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Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste v. Trinidad and Tobago
Doc. Type:	Order
Decided by:	President: Hernan Salgado-Pesantes
Dated:	22 July 1998
Citation:	James v. Trinidad and Tobago, Order (IACtHR, 22 Jul. 1998)
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HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter “the Court”) of June 14, 1998, in which it decided

1. To order Trinidad and Tobago to take all measures necessary to preserve the life and physical integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, so as not to hinder the processing of their cases before the Inter-American system.

2. To order Trinidad and Tobago to submit a report by June 30, 1998, on the measures taken in compliance with this Order, and to require the Inter-American Commission on Human Rights to submit its observations on this report within fifteen days of its receipt.

3. To summon Trinidad and Tobago and the Inter-American Commission on Human Rights to a public hearing on this matter at the seat of the Court on August 28, 1998, at 10:00 a.m.

2. The Order of the President of the Court of June 29, 1998, regarding the Request for Amplification of the Provisional Measures adopted by the Court in the Matter of the Republic of Trinidad and Tobago to include Darrin Roger Thomas.

3. The Order of the President of the Court of July 13, 1998, regarding the Request for Amplification of the Provisional Measures adopted by the Court in the Matter of the Republic of Trinidad and Tobago to include Haniff Hilaire.

4. The communication of July 17, 1998, received in the Secretariat of the Court on July 21, 1998, in which the Inter-American Commission on Human Rights (hereinafter “the Commission”), pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) and Article 25 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), submitted a request for the amplification of the provisional measures adopted by the Court in the James, Briggs, Noel,

Garcia and Bethel Cases, to include Denny Baptiste, whose Case (11.840) is currently pending before the Commission against the Republic of Trinidad and Tobago (hereinafter “the State” or “Trinidad and Tobago”).

That in this communication, the Commission requested the Court to order

that the Republic of Trinidad and Tobago take the measures necessary to stay the execution of Mr. Denny Baptiste until such time as the Commission has had the opportunity to examine and decide Case No. 11.840, in accordance with the norms and procedures specified in the American Convention and the applicable Regulations.

5. The facts stated in the Commission’s request, which are summarized as follows:

- a) the petition on behalf of Denny Baptiste was presented to the Commission on November 17, 1997, and a supplementary complaint was filed on December 12, 1997. These were transmitted to the State on November 24, 1997 and January 12, 1998, respectively;
- b) the Commission opened the Case on November 24, 1997, and requested the State to respond to the allegations in the petition within 90 days and to provide precautionary measures, by staying the execution of Mr. Baptiste until such time as the Commission has had the opportunity to examine this case and to issue its decision;
- c) the State responded to the Commission’s request for information on January 16, 1998. It informed the Commission, inter alia, that the “Instructions” “are deemed to apply to the communication of Denny Baptiste”; [Instructions Relating to Applications from persons under Sentence of Death issued by the Government of Trinidad and Tobago on October 13, 1997];
- d) at no time did the State respond to the Commission’s request for precautionary measures;
- e) according to the Commission, the six month period, set forth under the Instructions, expired on July 16, 1998. No warrant of execution has yet been issued in Mr. Baptiste’s case.

6. The working agenda of the Court, according to which the XLI Regular Session will be held from August 24 to September 5, 1998, at its seat in San Jose, Costa Rica.

CONSIDERING:

1. That Trinidad and Tobago has been a State Party to the American Convention since May 28, 1991, and that it accepted the jurisdiction of the Court on the same day.
2. That Article 63(2) of the Convention provides that:
[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.
3. That, according to the allegations of the Commission, it has not had the opportunity to complete its examination of the complaint and to issue its decision in Case 11.840. Consequently, the situation, as described by the Commission in its request, constitutes a prima facie case of extreme gravity and urgency which could result in irreparable damage to the alleged victim in said Case.
4. That Article 25(4) of the Rules of Procedure provides that:

[i]f the Court is not sitting, the President, in consultation with the Permanent Commission and, if possible, with the other judges, shall call upon the government concerned to adopt such urgent measures as may be necessary to ensure the effectiveness of any provisional measures subsequently ordered by the Court at its next session.

5. That the execution of the death penalty in the case of the Denny Baptiste would necessarily affect the Court's consideration of the Commission's request for provisional measures, by rendering moot the object of any eventual decision in his favor.

6. That the Case referred to in the Commission's request has not been submitted to the Court, and, therefore, the adoption of urgent measures does not imply a decision on the merits of the existing controversy between the petitioners and the State. By adopting urgent measures, this Presidency is ensuring that the Court may carry out effectively its conventional mandate.

7. That, given the aforementioned reasons, it is pertinent to call upon Trinidad and Tobago to adopt such urgent measures as may be necessary to preserve the life and physical integrity of Denny Baptiste, so that the Court may consider the request of the Commission after the hearing on provisional measures in the related Cases, to be held on August 28, 1998, during the Court's XLI Regular Session.

8. That it is appropriate to require the State to inform the Court on the urgent measures it has taken in compliance with this Order, as well as its observations on the Commission's request and to submit such information for the consideration of the Court during its XLI Regular Session.

NOW THEREFORE:

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

in consultation with the Court and pursuant to Article 63(2) of the American Convention on Human Rights and Article 25(4) of the Rules of Procedure,

DECIDES:

1. To require the Republic of Trinidad and Tobago to take all measures necessary to preserve the life and physical integrity of Denny Baptiste, so that the Court may examine the pertinence of the request of the Inter-American Commission on Human Rights to amplify the provisional measures adopted in the James, Briggs, Noel, Garcia and Bethel Cases.

2. To require the Republic of Trinidad and Tobago to submit an urgent communication to the Inter-American Court of Human Rights no later than July 24, 1998, on the measures taken in compliance with this Order, as well as its observations on the measures requested by the Inter-American Commission on Human Rights, so that this information can be studied by the Court.

3. To require the Inter-American Commission on Human Rights to present its observations on the urgent communication submitted by the State within two days of the receipt of said document.

4. To submit the request of the Inter-American Commission on Human Rights, this Order, and the urgent communication that will be presented by the Republic of Trinidad and Tobago for the consideration of the Inter-American Court of Human Rights during the related hearing to be held on August 28, 1998, at its XLI Regular Session.

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Hernán Salgado-Pesantes
President

Víctor M. Rodríguez-Rescia
Deputy Secretary a.i.

So ordered,

Hernán Salgado-Pesantes
President

Víctor M. Rodríguez-Rescia
Deputy Secretary a.i.