

OPINION No. 2/2001 (UNITED STATES OF AMERICA)

Communication addressed to the Government on 10 October 2000

Concerning Mr. Waynebourne Clive Anthony Bridgewater

The State is a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by Commission on Human Rights resolution 1991/42. The mandate of the Working Group was clarified and extended by resolutions 1997/50 and 2000/36, and reconfirmed by resolution 2001/40. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group expresses its appreciation to the Government for having provided the information requested.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
 - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (iii) When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source. To date, the latter has not provided the Working Group with its comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.
5. According to the information submitted by the source to the Working Group, on 2 June 2000, Mr. Waynebourne Clive Anthony Bridgewater, a citizen and resident of Saint Kitts and Nevis, was reportedly seized by agents of the Drug Enforcement Agency (DEA) of the United States of America, from the beach of Frigate Bay, Saint Kitts, and brought to a prison in Antigua and Barbuda, where he spent one night without any charges.

6. It was reported that the following day, he was taken to the airport of Antigua by the DEA agents, placed on a DEA aircraft and flown to Puerto Rico, where he was incarcerated at the Federal Detention Center in Guaynabo. No Saint Kitts and Nevis law enforcement officer was present at any phase of the events and no charges were read to Mr. Bridgewater. On 6 June 2000, the High command of the Royal St. Christopher and Nevis Police Force issued a press release to this effect. The Attorney-General of Saint Kitts and Nevis has also issued a statement, calling on Antigua and Barbuda and the United States of America for information on the unauthorized removal of Mr. Bridgewater from Saint Kitts.

7. According to the information received, Mr. Bridgewater was subsequently charged with conspiracy in drug trafficking. In this context, it was alleged that the DEA agents had told Mr. Bridgewater that they were "forced" to kidnap him, as they wanted him to testify against one Charles Miller. Mr. Bridgewater had refused to cooperate with the DEA, as he claimed to have no knowledge of Mr. Miller's alleged drug-trafficking activities.

8. It was argued by the source that in the above case, several provisions of the international human rights instruments relied upon by the Working Group on Arbitrary Detention in the examination of cases brought to its attention have been violated.

9. The Government of the United States of America does not deny the fact that Mr. Bridgewater was arrested by United States government officials but specifies that the apprehension of Mr. Bridgewater took place in the waters of Saint Kitts and Nevis, when he was attempting to sell cocaine to undercover agents. In support of its allegations, the Government provided the Working Group with an order authorizing detention pending initial appearance issued by the United States District Court for the District of Puerto Rico, as well as with an affidavit by the undercover agents involved in the operation.

10. The Government also clarified that Mr. Bridgewater is currently awaiting trial in Puerto Rico. On 9 August 2000 he was indicted for conspiracy to distribute five or more kilograms of cocaine and for possessing a firearm in connection therewith.

11. The source did not challenge the replies given by the Government.

12. Since Mr. Bridgewater was arrested on charges of serious drug offences and is being kept in detention for the same offences, in respect of which he has already been indicted and is awaiting trial, the Working Group, bearing also in mind the difference between the circumstances of the present case from the facts on the basis of which it adopted its Opinion 48/1993, concludes that the deprivation of the liberty of Mr. Waynebourne Clive Anthony Bridgewater is not arbitrary.

Adopted on 16 May 2001