



THE PERMANENT REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C.

January 9, 2017

Mr. Paulo Abrão
Executive Secretary
Inter-American Commission on Human Rights
Organization of American States
Washington, D.C. 20006

**Re: Warren Wesley Summerlin et al., Case No. 12.729
Request to Archive or Reconsider Admissibility**

Dear Mr. Abrão:

The United States Government has the honor of addressing the Inter-American Commission on Human Rights (“Commission”) in regard to the above-referenced Petition filed November 2, 2004, on behalf of Warren Wesley Summerlin and eight other petitioners (“Petitioners”), which your office transmitted to us via a letter dated November 12, 2004. The United States transmitted an initial response to the Petition on or about January 6, 2005 (Annex 1). Ninety additional petitioners were added by letter from the Petitioners dated December 17, 2004, transmitted to us via a letter dated January 13, 2005. Among other correspondence, Petitioners filed a supplemental brief on August 4, 2009, transmitted via a letter dated August 13, 2009.

This letter serves as a request that the Commission archive this matter for lack of activity. Alternatively, the Commission should ask the Petitioners to provide detailed, updated information regarding the status of their various claims,¹

¹ We are aware that the Commission asked the Petitioners, via a letter dated October 29, 2009, for additional information, but we do not know the scope of that request because we do not have access to the 2009 letter, nor do we have any record of a response by Petitioners to the 2009 letter. We see in the IACHR Individual Petition System Portal (“Portal”) another letter, dated February 23, 2016, in which the Commission reiterates the request

should declare inadmissible those claims which have been the subject of effective domestic relief, and should at minimum declare inadmissible or archive the claims of any Petitioner who has died of causes unrelated to the death penalty.

The Commission found this Petition admissible on October 29, 2009, with respect to all named Petitioners except Mr. Daniel W. Cook, for whom the Commission found all claims inadmissible.² On July 21, 2011, the Commission issued a decision on the merits for Mr. Jeffrey Timothy Landrigan, one of the nine original Petitioners, whose claims had been separated from those of the other remaining Petitioners.³

We are unaware of any activity on the claims of the remaining 97 Petitioners since October 2009. Our own research indicates that of those individuals still associated with the Petition, nearly half have had significant developments in their status since the Petitioners' last filing that would significantly affect the status of their claims, and may (or does) moot their claims entirely. According to public records, at least 19 of the Petitioners have had their death sentences overturned, reduced to life in prison, or have otherwise been resentenced to non-capital prison terms;⁴ at least five of them have been released from prison;⁵ at least nine of them have died of unrelated causes;⁶ and at least 14 of them have been executed.⁷

from the 2009 letter. We do not see any response to the 2016 letter posted in the Portal, nor have we received any response through other means.

² Summerlin et al. v. United States, Petition 1177/04, Report No. 100/09, Admissibility, Oct. 29, 2009, ¶ 5.

³ Landrigan v. United States, Case No. 12.776, Report No. 81/11, Merits, July 21, 2011. Mr. Landrigan was executed by the State of Arizona on October 26, 2010.

⁴ In addition to Rudi Alfred Apelt, Michael Emerson Correll, Mark Henry Lankford, and Joe Leonard Lambright, who were identified in the Petitioners' letter of August 4, 2009, these include Charles M. Hedlund, Maxwell Hoffman, Levi James Jackson, Steven Craig James, Kenneth J. Laird, Laurence Libberton, Randy Lyn McKinney, Angel Mayora Medrano, Lacey Mark Sivak, Robert Douglas Smith, Martin Raul Soto-Fong, Clinton Spencer, Gene Francis Stuart, Robert Lee Tankersley, and Warren W. Summerlin.

⁵ In addition to Jasper McMurtrey, who was identified in the Petitioners' letter of August 4, 2009, these include Clarence David Hill, Debra Milke, George Junior Porter, and Aryon Williams Jr. (who may now be serving a prison term for a later, unrelated offense).

⁶ These include Gregory S. Dickens, David L. Dunster, John Albert Hinchey, Robert Wayne Murray, Viva Leroy Nash, Fred Robinson, Michael W. Ryan, and Milo Stanley. It also includes Richard Michael Rossi, who was among the subjects of a July 22, 2015 letter from the United States to the Commission (Annex 2).

⁷ These include Donald Edward Beaty, Richard Lynn Bible, Robert Glen Jones, Jr., Thomas Arnold Kemp, Jr., Eric John King, Richard Leavitt, Samuel Lopez, Robert Henry Moormann, Paul Ezra Rhoades, Edward Harold Schad, Richard Stokley, Robert Charles Towery, Thomas Paul West, and Joseph Rudolph Wood.

