



United States Department of State

***United States Permanent Mission to the
Organization of American States***

Washington, D.C. 20520

December 20, 2018

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

**Re: Jesús Rodríguez Barrón, Petition No. P-468-08
Response to Petition**

Dear Dr. Abrão:

The United States Government has the honor of submitting to the Inter-American Commission on Human Rights (“Commission”) this response to the Petition your office transmitted to us on August 17, 2018 via a letter dated August 14, 2018. The Petition, with exhibits, was filed by Jesús Rodríguez Barrón (“Petitioner” or “Mr. Barrón”) in the above-referenced matter.¹ Petitioner filed his original petition with the Commission on April 4, 2008. The United States submitted its response on October 21, 2014, requesting that the petition be dismissed for failing to exhaust domestic remedies and failing to assert a rights violation under the American Declaration. The Commission then forwarded additional materials provided by the Petitioner to the United States on August 14, 2018. This response will hereinafter refer to this amended submission as the “Petition” unless otherwise specified.

The United States respectfully submits that the matter addressed by the Petition is not admissible and must be dismissed because it fails to meet the Commission’s established criteria in Articles 31 and 34 of its Rules of Procedure (“Rules”). In particular, the Petition is inadmissible under Article 31(1) of the Rules because Petitioner has failed to exhaust his domestic remedies. Moreover, the Petitioner fails under Article 34(a) to state facts that establish a violation² of his rights set forth in the American Declaration of the Rights of

¹ Although at times in his submission, Petitioner refers to Crispin Rodriguez Barron as a petitioner, because Petitioner is the only individual formally recognized as a petitioner in this matter, and because the allegations contained in the Petition focus primarily on Petitioner, this response regards Petitioner as the sole petitioner in this matter. To the extent that the Commission contemplates Crispin Rodriguez Barron as an additional petitioner in this matter, the positions of the United States in response to the Petition are equally applicable to claims of Crispin Rodriguez Barron.

² As the American Declaration of the Rights and Duties of Man is a non-binding instrument and does not create legal rights or impose legal duties on member states of the Organization of American States, the United States understands that a “violation” in this context means an

Duties of Man (“American Declaration” or “Declaration”). Finally, the Commission’s consideration of the Petition would be inappropriate in light of the Commission’s fourth instance formula.

A. FACTS AND PROCEDURAL HISTORY

Petitioner is currently serving a life sentence in U.S. federal prison for twenty-nine different counts related to the distribution of more than thirty kilograms of methamphetamine.³

On June 15, 1994, Petitioner was charged, *inter alia*, with aiding and abetting the manufacturing of one kilogram or more of a mixture or substance containing a detectable amount of methamphetamine.⁴ Petitioner supplied hydriodic acid to customers for use in the manufacture of methamphetamine and established a fictitious company (Sunset Mining Group Ltd.) to purchase the hydriodic acid.⁵ In April of 1994, Petitioner’s co-conspirators, Chester Ralph Frace and Samuel Israel Gall, pleaded guilty to some of the counts against them.⁶ On April 3, 1995, Frace and Gall were sentenced to thirty-seven months and fifteen months in prison, respectively.⁷ On March 6, 1995, Crispin Rodriguez Barron, another of Mr. Barron’s co-conspirators, was sentenced at trial to 235 months in prison.⁸

After Petitioner was indicted, Petitioner fled to Nevada.⁹ Petitioner alleges that his assets were subsequently frozen.¹⁰ After years of evading law enforcement, Petitioner was

allegation that a country has not lived up to its political commitment to uphold the American Declaration. The United States respects its political commitment to uphold the American Declaration. For an elaboration of the United States’ longstanding position on the non-binding nature of the American Declaration, see Request for an Advisory Opinion Submitted by the Government of Colombia to the Inter-American Court of Human Rights Concerning the Normative Status of the American Declaration of the Rights and Duties of Man, Observations of the United States of America, 1988, *available at* <http://www1.umn.edu/humanrts/iachr/B/10-esp-3.html>. U.S. federal courts of appeals have independently held that the American Declaration is nonbinding and that the Commission’s decisions do not bind the United States. *See, e.g.,* Garza v. Lappin, 253 F.3d 918, 925 (7th Cir. 2001).

