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REPORT No. 24/14

CASE 12.538

REPORT ON ARCHIVE

EUGENIO SANDOVAL
ARGENTINA

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2014.

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ARCHIVE
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ALLEGED VICTIM: Eugenio Sandoval

PETITIONER: Mariana Sandoval

ALLEGED VIOLATIONS: Articles 8 and 25, as they relate to Article 1(1) of the American Convention on Human Rights

DATE OF INITIAL PROCESSING: September 6, 2001

I. POSITION OF THE PARTIES

A. Position of the Petitioner

1. In her original complaint, the petitioner, Mariana Sandoval, alleged that on January 7, 1996, her father, Mr. Eugenio Sandoval, 75 years of age, was found dead in a shed on the farm that he owned in the area of Chacras de Villa Regina, Province of Rio Negro. The petitioner claimed that she immediately notified the authorities upon finding the body and that they came to the scene to investigate. She stated that the police investigation was poorly conducted, that the justice system was slow to become involved, and that the prosecutor did not even intervene at first. With regard to the police investigation, the petitioner indicated that from the moment of the first official police act in the case, when the police arrived at the scene, the authorities had already concluded that there were no signs of disorder or struggle, despite the fact that the family members had witnessed several anomalies at the place where the events occurred, such as open doors and missing keys, among others. In this sense, the petitioner affirmed that the state authorities neglected to collect key pieces of evidence and that they insisted that an accident had taken place, an attitude that seemed to the petitioner to suggest a deliberate cover-up.

2. With respect to the judicial authorities, the petitioner stated that they neglected to investigate important evidence. She avers that no investigations were made into the facts that she described in her statements regarding the mistreatment of the dogs on the day of the events and regarding the disappearance of the house keys that her father had carried, among others. Additionally, a hose and a mug that appeared in photographs of the scene apparently later disappeared in official custody. The hose is mentioned in the first official statements of the petitioner, who had allegedly found them stained with blood at the site of the events.

3. Similarly, according to the petitioner, the outcome of the autopsy carried out by the forensic medical expert on January 8, 1996 demonstrated that there had been a deliberate cover-up of the facts, given that it allegedly concluded that the injuries resulted from Mr. Eugenio Sandoval's fall into the ditch at the place where the body was found. The fall purportedly caused a traumatic facial injury and serious concussion that caused Mr. Sandoval's death.

4. The petitioner, who became a civil party to the proceedings, claimed to have presented a new criminal expert report. This report concluded that the victim had been beaten by another person and that a homicide had occurred rather than an accident. It stated that the perpetrator seemed to be left-handed and that the assault had occurred in another place. Based on this new report, and at the request of the victim's family, on September 12, 1996, a summary of the case file was prepared, and the events were no longer characterized as a "fatal accident," but rather as an "alleged homicide."

5. The petitioner indicates that on October 5, 1998, she presented a complaint to the Ombudsman of Rio Negro about the problems related to the progress of the judicial proceedings and the actions of the police. On October 21, 1998, the Ombudsman resolved that it lacked jurisdiction to examine complaints involving alleged irregularities in the criminal proceeding, and it recognized its competence solely over the events related to the actions of the police in the main investigation.

6. For his part, the Criminal Judge presiding over the case purportedly ordered the legal medical team to determine whether the cause of death was accidental or the result of actions of third parties. The new legal medical report that was issued on April 5, 1999 stated that the police investigation was incomplete, because no inspection of the corpse's back was performed, nor was a blood-alcohol test performed. It stated that the new expert report concluded that some factors cast doubt on the hypothesis that the investigation was carried out too quickly, particularly in light of the injuries that were found during the autopsy.

7. In spite of the homicide theory that was suggested in the autopsy of the private expert and confirmed by the official expert, the petitioner affirmed that the people that she identified as possible suspects were never investigated to determine whether they were left-handed. According to the petitioner, the irregularities, loss of evidence, useless autopsy reports, lack of an investigative or criminal purpose, and the ongoing delays throughout the investigation meant that the murder of Eugenio Sandoval, which took place in January of 1996, has been characterized by impunity.