Furthermore, as the Commission knows, the United States strongly supports the Commission and the important role it has historically played in promoting human rights throughout the Hemisphere. Accordingly, the United States has a strong interest in the maintenance of the Commission's efficient functioning in a severely constrained budgetary environment. In the United States' view, archiving this entire Petition due to the long period of inactivity would be an appropriate course of action in light of the Commission's limited resources, the urgent need to clear out its backlog of cases, and the Commission's many other priorities with respect to the United States and the other countries of the Hemisphere.

Alternatively, if the Commission chooses not to archive this Petition, it should ask the Petitioners' representatives for detailed information as to the current status of the domestic proceedings of each of the 97 Petitioners—many of whom, as explained above, are deceased, no longer in prison, or no longer serving capital sentences—so that it may properly evaluate the continued admissibility of each Petitioner's claims. It is, after all, petitioners and their representatives—not the State—who should proactively keep the Commission updated as to material developments that could affect the disposition of their claims before the Commission. Despite many material developments over the past seven years, the United States is unaware of any such update provided by Petitioners' representatives.⁸

With such updated information at its disposal, the Commission should then reconsider its admissibility report with respect to the Petitioners who have received effective relief in the domestic system, as it has the discretion to do,⁹ and declare those Petitioners' claims inadmissible under Article 34(c) of the Rules of Procedure in light of the supervening information. It should also, at minimum,

⁸ See *supra* note 1.

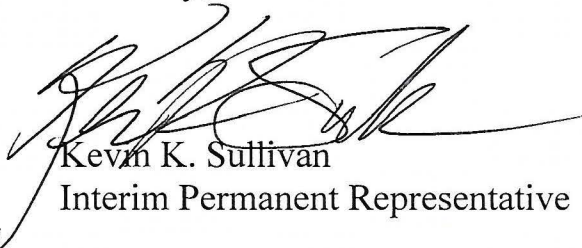
⁹ See, e.g., *Bucklew v. United States*, Case No. 12.958, Response of the United States (Corrected), Feb. 1, 2016, at 6–9 (explaining why the Commission has the discretion, under the Rules of Procedure, to reconsider a prior admissibility decision). This response is appended as Annex 3 and we see no reason, related to privacy or otherwise, why it could not be shared with the Petitioners in this case and their representatives.

declare inadmissible or archive the claims of any Petitioner who has died of causes unrelated to the death penalty,¹⁰ a request we already made on July 22, 2015 with respect to Mr. Michael Rossi,¹¹ who died in a prison hospital of natural causes on April 23, 2006 (see Annex 2).¹²

Regardless of whether the Commission chooses to dismiss or archive certain claims in this case as requested above, updated information about the scores of individual Petitioners seems essential before the Commission could be in any position to analyze the merits for an eventual merits report.

Please accept renewed assurances of my highest consideration.

Sincerely,



Kevin K. Sullivan
Interim Permanent Representative

Annexes:

1. Summerlin et al. v. United States, Petition No. P-1177-04, Response of the United States, Jan. 6, 2005.
2. Letter of the United States to the Commission Regarding Several Matters and Cases, July 22, 2015.
3. Bucklew v. United States, Case No. 12.958, Response of the United States (Corrected), Feb. 1, 2016.

¹⁰ See, e.g., Undocumented Migrant, Legal Resident, and U.S. Citizen Victims of Anti-Immigrant Vigilantes v. United States, Petition No. 478-05, Report No. 78/08, Admissibility, Aug. 5, 2009, ¶ 60 & Decision ¶ 4 (declaring case inadmissible with respect to petitioners who obtained access to an effective remedy in the domestic system).

¹¹ See Annex 2. We are dismayed that it took until February 23, 2016 to forward this letter to Petitioners' representatives and that the version it sent was so heavily redacted that it is difficult to comprehend the U.S. arguments therein. It is also difficult to discern precisely what information was redacted, since the redactions are in white, instead of black. We request that Annex 2 be forwarded in unredacted form. We see no reason, related to privacy or otherwise, why the full letter cannot be shared with Petitioners and their representatives.

¹² We are aware that the Commission has a general policy of not archiving petitions that raise allegations related to the death penalty, but we would urge the Commission to carefully consider whether the rationale behind that policy applies with respect to a petitioner who was not executed, but instead died of other causes.