³ Petition at 24. Mr. Barron was convicted of conspiracy to aid and abet the manufacture of methamphetamine, in violation of 21 U.S.C. §§846, 841(a) and 18 U.S.C. §2 (Count 1); conspiracy to possess and distribute hydriodic acid, knowing and having reason to believe that it would be used to manufacture methamphetamine, in violation of 21 U.S.C. §§841(d)(2), 846, and 18 U.S.C. §2 (Count 2); conspiracy to commit money laundering, in violation of 18 U.S.C. §§1956(g), (a)(1)(A)(i) (Count 3); possession of a listed chemical, knowing or having reason to believe that it would be used to manufacture methamphetamine, in violation of 21 U.S.C. §841(d)(2) (Counts 4-11); and aiding and abetting money laundering, in violation of 18 U.S.C. §1956(a)(1)(i)(ii) (Counts 12-29).

⁴ Petition at 8.

⁵ *Id.*

⁶ Petition: additional information at 24.

⁷ *Id.*

⁸ *Id.* at 24.

⁹ Petition at 10.

¹⁰ Petition: additional information at 43.

finally arrested in 2001.¹¹ On June 28, 2001, Petitioner was found guilty following a jury trial on all twenty-nine counts with which he was charged.¹² Petitioner was then sentenced to life in prison by the judge in accordance with the laws of the United States.¹³

Since Petitioner's sentencing, Petitioner has filed numerous appeals both on the substance of his underlying conviction and the sentence he received. Petitioner filed a writ of certiorari with the United States Supreme Court on April 8, 2003, and his appeal was denied by the Supreme Court on June 2, 2003.¹⁴ Petitioner continues to appeal his conviction and sentence in the domestic courts of the United States. On February 9, 2016, Petitioner filed a motion to vacate, set aside, or correct his mandatory life sentence; on June 1, 2017, Petitioner filed a motion to stay these proceedings pending resolution of related cases, now before the United States Court of Appeals for the Ninth Circuit.¹⁵

Petitioner's submissions to the Commission are admittedly difficult to decipher, as they contain documents from various appeals, which are often out of order, repetitive, or incomplete. Petitioner's arguments are spread throughout the more-than-one hundred pages of documents sent to the Commission and are often incoherent. Petitioner identifies a number of alleged violations in his Petition, many of which do not align with the facts alleged in his Petition. Moreover, Petitioner invokes instruments beyond the competence of the Commission.¹⁶ To the United States' best understanding, and to the extent that it is possible to translate Petitioner's claims into provisions of the American Declaration, Petitioner appears to have alleged violations of Articles II (right to equality before the law) and XXVI (right to due process of law). Furthermore, Petitioner does not explicitly allege a violation of his right to a fair trial, but it appears from his accompanying documents that he is also alleging a violation of Article XVIII (right to a fair trial).

B. THE PETITION IS INADMISSIBLE AND SHOULD BE DISMISSED

¹¹ Id. at 88.

¹² Id. at 24.

¹³ United States v. Barron, Government's Response to Petitioner's Motion to Vacate, Set Aside, or Correct Sentence at 6 (Petitioner is currently serving a mandatory life sentence under 21 U.S.C. § 841(b)(1)(A) based on two prior felony drug offences).

¹⁴ Barron v. United States, No. 02-10454 (2003).

¹⁵ See Motion to Stay Proceedings Pending the Resolution of *People v. Buycks* and its Companion Cases by the Supreme Court of California, Case No. CV 16-9677-GW (C.D.Ca (Western Division) June 1, 2017).

¹⁶ Article 20 of the Statute of the Commission sets forth the Commission's powers that relate specifically to OAS member States that, like the United States, are not parties to the legally binding American Convention on Human Rights, including to pay particular attention to observance of certain enumerated human rights set forth in the American Declaration, to examine communications and make recommendations to the State, and to verify whether in such cases domestic legal procedures and remedies have been applied and exhausted. The Commission lacks competence to issue a binding decision vis-à-vis the United States on matters arising under other international human rights treaties, whether or not the United States is a party, or under customary international law.

The United States respectfully requests that the Commission find the Petition inadmissible. Petitioner has failed to exhaust his domestic remedies as required under Article 31 of the Rules. Moreover, Petitioner has failed to allege facts that tend to establish a violation of the American Declaration, rendering the Petition inadmissible under Article 34(a) of the Rules of Procedure (“the Rules”). Finally, because Petitioner’s claims concern how U.S. courts have interpreted U.S. law, the Commission must refrain from considering the Petition under the Commission’s “fourth instance formula.” Therefore, the Petition should be dismissed as inadmissible under Articles 31 and 34(a) of the Rules as well as the fourth instance formula.

a. The Petition Is Inadmissible under Article 31(1) of the Rules for Failure to Exhaust Domestic Administrative and Judicial Remedies.

