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**REPORT No. 36/25**  
**PETITION 2353-21**  
INADMISSIBILITY REPORT

ANTHONY SHARIF GAY  
UNITED STATES OF AMERICA

Approved electronically by the Commission on March 27, 2025.

**Cite as:** IACHR, Report No. 36/25. Petition 2353-21. Inadmissibility. Anthony Sharif Gay.  
United States of America. March 27, 2025.



**I. PETITION DETAILS**

<b>Petitioner:</b>	Pearl Gay and Shawn Gay
<b>Alleged victim :</b>	Anthony Sharif Gay
<b>Reported status:</b>	United States of America <sup>1</sup>
<b>Rights invoked:</b>	Articles XVII (Right to Recognition of Juridical Personality and Civil Rights), XVIII (Right to Justice), XXV (Right to Protection from Arbitrary Detention), and XXVI (Right to a Regular Trial) of the American Declaration of the Rights and Duties of Man <sup>2</sup>

**II. PROCEEDINGS BEFORE THE IACHR<sup>3</sup>**

<b>Filing of the petition:</b>	October 15, 2021
<b>Notification of the petition to the State:</b>	June 22, 2023
<b>The State's First Response:</b>	June 17, 2024

**III. COMPETENCE**

<b>Competencia <i>Ratione personae</i>:</b>	Yes
<b>Competencia <i>Ratione loci</i>:</b>	Yes
<b>Competencia <i>Ratione temporis</i>:</b>	Yes
<b>Competencia <i>Ratione materiae</i>:</b>	Yes, American Declaration (ratification of the OAS Charter on June 19, 1951)

**IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL *RES JUDICATA*, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION**

<b>Duplication of proceedings and international <i>res judicata</i>:</b>	No
<b>Rights declared admissible:</b>	N/a
<b>Exhaustion of domestic remedies or admissibility of an exception:</b>	No, under the terms of Section VI
<b>Submission within the deadline:</b>	No, under the terms of Section VI

**V. POSITION OF THE PARTIES****From the petitioner**

1. The petitioner states that the State convicted Mr. Anthony Sharif Gay (hereinafter, Mr. Gay) without due process and that, since that date, he has been incarcerated in an inadequate detention condition. In their view, the alleged victim's status as an African American influenced the treatment he received from the authorities.

*Criminal conviction for the crimes of homicide and robbery*

2. The petitioner states that in April 2004, the alleged victim was convicted of homicide and robbery after being accused of a stabbing that occurred in April 2001. He was sentenced to life imprisonment for the first offense and another ten and a half years for the second. The petitioner indicates that he appealed his conviction, but in January 2007, the Arizona Court of Appeals upheld it.

<sup>1</sup> "United States," "U.S.," or "the State"

<sup>2</sup> Hereinafter "the Declaration" or "the American Declaration"

<sup>3</sup> The observations of each party were duly forwarded to the opposing party.

3. According to the petitioner, the court based its decision on forensic evidence, such as fingerprints, blood, semen, and clothing found in the victim's residence, as well as records showing that the petitioner had pawned the victim's property. The petitioner also notes that, although the alleged victim acknowledged being in the residence, he denied having committed the crime.

4. In this regard, the petitioner claims that Mr. Gay was not guaranteed an adequate defense at his trial. He argues that the court should have excluded certain evidence obtained at his home, as it was collected illegally. Furthermore, he contends that the prosecution unjustifiably excluded African-American jurors and that the court prevented an expert from testifying about the effects of crack on his mental state. He asserts that these circumstances affected the outcome of the proceedings, and although he challenged them on appeal, the Court of Appeals rejected his arguments and upheld the conviction. He specifies that in January 2008, the Arizona Supreme Court denied review of the case.

*Request for review of conviction*

5. The petitioner reports that Mr. Gay's representation subsequently filed a motion for post-conviction review, alleging that the prosecution had excluded African-American jurors, that new evidence emerged to challenge the fingerprint analysis, and that his defense was deficient at both trial and appeal. However, he points out that the trial court dismissed his request after analyzing the arguments and holding an evidentiary hearing. He adds that the Court of Appeals reviewed the case but also denied the appeal, and that in August 2011, the Arizona Supreme Court upheld this decision.

*Habeas corpus action*

6. The petitioner states that in July 2012, he filed a habeas corpus petition before a federal court with eleven grounds of challenge, reiterating his challenges to the conviction. He claims that the court examined his arguments in a lengthy ruling but ultimately rejected his application in September 2016 and denied the possibility of appeal. He maintains that he did not attempt to file a challenge before a higher instance. In September 2020, he requested authorization to file a second habeas corpus petition, but the Ninth Circuit Court of Appeals rejected his request in December 2020, finding that he did not meet the legal requirements for a subsequent remedy.

*Alleged prison situation*

7. In addition, the petitioner claims that he has been the victim of inhumane treatment in prison. He asserts that he has suffered racial segregation, violence, and torture, in addition to being deprived of adequate food. He claims he has been held in unsanitary conditions, exposed to black mold, rat and cockroach infestations, and plumbing system failures. He states that these circumstances led him to contract COVID-19.

8. The petitioner reports that in August 2021, he filed a lawsuit for racial segregation and discrimination in prison, as well as for violations of international treaties. However, the court dismissed the case on the grounds that his allegations were inaccurate and did not meet legal requirements.

