

WorldCourts™

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Nicholas Chapman Blake v. Guatemala
Doc. Type:	Order of the Court
Decided by:	President: Hector Fix-Zamudio
Dated:	16 August 1995
Citation:	Blake v. Guatemala, Order of the Court (IACtHR, 16 Aug. 1995)
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

WHEREAS:

1. The brief and its annexes, dated August 3, 1995, received that same day at the Secretariat of the Inter-American Court of Human Rights (hereinafter "the Secretariat"), submitted an application by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") to the Inter-American Court of Human Rights (hereinafter "the Court"), by virtue of Articles 50 and 51 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and 26 and following of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), against the Republic of Guatemala "for the violation of the rights to personal liberty, life, and freedom of expression as well as for the denial of justice to the detriment of Nicholas Chapman Blake." Said application is currently in the preliminary review stage as provided for by Article 27 of the Rules of Procedure.
2. The brief of August 11, 1995, received at the Secretariat that same day, submits a request by the Inter-American Commission to the Court, by virtue of Articles 63(2) of the Convention and 24 of the Rules of Procedure, for provisional measures in the Blake Case with respect to the situation which was described as "a case of extreme urgency" and with the object of avoiding irreparable injury to Mr. Justo Victoriano Martínez-Morales, a witness in the case, and his immediate family: Floridalma Rosalina López-Molina (wife), Víctor Hansel Morales-López (son), Edgar Ibal Martínez-López (son), and Sylvia Patricia Martínez-López (daughter).
3. The request for provisional measures is based on the following facts:
 - a. According to said request, Mr. Justo Martínez is "a key witness in the [Blake] Case" as a consequence of the investigations he undertook relating to the circumstances that led to the kidnapping and disappearance of Mr. Blake in the village of "Las Majadas" and its environs. As a result of these investigations, Mr. Martínez established that "years later the Guatemalan Army had ordered that the remains of Mr. Blake [and those of Mr. Griffith Davis] be burned and hidden and had warned the villagers of 'El Llano' that they should not reveal what had taken place." The information obtained by Mr. Martínez was later confirmed by proof offered, among others, by the Commander of the Civil Self-Defense Patrol, Mr. Felipe Alva.

b. Mr. Martínez had received, on prior occasions, death threats "from members of the civil patrols of 'El Llano' and its environs" for having informed the United States Embassy officials in Guatemala of the way in which, according to him, Mr. Blake had been assassinated and for having given information concerning the members of the patrol who had participated in his kidnapping and assassination. As a result of these threats, and thanks to the help of the U.S. Embassy, Mr. Martínez was transferred to a school in Huehuetenango a year and a half later.

c. Following the hearing held at the seat of the Commission on February 14, 1995, Mr. Martínez was again the object of reiterated telephone threats stating that there would be attempts on his life and the lives of his relatives. In the last few months, the life of Mr. Martínez has run a "much greater risk given that the prosecutor who is handling the case has called him to testify."

d. On May 3, 1995, motivated by the notification of Report 5/95, the Commission requested that the Government of Guatemala adopt those precautionary measures necessary to safeguard the life, liberty, and integrity of Mr. Martínez. The Commission requested that, within a 30 day period, the Government inform it of the measures that had been adopted in fulfillment of the request and the results of those measures. Nevertheless, as of the date of the presentation of this request, the Commission has not received any response from Guatemala.

CONSIDERING:

1. That Guatemala is a State Party to the American Convention on Human Rights as of May 25, 1978 and, on March 9, 1987, accepted the compulsory jurisdiction of this Court in accordance with Article 62 of the Convention;

2. That Article 63(2) of the Convention provides that, in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may adopt such provisional measures as it deems pertinent in matters under its consideration;

3. That Article 1(1) of the American Convention indicates the duty of States Parties to respect the rights and freedoms recognized in this Treaty and to guarantee the free and full exercise of those rights to any person under their jurisdiction;

4. That under the present circumstances, the affirmations and proof offered by the Commission merit the credibility necessary to prima facie classify this situation as one of extreme urgency which justifies the taking of urgent measures in order to avoid irreparable injury to those persons in whose favor the request was made.

THEREFORE:

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

taking into account Article 63(2) of the American Convention on Human Rights and using the authority conferred on him by Article 24(4) of the Rules of Procedure, and having previously consulted with the Permanent Commission of the Court,

DECIDES:

1. To request that the Government of the Republic of Guatemala adopt without delay any measures necessary to effectively ensure the protection and personal safety of: JUSTO VICTORIANO MARTÍNEZ-MORALES, FLORIDALMA ROSALINA LÓPEZ-MOLINA,

VÍCTOR HANSEL MORALES-LÓPEZ, EDGAR IBAL MARTÍNEZ-LÓPEZ, and SYLVIA PATRICIA MARTÍNEZ-LÓPEZ.

2. To request that the Government of the Republic of Guatemala adopt any measures necessary so that the aforementioned persons may continue residing in their place of domicile and be guaranteed that no agents of the Guatemalan State nor other persons acting under the authority of the State shall persecute or threaten them.

3. That the Government of the Republic of Guatemala present to the President of the Court by September 5, 1995, at the latest, a report on the measures adopted so that the Court may be informed of these during its next regular session which will take place September 11 to 22, 1995.

Héctor Fix-Zamudio

President

Manuel E. Ventura-Robles

Secretary