The Commission should declare the Petition inadmissible because Petitioner has not satisfied his duty to demonstrate that he has “invoked and exhausted” domestic remedies under Article 20(c) of the Commission’s Statute and Article 31 of the Rules.

The Commission has repeatedly emphasized that a petitioner has the duty to pursue all available domestic remedies. Article 31(1) of the Rules states that “[i]n order to decide on the admissibility of a matter, the Commission shall verify whether the remedies of the domestic legal system have been pursued and exhausted in accordance with the generally recognized principles of international law.” As the Commission is aware, the requirement of exhaustion of domestic remedies stems from customary international law, as a means of respecting State sovereignty. It ensures that the State on whose territory a human rights violation allegedly has occurred has the opportunity to redress the allegation by its own means within the framework of its own domestic legal system.¹⁷ It is a sovereign right of a State conducting judicial proceedings for its national system to be given the opportunity to determine the merits of a claim and decide the appropriate remedy before resort to an international body.¹⁸ The Inter-American Court of Human Rights has remarked that the exhaustion requirement is of particular importance “in the international jurisdiction of human rights, because the latter reinforces or complements the domestic jurisdiction.”¹⁹ The Commission has repeatedly made clear that the petitioner has the duty to pursue *all* available domestic remedies.²⁰

Here, Petitioner continues to appeal his conviction and sentence in the domestic courts of the United States. As much is reflected in the documents appended to the

¹⁷ See, e.g., *Interhandel Case (Switzerland v. United States)* [1959] I.C.J. 6, 26–27; *Panevezys-Saldutiskis Railway Case (Estonia v. Lithuania)*, 1939 P.C.I.J., Ser. A/B, No. 76.

¹⁸ THOMAS HAESLER, *THE EXHAUSTION OF LOCAL REMEDIES IN THE CASE LAW OF INTERNATIONAL COURTS AND TRIBUNALS* (1968), at 18–19.

¹⁹ *Velásquez Rodríguez Case*, Judgment of July 29, 1988, ¶ 61, Inter-Am. Ct. H.R. (Ser. C) No. 4 (1988).

²⁰ See, e.g., *Páez García v. Venezuela*, Petition No. 670-01, Report No. 13/13, Mar. 20, 2013, Analysis § B(1) & Conclusions ¶ 35 (finding petition inadmissible for failure to exhaust because petitioner did not avail himself of remedies available to him in the domestic system).

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Petition.²¹ Petitioner's case is currently pending further appeal and has been stayed by U.S. District Court for the Central District of California pending a decision by the Ninth Circuit Court of Appeals on a related case.²² If Petitioner prevails, he will realize the same relief he currently seeks from the Commission: his sentence will be reduced and Petitioner would be released from prison in a few years, most likely before the Commission would have the ability to issue a report and recommendations in this matter. Therefore, Petitioner cannot be considered to have exhausted all domestic legal remedies with respect to these claims as required by Article 31(1) of the Rules. He continues to pursue remedies available to him in the domestic courts of the United States, the favorable disposition of which would render the very outcome Petitioner seeks in his Petition.

Because Petitioner has failed to exhaust the domestic remedies available to him with respect to the subject matter of the Petition, the Petition is inadmissible under Article 31(1) of the Rules and must be dismissed.

b. The Petition is Inadmissible under Article 34(a) for Failing to State Facts that Establish a Violation of the American Declaration and Article 34(b) for Stating Facts that Indicate It Is Manifestly Groundless.

i. Petitioner Fails to Allege Facts that Establish a Violation of Article XXVI (Right to a Fair Trial) and XVIII (Right to Due Process of Law).

Petitioner seems to allege that his rights to a fair trial and due process of law were violated because the prosecutor put forth several witnesses that “falsely” testified, which led to his conviction. However, this claim is not substantiated by the facts Petitioner has alleged and therefore does not support a finding that his rights under the Declaration were violated.

²¹ See Petition: additional information at 16.

