO GIRÓN-GIRÓN, and ABRAHAM MÉNDEZ-GARCÍA, and to investigate the threats and harassment of the persons named and to punish those responsible.
2. To request that the Government of the Republic of Guatemala adopt all necessary measures so that witnesses to the Carpio Case can testify, and so that the prosecutor in the case, Abraham Méndez-García, can fulfill his duties without pressure or reprisals.
3. To request that the Government of the Republic of Guatemala inform the military authorities of the Military Zone to which the Civil Defense Committees of San Pedro Jocopilas answer, to instruct these Committees to refrain from taking any actions that would put the lives or personal integrity of the individuals named at risk.
4. To request that the Government of the Republic of Guatemala submit a report to the President of the Court every 30 days from the date of this Order, on the measures taken pursuant to this Order, so as to bring the information to the attention of the Court.
5. To instruct the Secretariat of the Court to transmit the reports presented by the Government of the Republic of Guatemala to the Inter-American Commission on Human Rights without delay, which shall then present its observations not later than fifteen days after receipt of the pertinent information.
6. To submit this Order for the Court's consideration and pertinent effects during its next regular session and, if it deems it appropriate, to hold a public hearing on this matter during that same period.

2. The Order of the President of June 30, 1995 in which he summoned the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission") and the Government of the Republic of Guatemala (hereinafter "the Government") to a public hearing on this matter, which will take place on September 16, 1995 at 10 am.

3. The note of July 20, 1995 from the Inter-American Commission in which it requests that the Inter-American Court of Human Rights (hereinafter "the Court") expand the urgent measures and require that the Government protect the life and personal integrity of Mrs. Lorraine Maric Fischer-Pivaral. As grounds for its request, the Inter-American Commission asserts that on July 7, 1995 at approximately 21:00 hours, Mrs. Fischer-Pivaral was in front of the house of her sister, Karen Fischer de Carpio, widow of Jorge Carpio-Nicolle. There,

three heavily armed men, who were waiting in the cul-de-sac in front of her sister Karen's house, held her up, forced her to get out of the car, snatched away her cellular telephone, and insulted her for approximately ten minutes. Finally, they stole her car keys and fled while Lorraine took shelter behind Karen's armored car.

With the purpose of confirming the intimidating nature of these acts, the Inter-American Commission demonstrated that the motive of robbery in this case can be discarded, since the vehicle was not damaged and no objects of economic value were taken from Mrs. Lorraine Fischer-Pivaral. The Commission in its note requests, moreover, that the Court adopt "whatever measures are necessary to investigate this outrage and sanction those responsible."

CONSIDERING:

1. That the Government has not complied with the duty set forth in resolutive part 4 of the June 4, 1995 Order of the President;

2. That the request of the Inter-American Commission puts forward new facts that affect Mrs. Lorraine Maric Fischer-Pivaral, who is not included on the list of persons protected by the urgent measures issued by the President on June 4, 1995;

3. That there is a direct family relationship between Mrs. Lorraine Maric Fischer-Pivaral and Mrs. Karen Fischer de Carpio that bears on the facts which gave rise to the request of the Inter-American Commission for provisional measures in the Carpio Nicolle Case and that leads to the conclusion that the acts of intimidation of which Mrs. Fischer-Pivaral was a victim could put her life and physical integrity in grave danger;

4. That the facts described by the Inter-American Commission are credible to the Court and demonstrate in this situation the prima facie characteristics of gravity and urgency that justify the Court's adoption of the provisional measures it deems pertinent to avoid grave and irreparable damages to the person on whose behalf they are requested;

5. That in accordance with Article 1(1) of the American Convention on Human Rights, the Government in its capacity as State Party is obligated to respect the rights and freedoms recognized in the Convention and to ensure their free and full exercise to all persons subject to their jurisdiction;

THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to Article 63(2) of the American Convention on Human Rights and exercising the authority conferred on him by Article 24(4) of the Rules of Procedure of the Court, and in previous consultation with the Permanent Commission of the Court,

DECIDES:

1. To request that the Government of the Republic of Guatemala expand the urgent measures set forth in the Order of the President of June 4, 1995, to include Mrs. Lorraine Maric Fischer-Pivaral and to request that the Government investigate and punish those responsible for the events denounced by the Inter-American Commission on Human Rights.
2. To request that the Republic of Guatemala comply with the submission of the first report, as ordered in resolatory part 4 of the June 4, 1995 Order of the President, and include Mrs. Lorraine Maric Fischer-Pivaral in subsequent reports which must be submitted within the time-limits set in said Order.

Héctor Fix-Zamudio
President

Ana María Reina
Deputy Secretary