



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

March 16, 2016

Mr. Emilio Alvarez Icaza
Executive Secretary
Inter-American Commission on Human Rights
Organization of American States
Washington, D.C. 20006

**Re: Samuel Alando Walker, Petition No. P-1515-11
Response of the United States of America**

Dear Mr. Icaza:

The Government of the United States appreciates the opportunity to provide the following response to the Inter-American Commission on Human Rights ("Commission"), regarding the Petition of Samuel Alando Walker, No. P-1515-11. The Commission received the Petition on October 26, 2011, and transmitted it for a U.S. response in a letter dated December 22, 2015. The U.S. Government respectfully submits that the matter addressed by the petition is not admissible because it fails to meet the Commission's established criteria in Articles 31, 32, and 34 of its Rules of Procedure ("Rules"). In particular, the Petition was filed after the expiration of the statute of limitations with respect to some of the claims, the requirement for exhaustion of domestic remedies has not been satisfied with respect to others, and the Petition fails to state facts that tend to establish violations of rights set forth in the American Declaration of the Rights of Duties of Man ("American Declaration"); moreover, the statements of the petitioner in the Petition are manifestly groundless.

The Petitioner is a convicted felon who is serving a prison sentence in the State of North Carolina for a number of crimes including robbery with a dangerous weapon, common robbery, and assault with a deadly weapon inflicting serious

injury, for robbing four convenience stores on August 24, 1994. As explained in the Petition, the Petitioner was convicted on September 16, 1997, after a jury trial, on six counts. His conviction was appealed to the North Carolina Court of Appeals, which affirmed the conviction on August 4, 1998.

The Petitioner seeks “a proper and fair review of [his] case,” including of the judgments in the state courts, and of alleged “constitutional rights violations and due process clause violations.” In particular, the Petitioner claims that these rights were violated during his trial when, he asserts, the court denied his motion to suppress his statement to police admitting to the crimes, consolidated his offenses for trial, did not exclude and sequester prosecution witnesses, allowed improper witness testimony to be introduced, and limited the closing argument of the defense to the jury to one hour. In addition, the Petitioner alleges that information that he was evaluated and prescribed anti-psychotic medication while in detention awaiting trial was not disclosed to his defense attorney, potentially exculpatory evidence was destroyed, and his defense counsel was ineffective.

These issues were addressed by the North Carolina Court of Appeals in its 1998 decision on the appeal of the Petitioner’s conviction. The appeals court decision specifically addressed the motion to suppress, the medical evidence, and the destruction of evidence claims, and dismissed the other points raised because the Petitioner provided no evidence. The decision found that the Petitioner had a fair trial that was free from prejudicial error.¹ Following this decision, the Petitioner sought further review by the federal courts pursuant to the writ of *habeas corpus*. The U.S. Fourth Circuit Court of Appeals found no errors and denied the Petitioner’s request for relief on May 23, 2002.² This unpublished decision is enclosed with this response. The Petitioner did not seek further review of his case in the U.S. Supreme Court.

Petitioner has pursued the avenues of relief available on direct appeal and in *habeas corpus* and has exhausted domestic remedies with respect to the issues he raises concerning his trial and conviction. This federal appeals court decision is now over 13 years old, and well outside the six-month statute of limitations for petitions set forth in Article 32 of the Rules. Accordingly, the petition is plainly

¹ See Petition, Exhibit 1.

² Walker v. Sutton, No. 02-6229, unpublished opinion (4th Cir. 2002).

inadmissible with respect to the allegations raised by Petitioner concerning his trial and conviction because it is untimely.³

In addition, the Petitioner also appears to be challenging issues relating to a 2008 revision of his prison sentence. The Petition, in pages 26 through 28, describes a revision of his sentence following a resentencing hearing on October 27, 2008, in which the judge handed down a new sentence with a minimum time period of 16 years, nine months, and maximum time period of 22 years, five months. The Petitioner appears to be arguing that he is entitled to a release date based on the minimum time period, without regard to the range of time to which he was actually sentenced.