²² On February 9, 2016, Petitioner filed a Motion to Vacate, Set Aside, or Correct Sentence with the District Court for the Central District of California. Petitioner noted that the reason he was sentenced to life in prison was due to a U.S. statute that required an individual convicted of the type of crime Petitioner was convicted of, and who already had two prior felony convictions, to be sentenced to life in prison. In Petitioner's Motion, he argued that because one of his prior felonies has been re-classified as a misdemeanor that he no longer has two prior felony convictions and, therefore, his sentence should be reduced. *Roriguez Barron v. United States*, Motion to Stay Proceedings Pending the Resolution of *People v. Buycks* and Its companion Cases by the Supreme Court of California (2017). On June 1, 2017, Petitioner requested to stay proceedings until the California Supreme Court decided a series of similar cases examining whether the statute reclassifying certain crimes as misdemeanors are retroactive. *Id.* at 6. On September 27, 2018, the court continued the stay of proceedings pending a decision by the Ninth Circuit Court of Appeals on the same issue in *USA v. Ira Spearman. Rodriguez-Barron v. United States*, Joint Status Report (2018).

Petitioner alleges that Special Agent Jay van Kirk and the prosecutor deceived the jury when Kirk testified about a substance that appeared to be hydriodic acid.²³ Petitioner further alleges that Special Agent William Garvey's testimony was false due to a discrepancy between his investigatory report and his testimony before the trial court.²⁴ These allegations are not substantiated by anything contained in the Petition.²⁵ Moreover, the record provided by Petitioner demonstrates that he was afforded the opportunity to cross-examine these witnesses to challenge their testimony during trial; counsel provided to Petitioner did just so. Moreover, the merits of these arguments were fully addressed by a U.S. Court. None of these claims provides facts establishing a violation of Petitioner's rights under Articles XVIII and XXVI of the Declaration.

Therefore, Petitioner's claims under Articles XVIII and XXVI of the Declaration should be found inadmissible under Article 34(a) of the Rules for failing to allege facts that establish a violation of his rights under the Declaration and as manifestly groundless under Article 34(b) of the Rules.

ii. Petitioner Fails to Allege Facts that Establish a Violation of Article II (Right to Equality before the Law).

Petitioner seems to allege that his right to equality before the law was violated because two of his co-conspirators received lower prison sentences than Petitioner. Again, however, this claim is not substantiated by the facts Petitioner has alleged and therefore does not support a finding that his rights under the Declaration were violated.

On April 3, 1995, one of Petitioner's co-conspirators, Frace, pleaded guilty and was sentenced to thirty-seven months in prison.²⁶ On the same day, Gall, another one of Petitioner's co-conspirators, pleaded guilty and was sentenced to fifteen months in prison.²⁷ In contrast, Petitioner and Crispin Barron, another of Petitioner's co-conspirators, pleaded not guilty and, following a jury trial, on March 6, 1995, was sentenced to 235 months in prison.²⁸ On March 18, 2002, Petitioner was sentenced according to applicable mandatory sentencing guidelines to life in prison.²⁹ Petitioner alleges that, because Frace and Gall, who are Caucasian, received lower prison sentences, his greater sentence was based on his race and he was therefore discriminated against.³⁰ However, this claim is meritless on its face and plainly ignores the obvious, non-discriminatory rationale for the discrepancy: Petitioner's co-

²³ Petition: additional information at 47.

²⁴ Id. at 53.

²⁵ The Petition includes other spurious allegations, including that his rights were violated when jurors believed the testimony of a co-conspirator, that similarly fail to evidence a violation of Petitioner's rights under the Declaration. Petition: additional information at 54.

²⁶ Id. at 24

²⁷ Id.

²⁸ Id. at 24.

²⁹ United States v. Barron, Government's Response to Petitioner's Motion to Vacate, Set Aside, or Correct Sentence at 6.

³⁰ Petition at 18-19.

conspirators pleaded guilty to certain charges in exchange for reduced sentences, while Petitioner and Crispin Barron did not, choosing instead to contest the charges against them in criminal jury trials.³¹ Petitioner was convicted and subsequently sentenced in accordance with U.S. law.

Once again, Petitioner's claims are manifestly groundless under Article 34(b) of the Rules, and the facts Petitioner has alleged do not establish a violation of the rights under the Declaration under Article 34(a) of the Rules. The Petition should therefore be found inadmissible with respect to this claim.

iii. Petitioner has Alleged other Facts that Do Not Establish Violations of his Rights under the Declaration.