*Closing arguments*

9. Based on these facts, the petitioner maintains that the State denied him the right to juridical personality, to a fair trial, to protection from arbitrary detention, and to due process. He claims that he was unable to exercise an adequate defense, that illegally obtained evidence was used, and that exculpatory evidence was suppressed. He also reiterates that he has been a victim of racial segregation, torture, and inhumane conditions of detention. Finally, he maintains that his attempts to denounce these facts through legal action have been arbitrarily rejected.

## The United States

10. The State argues that the petition should be declared inadmissible, as it does not meet the requirements established in the Commission's Rules of Procedure. First, it claims that the Commission lacks jurisdiction to review allegations based on the concept of *actio popularis*, as the regulations of the inter-American system do not allow the submission of petitions in defense of collective or undetermined interests. In this regard, it asserts that general claims of systemic discrimination in the U.S. justice system cannot be examined in this process, as they are not linked to a specific and concrete violation of the petitioner's rights.

11. Furthermore, the State argues that the petition is inadmissible due to the failure to exhaust domestic remedies and its late submission, as Mr. Gay has not used all available mechanisms in the United States to challenge his conviction nor submitted the petition within the time limit established in the Commission's Rules of Procedure. It points out that his conviction was upheld by the Arizona Supreme Court in 2008, and although he later filed motions for review and habeas corpus, he still could have appealed to the U.S. Supreme Court. Moreover, it highlights that the most recent relevant judicial decision dates to December 2020. Even if this date is taken as a reference, his submission to the Commission in October 2021 exceeds the six-month time limit set forth in Article 32(1) of the Rules.

12. Regarding his allegations of inhuman treatment in prison, the State emphasizes that the petitioner fails to demonstrate exhaustion of internal remedies to challenge such conditions, as he did not appeal the determination, erroneously considering it "useless," given that he had no financial means to use this remedy, and in any case, the action would have been heard by the same court that previously dismissed his claims. In this respect, the State highlights that, if Mr. Gay lacked financial resources, he could have requested a waiver of payment. However, he did not take any action based on a false assumption regarding the court that would review his application. For these reasons, the State argues that the requirement under Article 31.1 of the Rules has not been met.

13. On the other hand, the State argues that the petition lacks sufficient elements to establish a violation of the American Declaration. Specifically, it claims that Mr. Gay received all procedural guarantees during his trial and in the subsequent reviews of his case, so his allegations of discrimination, inhuman treatment, and prison conditions lack concrete details that would allow for the determination of a violation of his rights. Therefore, the State considers that the petition does not meet the requirements set forth in Article 34 of the Commission's Rules of Procedure.

14. Finally, the State emphasizes that the Commission cannot act as an appellate body to review decisions made by national courts that acted within their jurisdiction and in accordance with domestic law. In its view, the petitioner's complaint is nothing more than a disagreement with the decisions of U.S. courts, without demonstrating a violation of the human rights protected by the American Declaration.

15. For all these reasons, the State requests that the Commission declare the petition inadmissible, as it does not meet the requirements established in Articles 31 and 34 of the Commission's Rules of Procedure. Alternatively, should the Commission admit the petition, the State urges it to be dismissed due to lack of merit.

## VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

16. The subject matter of this petition is twofold: on the one hand, the petitioner seeks to challenge Mr. Gay's criminal conviction; and, on the other, it alleges violations of the alleged victim's rights in the context of his conditions of detention. Consequently, it is necessary to analyze whether in both aspects the requirements of exhaustion of domestic remedies and of presentation within the period established in the Rules of Procedure of the Inter-American Commission on Human Rights have been met.

17. Regarding the conviction, the IACHR notes that the petitioner filed various domestic remedies. His conviction was upheld by the Arizona Supreme Court in 2008, after which he filed post-conviction review actions and a writ of habeas corpus at the federal level. According to the information in the file, the last relevant

decision in this regard was issued in December 2020, when the Ninth Circuit Court of Appeals rejected his request to file a second habeas corpus. According to Article 32(1) of the Commission's Rules of Procedure, petitions must be submitted within six months of notification of the final decision at the domestic level. However, the petitioner submitted his request to the Commission in October 2021, clearly exceeding that deadline. Consequently, the allegations related to his criminal proceedings are inadmissible because they passed the deadline.

18. On the other hand, with respect to his claims of detention conditions and inhumane treatment in prison, the petitioner has not demonstrated that he has exhausted available domestic remedies. While she claims to have filed a lawsuit in August 2021 for racial segregation and discrimination, the court dismissed her case in September 2021. However, the petitioner did not appeal this decision, arguing that he did not have financial resources and that it would be "futile" to challenge before a court that had previously ruled against him. However, the United States judicial system provides mechanisms for requesting exemption from court costs, which shows that the petitioner did not exhaust the means available to challenge his situation. The Commission has reiterated that a lack of confidence in the effectiveness of a remedy does not relieve the interested party of the obligation to exhaust it<sup>4</sup>. Consequently, the allegations concerning their conditions of detention are inadmissible for failure to exhaust domestic remedies.

19. For these reasons, it is concluded that the petition does not meet the admissibility requirements set forth in Articles 31 and 32 of the Commission's Rules of Procedure, which precludes its consideration on the merits.

## **VII. DECISION**

1. To declare this petition inadmissible;
2. To notify the parties of this decision; and publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 27<sup>th</sup> day of the month of March, 2025. (Signed:) José Luis Caballero Ochoa, President; Andrea Pochak, Vice President; Arif Bulkan, Second Vice President; Roberta Clarke, and Gloria Monique de Mees, Commissioners.

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<sup>4</sup> IACHR, Report No. 104/05, Inadmissibility, Petition 65-99, Víctor Sánchez et al., United States, October 27, 2005, para. 67.