B. Position of the State

8. Prior to the release of the admissibility report, the State alleged that the steps taken by the justice system were indicative of the State's willingness to investigate. It affirmed that the Government of the Province of Rio Negro demonstrated its readiness to determine what had happened by continuing the investigation, and that that investigation had not been conclusive due to the difficulties that arose as to whether the case involved an accident or a homicide.

9. The State indicated that the day of the events, January 7, 1996, a procedural act had been carried out that described access to the scene of the events, discovery of the body and the place where it was found, as well as the objects that were found with it. It affirmed that precautions were taken not to alter the scene and that steps were taken to preserve the site where the events took place. The following day, on January 8, 1996, a police inspection report was prepared which confirmed the results of the previous act. It also noted signs that the ditch was slippery and reiterated that no indications of a struggle were present, nor were there lack of elements in the shed where the victim was found. The photographs and maps of the site were incorporated into these acts.

10. The State added that from the moment the police assumed jurisdiction over the events, on January 7, 1996, the presiding Judge of Instruction became involved. The autopsy was performed immediately after the discovery of the body, on January 8, and it concluded that the death of Mr. Eugenio Sandoval was caused by a traumatic facial injury and serious concussion. The State assured that in the medical expert's report carried out at the scene on January 7, 1996, no opinion or theory of the events had been issued.

11. Regarding the description of the case file, the State affirmed that the investigation had initially been called a "homicide," but that when the results of the autopsy of January 8, 1996 became known, the description had been changed to "fatal accident," because in the first stage of the investigation, the elements normally necessary to constitute a crime were not present. It indicated that, on October 7, 1996, an inspector and assistant inspector were designated as the sole members of the Investigative Commission charged with determining the true cause of the demise of Eugenio Sandoval.

12. The State also alleges that one of the children of the victim, Eugenio Segundo Sandoval, worked as an inspector in the Lamarque region and had been apprised of the results of the expert medical report without expressing any intention to object to them or to designate a private expert. The State also

indicated that on December 29, 1998, the petitioner became a civil party to the proceedings and affirmed that, because of her allegations to the Ombudsman, the Superior Tribunal of Justice of the Province of Rio Negro had sent a notice to the court where the case was pending, in order for the prosecutor to report promptly which investigative measures were requested from the time the case was opened. The petitioner had been notified of this resolution so that she could express objections with respect to the persons assigned to the Investigative Commission. According to the State, this demonstrated that the civil party had ample opportunity express her objections to the proposed measures, as well as to propose other steps to be taken in the course of investigating the incident.

13. The State confirmed that once the petitioner had joined the proceedings as a civil party, her expert had cast doubt on the cause of death of Mr. Sandoval. As a result, it indicated that on March 3, 1999, a Forensic Medical Team had been assembled in order to determine, based on the evidence in the case file, whether the injuries suffered by Mr. Eugenio Sandoval were more consistent with an accidental death or one that was caused by third parties. It indicated that the report of April 5, 1999 concluded that “the injuries found in the autopsy [of 1996] overturned the opinion in favor of a homicide, despite the fact that there are unanswered questions such as the discovery of skin and blood stains on the stairs and in the ditch.”

14. According to the State, in order to resolve any remaining doubt, the assembly of a medical team was ordered, and the petitioner was given prior notice as a civil party, in order to allow her to designate an expert for the team. She purportedly abstained from doing so. The State provided the report of the medical team, dated May 26, 1999, which indicated that the death could have been accidental. Prior to reaching this conclusion, the report makes clear that “it is difficult to make a determination based on evidence taken from a case file that is considered to be fundamentally insufficient.”