Petitioner also alleges, but provides few facts to support allegations, that (1) his property was improperly "frozen," (2) his children were denied the protection of their father, and (3) he was "deprived" of his right to choose "an Attorney of his choice."³² However, Petitioner does not state facts that establish a violation of any of Petitioner's rights under the Declaration.

First, even if Petitioner's allegation is true that some of his assets were frozen, law enforcement authorities in the United States have authority under U.S. law to preserve the availability of property connected with illegal activity.³³ To the extent that Petitioner's assets may have been frozen, as he alleges, while he was a fugitive evading arrest, there is nothing in the Petition to suggest such steps were not taken in full compliance with the laws of the United States. Any presumption to the contrary is baseless and cannot be construed as establishing violations of Petitioner's rights under the Declaration.

Second, Petitioner alleges his rights were violated because his children were "deprived of their Father Protection and the Right to have a dignity Life as U.S.A. and Opportunities."³⁴ There is no corresponding right under the Declaration that would grant Petitioner any cognizable claim with respect to these allegations. Petitioner may be alluding to the right to a family and to protection thereof in Article VI of the American Declaration, but that Article only contemplates the "right to establish a family" and "to receive protection

³¹ Petition: additional information at 24. Moreover, Petitioner had two prior felony convictions which required a longer prison sentence under US law: 21 USC § 841(b)(1)(A).

³² Petition: additional information at 58.

³³ "Any person convicted of a violation of this subchapter...punishable by imprisonment for more than one year shall forfeit to the United States...(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation." 21 U.S.C.A. § 853(a) Criminal Forfeiture. The United States may, after the filing of an indictment, "enter a restraining order or injunction...or take any other action to preserve the availability of property." *Id.* at (e). Furthermore, if the court determines "there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (e) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property." *Id.* at (f).

³⁴ Petition: additional information at 11.

thereof.” Petitioner has alleged no facts that tend to establish a violation of his right to establish a family. Neither Article VI, nor any other right under the Declaration, provides Petitioner, or his children, the right to be present in his children’s lives. Moreover, Petitioner appears to be arguing that his children’s right to the protection of their father was violated. To the extent that these allegations purport to articulate claims on behalf of Petitioner’s children, Petitioner’s children are not petitioners before the Commission and, therefore, the Commission does not have competence *ratione personae* to consider such claims (which themselves do not evidence a violation of rights under the American Declaration).

Third, Petitioner also alleges that his rights were violated when he was “deprived” of his right to “an Attorney of his choice”, which “pushed Plaintiff Barron to become a fugitive.”³⁵ Petitioner provides no further information with regard to this allegation. However, it appears that the base of this allegation is that Petitioner had the court appoint him an attorney because he could not afford one; apparently Petitioner wished to choose the attorney who was appointed to his case. The right to a fair trial is generally considered to include the right to have the assistance of counsel—where a defendant cannot afford counsel, the government is obliged to appoint one consistent with the right to a fair trial. However the government is not, of course, required to appoint the counsel of defendant’s choice, as Petitioner here seems to argue.³⁶ Not having the attorney of his choice appointed to him by the court cannot be considered a violation of Petitioner’s right to a fair trial under the Declaration, which in any event is silent on the appointment of counsel. The Declaration provides Petitioner the right to a fair trial and to due process of law, rights which were *protected* by the court’s appointment of counsel to Petitioner because he was unable to afford counsel.

Therefore, Petitioner’s additional claims should be found inadmissible under Article 34(a) of the Rules for failure to allege facts that establish a violation of Petitioner’s rights under the Declaration and as meritless under Article 34(b) of the Rules.

c. The Commission Cannot Review the Merits of the Petition Without Running Afoul of the Fourth Instance Formula.

Furthermore, the Petition plainly constitutes an effort by petitioner to use the Commission as a fourth instance body to review claims already adjudicated by U.S. courts; the Commission has repeatedly stated that it may not “serve as an appellate court to examine

³⁵ Id. at 58.

