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REPORT No. 121/23
PETITION 2064-17
REPORT ON INADMISSIBILITY

GEOVANY ZUÑIGA
UNITED STATES OF AMERICA

Approved by the Commission electronically on July 7, 2023.

Cite as: IACHR, Report No. 121/23, Petition 2064-17. Inadmissibility. Geovany Zuñiga.
United States of America. July 7, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Geovany Zuñiga
Alleged victim:	Geovany Zuñiga
Respondent State:	United States of America ¹
Rights invoked:	No specific provisions invoked

II. PROCEEDINGS BEFORE THE IACHR²

Filing of the petition:	October 24, 2017
Additional information received at the stage of initial review:	September 21, 2020, August 9, 2022
Notification of the petition to the State:	July 5, 2022
State's first response:	December 16, 2022
Additional observations from the petitioner:	April 11, 2023

III. COMPETENCE

Competence <i>Ratione personae</i>:	Yes
Competence <i>Ratione loci</i>:	Yes
Competence <i>Ratione temporis</i>:	Yes
Competence <i>Ratione materiae</i>:	Yes, American Declaration on the Rights and Duties of Man ³ (ratification of 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

Duplication of procedures and International <i>res judicata</i>:	No
Rights declared admissible	None
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, in terms of Section VI
Timeliness of the petition:	Yes, in terms of Section VI

V. ALLEGED FACTS

1. The petitioner is an inmate of the Florida Department of Corrections (FDOC) serving a term of imprisonment for robbery. The petitioner, a Honduran national, claims that his conviction for robbery was based on unreliable or false evidence⁴, and that his attempts to seek redress have essentially been impeded by the FDOC.

2. The petitioner does not state when he was convicted of robbery (generally, the petition tends to lack a clear chronology of events, resulting in gaps in information). However, he claims that in 2015 he approached the legal department of the FDOC to ask for help in preparing "a legal motion for court" (the

¹ Hereinafter "USA", "U.S.", "United States" or "the State".

² The observations submitted by each party were duly transmitted to the opposing party.

³ Hereinafter "the American Declaration" or "the Declaration".

⁴ The petition is a bit unclear on the specifics of this claim. From what can be gleaned from the petition it appears that the petitioner is claiming that the victim of the robbery did not identify him as the person who pointed a gun during the course of the robbery. The petitioner also claims that three firearms were presented as evidence against him, but that these weapons did not belong to him, and did not have his fingerprints.

petitioner gives no details as to the nature of this “legal motion”). According to the petitioner, the FDOC certifies certain inmates as qualified to assist other inmates with legal paperwork. The petitioner alleges that he was assigned an inmate who had not been certified to assist with legal paperwork. The petitioner appears to claim that the legal paperwork was not adequately prepared. He also indicates that during this time, he was placed in confinement for 27 days⁵. As a result, he claims that he was not able to submit his paperwork in a timely manner.

3. The petitioner submits two orders from the District of Court of Appeal of the State of Florida (4th district). One order is dated September 27, 2019, which appears to dismiss his appeal for lack of prosecution (it appears to be an appeal of his conviction, but this is not explicitly stated in the court order). The second order dated March 5, 2020, which appears to dismiss his appeal for failure to file in a timely manner (from the document submitted by the petitioner, it appears that the appeal was against his conviction, but was filed outside of a two-year deadline from the time of the conviction/sentence). From the information provided by the petitioner, it appears that he attributes these decisions to the actions of the FDOC in assigning a non-certified inmate to assist him, as well as his confinement for 27 days.

4. According to the State, there is no basis for the petition to be considered under Articles 28 and 31 of the Commission’s Rules of Procedure. More specifically, the State contends that the petition fails to set forth “an account of the act or situation that is denounced” and fails to “identify the steps taken to exhaust domestic remedies.” Accordingly, the State concludes that the petition should be found inadmissible. –The State did not provide any further information–.

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

5. The State argues that the petitioner failed to exhaust domestic remedies. However, the Commission notes that according to the record, the petitioner appears to have conducted litigation before the District of Court of Appeal of the State of Florida (4th district). This litigation appears to have resulted in two decisions: the first one on September 27, 2019, which appears to dismiss his appeal for lack of prosecution and the second one on March 5, 2020, which appears to dismiss his appeal for failure to file in a timely manner.

