
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 28/2022**

Precautionary Measure No. 331-22
Clarence Wayne Dixon regarding the United States of America
June 16, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Mr. Clarence Wayne Dixon in the United States of America. At the time of making the decision, the Commission observes that the death sentence imposed on Mr. Clarence Wayne Dixon was carried out. Having analyzed the available information, the IACHR considered that there are no sufficient elements to continue identifying compliance with the procedural requirements. In its assessment, the IACHR observed that carrying out the death penalty represents a significant change in the factual circumstances that motivated the granting of the precautionary measures. Consequently, the IACHR has decided to lift these precautionary measures.

II. BACKGROUND INFORMATION

2. On May 10, 2022, the IACHR granted precautionary measures in favor of Clarence Wayne Dixon, in the United States, who was represented by Amanda C. Bass. The request required the State to refrain from carrying out Mr. Dixon's execution while his case was under consideration by the Commission. The request alleged that Clarence Wayne Dixon was of Navajo origin and had multiple mental and physical health issues, such as paranoid schizophrenia, clinical depression, glaucoma with secondary blindness, among others. Clarence Wayne Dixon was reportedly on death row in the state of Arizona for a murder conviction. The matter is related to Petition P-831-22, which alleges the violation of several articles of the American Declaration of the Rights and Duties of Man (American Declaration).

3. Upon analyzing the submissions of fact and law, the IACHR found that Mr. Dixon was, *prima facie*, at risk in accordance with the requirements of Article 25 of its Rules of Procedure. The IACHR considered that, should Mr. Dixon be executed before it could reach a decision on the merits of the petition, any eventual decision would be rendered moot after the harm had materialized. Consequently, the Commission requested that the United States of America: a) adopt the necessary measures to protect the life and personal integrity of Mr. Wayne Dixon; b) refrain from carrying out the death penalty on Clarence Wayne Dixon, until the IACHR has had the opportunity to reach a decision on his petition; c) ensure that Clarence Wayne Dixon's detention conditions are consistent with international standards, giving special consideration to his disabilities and medical condition; and, d) agree on the measures to be adopted with the beneficiary and his representative.¹

4. The precautionary measures were granted without previously requesting information from the State under the terms of Article 25(5) of the IACHR Rules of Procedure.

¹ IACHR, Clarence Wayne Dixon regarding the United States of America (PM 331-22), Resolution No. 22/2022, May 10, 2022.

III. INFORMATION PROVIDED DURING THE TIME THE MEASURES WERE IN FORCE

5. During the time the precautionary measures were in force, the Commission followed-up on the situation that is the subject matter of these precautionary measures. After the precautionary measures were granted, the State did not submit a response. According to public information, Mr. Dixon's execution was carried out on May 11, 2022.² On May 25, 2022, the IACHR condemned Clarence Wayne Dixon's execution by issuing Press Release 115/2022.³ On May 26, 2022, the Commission submitted a request for information to the parties. To date, the parties have not submitted any response and the granted timelines have since expired.

IV. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM

6. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States. These general functions are set forth in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure. In accordance with this Article, the IACHR grants precautionary measures in urgent and serious situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

7. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary.⁴ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁵ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left should the measures not be adopted.⁶ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. The precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect of the final decision. In this regard, precautionary or provisional measures enable the

² Azcentral, [Death row prisoner Clarence Dixon found mentally competent to be executed](#), May 3, 2022; Azcentral, [Clarence Wayne Dixon executed by lethal injection](#), May 11, 2022.

³ IACHR, press release "IACHR condemns the execution of Clarence Wayne Dixon, sentenced to death in the United States", May 25, 2022. Available at http://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2022/115.asp

⁴ See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures, Order of July 6, 2009, considerandum 16.