³⁶ Courts have recognized that the Sixth Amendment “guarantees defendants in criminal cases the right to adequate representation,” however, the Sixth Amendment does not give “impecunious defendants...a Sixth Amendment right to choose their counsel.” *United States v. Pitman*, 816 F.3d 419, 422 (6th Cir. 2016) (citing *Caplin & Drysdale, Chartered v. United States*, 491 U.S. 617, 109 S.Ct. 2646, 105 L.Ed.2d 528 (1989)).

alleged errors of internal law or fact that may have been committed by the domestic courts acting within their jurisdiction.”³⁷

The fourth instance formula recognizes the proper role of the commission as subsidiary to states’ domestic jurisdictions,³⁸ and indeed, nothing in the American Declaration, the Organization of American States Charter, the Commission’s Statute, or the Rules gives the Commission the authority to act as an appellate body. As the Commission has explained, “The Commission...lacks jurisdiction to substitute its judgment for that of the national courts on matters that involve the interpretation and explanation of domestic law or the evaluation of the facts.”³⁹ It is not the Commission’s place to sit in judgment as another layer of appeal, second-guessing the considered decisions of a state’s domestic courts in weighing evidence and applying domestic law, nor does the Commission have the resources or requisite expertise to perform such a task. Under the fourth instance formula, the Commission’s review of Petitioner’s claims is precluded.

The United States’ domestic criminal process, including the availability of appellate and collateral review of trial and sentencing proceedings, affords those convicted of serious crimes the highest level of internationally recognized protection. Petitioner has availed himself of this legal framework to challenge his conviction and his sentence in multiple proceedings over a number of years. He asserted his claims not only in the primary criminal proceedings—in which he pursued an appeal to the Supreme Court—but also in the variety of challenges he has pursued in U.S. courts. In each of these proceedings, the courts carefully reviewed the evidence and rejected Petitioner’s arguments as meritless or, as with Petitioner’s challenge to his life sentence, is still hearing his case. The Commission has long recognized that “if [a petition] contains nothing but the allegation that the decision [by a domestic court] was wrong or unjust in itself, the petition must be dismissed under [the fourth instance formula].”⁴⁰ The Commission has also reiterated that “the fact that the outcome [of a domestic proceeding] was unfavorable ... does not constitute a violation.”⁴¹

³⁷ See *Marzioni v. Argentina*, Case No. 11.673, Report No. 39/96, Inadmissibility, Oct. 15, 1996 ¶ 51.

³⁸ See *Castro Tortrino v. Argentina*, Case No. 11.597, Report 7/98, Admissibility, Mar. 2, 1998, ¶ 17.

³⁹ *Macedo García de Uribe v. Mexico*, Petition No. 859-03, Report No. 24/12, Inadmissibility, Mar. 20, 2012 (“*Macedo* Inadmissibility Report”), ¶ 40. The Commission has interpreted and applied the fourth instance formula in the same way for OAS Member States that are parties to the legally binding American Convention and for those, including the United States, for which review is instead undertaken pursuant to the nonbinding American Declaration, where there must be even more deference. *See, e.g., id.* at ¶ 40 (emphasis added) (“The judicial protection afforded by the [American] Convention [on Human Rights] includes the right to fair, impartial, and prompt proceedings which give rise to the possibility, *but never the guarantee*, of a favorable outcome. Thus, the interpretation of the law, the relevant proceeding, and the weighing of the evidence is, among others, a function to be exercised by the domestic jurisdiction, which cannot be replaced by the IACHR.”).

⁴⁰ *Marzioni* Inadmissibility Report, *supra* note 38, ¶ 51.

⁴¹ *Maldonado Manzanilla v. Mexico*, Petition No. 733-04, Report No. 87/07, Inadmissibility, Oct. 17, 2007, ¶ 58 (quoting and citing *Rodríguez v. Argentina*, Case No. 10.382, Report No. 6/98, Inadmissibility, Feb. 21, 1998, ¶ 71).

The Commission must consequently decline this invitation to sit as a court of fourth instance. Acting to the contrary would have the Commission second-guessing the legal and factual determinations of both state and federal courts at multiple levels, conducted in conformity with due process protections under U.S. law and fully consistently with U.S. commitments under the American Declaration.

C. CONCLUSION

The Commission should declare the Petition to be inadmissible because Petitioner has not stated facts that tend to establish a violation of any rights in the American Declaration. Moreover, Petitioner continues to litigate this matter in the domestic courts of the United States, a further reason this Petition should be found inadmissible. Moreover, the Commission should decline the invitation to operate as a court of fourth instance to review Petitioner's claims which have been carefully adjudicated by the courts of the United States. We reserve the right to submit further observations, however, should it reach the merits stage.

Please accept renewed assurances of my highest consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ch Jll', is written over a faint, circular official stamp.

Carlos Trujillo
Ambassador