15. Later, the State alleged the case was still “being processed and awaiting the timely write-up of the investigation of whereabouts,” without specifying whose whereabouts were being investigated.

16. The State affirmed that there had been no unjustified delay, as the investigation had begun on the day that the incidents took place and had continued up to the assembly of an Investigative Commission, including the intervention of the Superior Tribunal, the highest organ of justice of the Province of Rio Negro. According to the State, the fact that until the present date, the cause of death has not been established, nor has the allegedly guilty party or parties been identified, does not imply negligence or manipulation of evidence.

II. PROCESSING BEFORE THE COMMISSION

17. The petition that gave rise to the present case was received by the IACHR on September 6, 2001, and the pertinent parts were sent to the State on October 12, 2001 with a period of two months to present its observations. On December 20, 2001 and January 17, 2002, the Argentine State sent its observations. The Commission sent this information to the petitioner. By means of a communication of March 7, 2002, received by the IACHR on March 20, 2002, the petitioner presented her observations, which were sent to the State on July 8, 2002.

18. In August of 2002, the IACHR conducted a working visit to Argentina, during which the delegation traveled to Rio Negro in order to meet with the authorities and the petitioners of this and other matters. On August 23 and September 9, 2002, the State sent the IACHR its observations with regard to the petitioner’s communication. The petitioner sent her observations regarding the State’s communication to the IACHR dated December 12, 2002, and they were sent to the State on May 6, 2003. On June 2, 2003, the IACHR received the State’s observations, which were sent to the petitioner.

19. On March 2, 2006, the Commission decided to declare the petition admissible and continue with its analysis of the merits regarding the alleged violation of Articles 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention, in relation to the general obligation enshrined in Article 1(1) (obligation to respect rights) and Article 2 (obligation to give domestic legal effect to rights) of the same treaty.

20. By means of a communication of May 23, 2006, the IACHR notified both parties of the admissibility report, requested that the petitioner present her additional observations on the merits, and put itself at the disposition of the parties to reach a friendly settlement.

21. On July 10, 2006, the State expressed its willingness to explore the possibility of reaching a friendly settlement in the case, and this communication was sent to the petitioner with a note from the IACHR of July 12, 2006, giving a period of one month for the latter to respond. On August 21, 2006, the petitioner expressed her interest in reaching a friendly settlement and updated her contact details.

22. On November 15, 2010, the IACHR requested updated information on the case from the petitioner, and it did not receive a response. By a note of June 20, 2011, the IACHR reiterated its request to the petitioner. It should be indicated that the aforementioned note of the IACHR was returned in the mail with an indication that the recipient had moved. The IACHR had not received any indication of the change in address or any updates to the petitioner's contact details.

III. BASIS FOR THE DECISION TO ARCHIVE

23. Both Article 48(b) of the American Convention on Human Rights and Article 42 of the Commission's Rules of Procedure provide that, during the processing of a petition, after receiving information, or once the period established to receive information has elapsed, the IACHR shall ascertain whether the grounds for the petition or communication in the case still exist, and if they do not exist or subsist, it shall order the archiving of the case file.

24. At the date of approval of the present report, the petitioner has not responded to the requests for updated information of the IACHR of November 15, 2010 and June 20, 2011. In this sense, it should be highlighted that after the admissibility report was issued, the IACHR did not receive any information regarding the current state of the criminal investigation into the acts that were the subject of the complaint. Consequently, having conducted the corresponding evaluation, the Commission believes that it lacks the information necessary to reach a decision on the merits of the present case, despite its efforts to obtain this information. Similarly, the IACHR observes that during the processing of the case before the IACHR, the petitioner's unjustified procedural inactivity has been accredited, and she did not provide an update to her contact details so that the IACHR could send its communications. All of this is considered to be an indication of disinterest in moving forward with the process, and thus in accordance with Article 48(b) of the Convention as well as Article 42 of its Rules of Procedure, the IACHR hereby decides to archive this case.