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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, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolai, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester v. Trinidad and Tobago
Doc. Type:	Order
Decided by:	President: Hernan Salgado-Pesantes
Dated:	11 May 1999
Citation:	James v. Trinidad and Tobago, Order (IACtHR, 11 May 1999)
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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.

[...]

2. The Order of the President of the Court (hereinafter “the President”) of June 29, 1998, regarding the Request for Amplification of the Provisional Measures adopted to include Darrin Roger Thomas.

3. The Order of the President of July 13, 1998, regarding the Request for Amplification of the Provisional Measures adopted to include Haniff Hilaire.

4. The Order of the President of July 22, 1998, regarding the Request for Amplification of the Provisional Measures adopted to include Denny Baptiste.

5. The Order of the Court of August 29, 1998, in which it decided:

1. To ratify the Orders of the President of the Inter-American Court of Human Rights of June 29, July 13 and July 22, 1998.
2. 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, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, and Denny Baptiste so as not to hinder the processing of their cases before the Inter-American system.
3. To require the State of Trinidad and Tobago to report every fifteen days, beginning on September 1, 1998, on the status of the appeals and scheduled executions of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, and Denny Baptiste, and to require the Inter-American Commission on Human Rights to send its observations on these reports to the Inter-American Court of Human Rights within two days of their receipt.
4. To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, and Denny Baptiste.

6. The communication of May 3, 1999, which was received in the Secretariat of the Court on May 7, 1999, in which the Inter-American Commission on Human Rights (hereinafter “the Commission”) submitted to the Court, 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”), a request for the amplification of the provisional measures adopted by the Court in the James et al. Cases, to include Wilberforce Bernard (Case No. 12.140), Naresh Boodram and Joey Ramiah (Case No. 12.129), Clarence Charles (Case No. 11.851), Phillip Chotolai (Case No. 12.112), George Constantine (Case No. 11.787), Rodney Davis (Case No. 12.072), Natasha De Leon (Case No. 12.093), Mervyn Edmund (Case No. 12.042), Alfred Frederick (Case No. 12.082), Nigel Mark (Case No. 12.137), Wayne Matthews (Case No. 12.076), Steve Mungroo (Case No. 12.141), Vijay Mungroo (Case No. 12.111), Wilson Prince (Case No. 12.005), Martin Reid (Case No. 12.052), Noel Seepersad (Case No. 12.075), Gangaleen Tahaloo (Case No. 12.073), Keiron Thomas (Case No. 11.853) and Samuel Winchester (Case No. 12.043), whose cases are currently pending before the Commission against the Republic of Trinidad and Tobago (hereinafter “the State” or “Trinidad and Tobago”).

7. The aforesaid communication, in which the Commission requested the Court to order the Republic of Trinidad and Tobago [to] take the measures necessary to stay the execution of the above named 19 (rectius 20) prisoners until such time as the Commission has had the opportunity to examine and decide their cases in accordance with the norms and procedures specified in the American Convention and its Regulations.

8. The arguments presented by the Commission, to the effect that:

- a) there are before the Commission 19 petitions involving 20 individuals who are the subject of mandatory death sentences under Trinidad and Tobago law and whose cases have not been submitted for examination under any other procedure of international investigation or settlement to any other international organisation, in respect of whom provisional measures have not been requested or ordered;
- b) in each case, the petition states facts that tend to establish a violation of the rights guaranteed under the Convention and some of them challenge the compatibility of the mandatory nature of the death penalty in Trinidad and Tobago with the State's obligations under the Convention, and the adequacy of due process afforded to the individuals who have been sentenced to death;
- c) the Commission requested precautionary measures in each of these cases pursuant to Article 29(2) of the Commission's Regulations, with no response from the State;
- d) the State's denunciation of the Convention, pursuant to Article 78 of said instrument, shall become effective on or about May 26, 1999;
- e) the Commission has not had the opportunity to complete its examination of these complaints and to issue decisions in all of these cases, and, given these circumstances, it considers that the execution of the 20 individuals would render any eventual decision of the Commission moot, in terms of the efficacy of potential remedies, causing irreparable harm to the individuals to whom the sentences and complaints relate.

9. The working agenda of the Court, according to which the XLIV Regular Session will be held from May 24 to June 4, 1999, at its seat in San José, 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 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.
4. That the execution of the death penalty in the cases of the alleged victims 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 their favour.
5. That the cases referred to in the Commission's request have not been submitted to the Court, and, therefore, the adoption of urgent measures does not imply a decision on the merits of the existing controversies between the petitioners and the State. By adopting urgent measures, this Presidency is ensuring that the Court may carry out effectively its conventional mandate.
6. 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 lives of Wilberforce Bernard,

Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolai, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, so that the Court may consider the request of the Commission during its XLIV Regular Session.

7. 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 requests and to submit such information for the consideration of the Court during its XLIV Regular Session.

NOW THEREFORE:

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

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 lives of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolai, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, 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 et al. Cases.

2. To require the Republic of Trinidad and Tobago to submit an urgent communication to the Inter-American Court of Human Rights by May 20, 1999, 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 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 its XLIV Regular Session.

Hernan Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernan Salgado-Pesantes
President

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Manuel E. Ventura-Robles
Secretary