Petitioner provides no information about whether he has taken any further steps to challenge this decision and its application to his case, including any administrative remedies that are available through the correctional system of North Carolina, which is presumably responsible for calculating his release date. According to records located on the North Carolina Department of Corrections website, the Petitioner's current release date is November 26, 2017. (The website may be accessed at <http://www.doc.state.nc.us/offenders/>.) That website also indicates that the Petitioner has committed 74 infractions during his time in prison, and provides a list of these infractions. As sentencing times are often affected by whether a prisoner has engaged in good conduct while serving a sentence, these numerous infractions may well be having an adverse impact on the Petitioner's release date. A copy of the Petitioner's public record and list of infractions from that website is attached to this letter for the Commission's information.

Thus, the Petitioner has not exhausted domestic remedies with respect to his 2008 resentencing and the calculation of his prison sentence, as required by Article 31 of the Rules. Furthermore, the Petitioner does not contend that an exception to exhaustion under Article 31 applies.

³ See, e.g., *Echeverría & González v. Chile*, Petition No. 4636-02, Report No. 108/13, Inadmissibility, Nov. 15, 2013, para. 54; *J.C.R. v. Mexico*, Petition No. 513-04, Report No. 60/12, Inadmissibility, Mar. 19, 2012, para. 36; *Lara v. Peru*, Petition No. 871-03, Report No. 18/11, Inadmissibility, Mar. 23, 2011, para. 30; *Forzzani v. Peru*, Petition No. 277-01, Report No. 17/11, Inadmissibility, Mar. 23, 2011, para. 25; *Association of Retired Oil Industry Workers of Peru—Metropolitan Area of Lima and Callao v. Peru*, Petition No. 12.119, Report No. 79/10, Inadmissibility, July 12, 2010, para. 34; *Trinidad v. Brazil*, Petition No. 397-04, Report No. 118/09, Inadmissibility, Nov. 12, 2009, para. 28; *Vera et al. v. Peru*, Petition No. 619-00, Report No. 4/08, Inadmissibility, Mar. 4, 2008, para. 38.

Finally, the Petition is also inadmissible under Article 34 of the Rules because it does not state facts that tend to establish a violation of the American Declaration and the statements of the petitioner indicate that it is manifestly groundless. The Petitioner's allegations regarding his trial and conviction only describe possible violations of the U.S. Constitution and U.S. domestic law, and do not address or even mention what violations of the American Declaration may have occurred. The extensive materials submitted by Petitioner do not establish violations of or otherwise implicate rights established under the American Declaration.

We would also strongly urge the Commission to bear in mind its case management priorities, and in particular its severe backlog, when considering the appropriate course of action for this Petition. The Petition is, as discussed above, plainly inadmissible under the Rules and the Commission's practice. The Commission can rely upon a long line of jurisprudence to fashion a brief and expedited decision to dismiss the Petition (any such dismissal is, of course, without prejudice to the Petitioner's ability to file a new petition if and when he satisfies the admissibility requirements under the Rules). The Commission should, in our view, consider this reality: the Petitioner is scheduled for release from prison less than a year from now. If the Commission chooses to deliberate on this Petition for the amount of time the Commission usually takes to deliberate on and resolve a petition, the Petitioner will have been released from prison long before the Commission reaches any decision on a petition he filed nearly five years ago.

As we have stated in past responses, we stand ready to assist the Commission with ideas on how to reduce its backlog and more efficiently process the petitions it receives. We would in particular reiterate that the Commission should develop criteria for filtering petitions so that it may focus on those that, unlike the Petition here, present the most pressing human rights claims, the resolution of which could have a broader impact in the State in question and across the region as a whole.

For these reasons, the Commission must dismiss this petition as inadmissible.

Please accept renewed assurances of my highest consideration.

Sincerely,



Michael J. Fitzpatrick
Interim Permanent Representative

- Enc. 1. Walker v. Sutton, No. 02-6229, unpublished opinion (4th Cir. 2002)
2. North Carolina Department of Public Safety Offender Report
3. North Carolina Department of Public Safety Offender List of
 Infractions.