6. In determining the admissibility of a petition, the Commission is required (in accordance with Article 31 (1) of its Rules of Procedure) to verify whether the remedies of the domestic legal system have been pursued and exhausted in accordance with the generally recognized principles of international law. The Commission observes that the requirement of prior exhaustion of domestic remedies is intended to enable the national authorities to take cognizance of the alleged violation of a protected right and, if appropriate, to resolve the situation before it is brought before an international body.

7. The Commission notes that the requirement of exhaustion of domestic remedies does not mean that the petitioner or alleged victim has the obligation to exhaust every possible remedy available to them. The IACHR has maintained that if the petitioner or alleged victim endeavored to resolve the matter by making use of a valid, adequate alternative available in the domestic legal system and the State had an opportunity to remedy the issue within its jurisdiction, the purpose of the international legal precept is fulfilled. Based on the record, it appears that the petitioner was able to access and exercise domestic remedies before an appellate court (which ruled against him).

8. Further, the Commission has established that the analysis of the requirements provided in Articles 31 and 32 of the Commission’s Rules of Procedure is performed in the light of the situation in effect at the time a decision is issued regarding a petition’s admissibility or inadmissibility. The Commission notes that the petition was submitted on October 24, 2017. However, it often happens that, while a petition is being

⁵ The petitioner does not specify the nature of the confinement (whether solitary or otherwise), nor does he allege that this confinement violated any of his rights (such as right to security of his person).

processed, the situation as regards exhaustion of domestic remedies changes⁶. In the instant case, the petitioner's litigation before the District of Court of Appeal of the State of Florida (4th district) occurred more than two years after the petition was submitted.

9. The Commission therefore deems that the requirements established in Articles 31 (1) and 32 (1) of the Rules of Procedure have been met.

VII. ANALYSIS OF COLORABLE CLAIM

10. The petitioner claims that he was wrongly convicted, and that his access to the recourse was impeded by the FDOC. The petitioner contends that he received inadequate assistance regarding preparation of his legal paperwork and that his confinement for 27 years contributed to a delay in submitting his documents to the courts⁷.

11. The Commission notes that the last decision of the District of Court of Appeal of the State of Florida did dismiss the petitioner's appeal for being untimely (failure to file within a two-year deadline from the time of the conviction/sentence). While the petitioner indicates that he commenced preparation of his legal paperwork in 2015, there is no information from the petitioner as to the date of his conviction/sentence. Without this information, it is not possible for the Commission to determine the period during which the petitioner was eligible to pursue an appeal; or whether the alleged delay is attributable to the FDOC (or the petitioner). Moreover, as previously noted, the petition lacks a clear chronology which in turn results in gaps in information.

12. Based on available information, the Commission considers that the petitioner has not provided sufficient evidence to show *prima facie* any violations of his due process rights as guaranteed by the American Declaration. In this regard, it should be recalled that the Commission does not have authority to review judgments handed down by domestic courts acting within their competence and applying all due judicial guarantees unless it finds that a violation of one of the rights protected by the American Declaration has been committed. In view of these considerations, the Commission considers that the claims of the petitioner are manifestly unfounded. Considering the foregoing, the IACHR concludes that the petition should be ruled inadmissible, in keeping with Article 34 (a) of the Commission's Rules of Procedure.

VIII. DECISION

1. To find the instant petition inadmissible; and

2. To notify the parties of this decision; and to 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 7th day of the month of July 2023. (Signed:) Esmeralda Arosemena de Troitiño, Vice President; Joel Hernández García, Julissa Mantilla Falcón, and Stuardo Ralón Orellana, Commissioners.

⁶ See IACHR, Report No. 35/16, Petition 4480-02. Admissibility. Carlos Manuel Veraza Urtusuástegui. Mexico. July 29, 2016, para. 33; and IACHR, Report No. 304/22, Petition 2548-18. Inadmissibility. Jerry Neil Alfred. United States of America. November 8, 2022, para. 18.

⁷ As indicated before, the petitioner did not specify the nature of the confinement (whether solitary or otherwise), nor does he allege that this confinement violated any of his rights (such as right to security of his person).