⁵ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45 [only in Spanish]; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

⁶ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [available in Spanish]; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

8. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that “[t]he decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth that “[t]he Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission should assess if the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider whether new situations have subsequently arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

9. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time. The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.⁷

10. In this matter, the Commission recalls that the precautionary measures were granted on May 10, 2021, in the terms of Article 25(5) of its Rules of Procedure, without requesting information from the State before reaching its decision. According to the aforementioned subsection 5:

Prior to the adoption of precautionary measures, the Commission shall request relevant information to the State concerned, except where the immediacy of the threatened harm admits of no delay. In that circumstance, the Commission shall review that decision as soon as possible, or at the latest during its next period of sessions, taking into account the information received from the parties.

11. Among the various elements that led to the precautionary measures being granted in favor of Mr. Dixon, the Commission recalls that it mainly considered the imminent date of execution of the death penalty scheduled for May 11, 2022; the circumstances that led to the ruling of his conviction;⁸ the impacts of the deprivation of liberty in long-term solitary confinement on the death row;⁹ as well as the impact that his execution would have on a possible decision on the merits regarding the submitted petition (P-831-22).¹⁰ As indicated at the time, the IACHR lacked sufficient information on the detention conditions, notwithstanding the elements that were duly assessed.¹¹ The Commission also noted the multiple discrimination against Mr. Dixon due to the conjunction of ethnic-racial, age, and disability factors.¹²

⁷ I/A Court H.R., Provisional Measures regarding Mexico, Order of February 7, 2017, paras. 16 and 17 [only in Spanish].

⁸ IACHR, Clarence Wayne Dixon regarding the United States of America (PM 331/22), Resolution No. 22/2022, May 10, 2022, para. 30

⁹ *Ibidem*, para. 32

¹⁰ *Ibidem*, para. 38

¹¹ *Ibidem*, para. 35

¹² *Ibidem*, para. 29

12. Under the terms of Article 25 (5) of its Rules of Procedure, the IACHR proceeds to analyze whether this matter should remain in force. After the granting of the precautionary measures, the Commission did not receive a response from the State. Despite the request for information on May 26, 2022, the Commission did not receive any information from the parties either. In regard to the State, the situation is particularly serious to the extent that it was requested information in the context of an imminent risk as classified by the IACHR under the terms of Article 25 of its Rules of Procedure. Given this lack of official information, the Commission was informed, via media outlets, of Clarence Wayne Dixon's execution, which was carried out on May 11, 2022.

13. As the beneficiary was executed the Commission considers that, with his death, these precautionary measures have become devoid of purpose. Consequently, they should be lifted. Therefore, the Commission considers that, according to the available information, at present, the situation does not meet the requirements of Article 25 of the Rules of Procedure. In view of the above and taking into account the exceptional and temporary nature of precautionary measures,¹³ the Commission deems it appropriate to lift these measures.

14. The Commission condemns the execution of Clarence Wayne Dixon despite the fact that the precautionary measures granted in his favor were in force. In this context, the IACHR recalls that the nature of the precautionary measures granted was intended to preserve Mr. Dixon's legal situation while his case was being considered by the IACHR. Precautionary measures aim to safeguard the rights at risk until the petition pending before the inter-American human rights system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this sense, the precautionary measures would have not only prevented irreparable harm to Mr. Dixon but would have also allowed that the State comply with the final recommendations issued by the IACHR.

V. DECISION

15. The Commission decides to lift the precautionary measures granted in favor of Clarence Wayne Dixon in the United States and continue with the analysis of petition P-831-22 pursuant to regulatory provisions in the applicable instruments.

16. The Commission instructs its Executive Secretariat to notify this resolution to the United States of America and the representative.

17. Adopted on June 16, 2022, during its 184th Period of Sessions, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Margarete May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; and Roberta Clarke, members of the IACHR.

Maria Claudia Pulido
Assistant Executive Secretary

¹³ I/A Court H.R., Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22 [only in Spanish]; and Matter of Galdámez Álvarez et al. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24 [only in Spanish].