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REPORT No. 28/14
PETITION 1273-06
REPORT ON ARCHIVE

MARGARITA MARÍA GARCES ZULUAGA AND LUIS GUILLERMO
JIMÉNEZ MONTOYA
HONDURAS

Approved by the Commission at its session No. 1980 held on April 4, 2014
150 Regular Period of Sessions

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and Luis Guillermo Jiménez Montoya. Honduras. April 4, 2014.

REPORT No. 28/14
PETITION 1273-06
ARCHIVE DECISION
MARGARITA MARÍA GARCÉS ZULUAGA AND LUIS GUILLERMO JIMÉNEZ MONTOYA
HONDURAS
APRIL 4, 2014

ALLEGED VICTIMS: Margarita María Garcés Zuluaga and Luis Guillermo Jiménez Montoya

PETITIONERS: Luz Nelly Montoya de Jiménez, Francisco Javier Jiménez Jiménez, Ana María Jiménez Montoya, Mary Luz Jiménez Montoya, Ramón Antonio Garcés Zuluaga, Patricia Stella Garcés Zuluaga, Lucrecia Inés Garcés Zuluaga

ALLEGED VIOLATIONS: Articles 5, 7, 8 and 19 of the American Convention on Human Rights

DATE PROCESSING BEGAN: July 2, 2008

I. THE PETITIONERS' POSITION

1. On November 16, 2006, the Inter-American Commission on Human Rights received a complaint against the Honduran State, presented by Lucrecia Inés Garcés Zuluaga, et al. for an alleged violation of the rights of Margarita María Garcés Zuluaga and Luis Guillermo Jiménez Montoya (hereinafter "the alleged victims") to personal liberty and judicial guarantees. The complaint also alleges violation of the rights of the child to the detriment of the alleged victims' children and impairments to their family members' right to humane treatment as a result of such violations.

2. The petitioners stated that on May 28, 2001, the Public Ministry filed a complaint with the Criminal Court of the City of San Pedro Sula against the alleged victims, who are Colombian, accusing them of committing illegal drug trafficking, money laundering, tax fraud and forgery of official documents. The petitioners further stated that the alleged victims were detained on May 29, 2001 and their residence and business were searched without a warrant. On June 4, 2001, the judge in the case issued an order remanding them into custody. They alleged that although by 2006 five years had gone by since they had been deprived of their freedom, their procedural status remained unchanged, no value had been ascribed to the evidence submitted by their lawyer, and no final decision had been handed down in the case.

3. On January 4, 2008, the petitioners informed the IACHR that on September 25, 2007, the alleged victims were released pursuant to the judgment of acquittal issued in their case, a decision that was appealed by the Public Ministry. On February 9, 2009, the petitioners thanked the IACHR for the procedures undertaken, indicating that the grounds for their petition had been the time that had gone by without the alleged victims' procedural situation being defined, further indicating that the important issue in this case was that the proceeding was "moving forward, with the accused having been conditionally released, but released nonetheless, and in a position to manage matters with regard to their proceeding."

II. THE STATE'S POSITION

4. The Honduran State indicated that the accused were indicted for the crimes of money laundering, tax fraud and forgery of official documents. It further indicated that both of the accused had been released in keeping with the judgment of acquittal handed down by the Criminal Court of the City of San Pedro Sula. The State also contended that the detentions, as well as the searches, had been executed with the

pertinent court order. The State requested that the petition be ruled inadmissible as domestic judicial remedies had not been exhausted.

III. PROCESSING BY THE IACHR

5. The petition was received by the IACHR on November 10, 2006. On July 2, 2008 the petition was forwarded to the Honduran State, which at this point was given two months to submit its comments.

6. On November 21, 2008, the IACHR received the State's response, the pertinent parts of which were sent to the petitioners on January 6, 2009.

7. On February 9, 2009, the petitioners thanked the IACHR for the procedures undertaken, indicating that the grounds for the petition was the time that had gone by without the alleged victims' procedural situation being defined, and further indicating that the important thing was that the proceeding was "moving forward, with the accused having been conditionally released, but released nonetheless, and in a position to manage matters with regard to their proceeding."

8. In order to update the petition's processing, on April 16, 2010 and on December 13 2013, the IACHR requested that the petitioners send the information they deemed relevant within a month, noting that if no response was received, the Commission would rule on whether to archive the petition. To date, the IACHR has failed to receive the necessary information to update the petition's processing, as was requested.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

9. Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the IACHR Rules of Procedure provide that, prior to determining the petition's admissibility, the Inter-American Commission is to verify whether the grounds that gave rise thereto still exist or subsist and if the Commission considers they do not, it will order the petition to be archived.

10. In the instant case, according to the last information provided by the petitioners, the situation that led to the submission of the complaint had changed. In keeping with Article 42(2) of the Rules of Procedure, the IACHR requested updated information on April 16, 2010 and on December 13 2013 from the petitioners regarding the situation that gave rise to the complaint, informing informed them that if they failed to comply with said request the petition could potentially be archived. As the deadline set lapsed some time ago, the Inter-American Commission has decided to archive the petition pursuant to Article 48(1)(b) of the Convention and Article 42 of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 4th day of the month of April, 2014. (Signed): Tracy Robinson, President; Rose-Marie Antoine, First Vice-President; Felipe González, Second Vice-President; José de Jesús Orozco Henríquez, Rosa María Ortiz, Paulo Vannuchi, and James L. Cavallaro Commissioners.