
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 44/2022**

Precautionary Measures Nos. 789-04 (Total lifting), 1026-04 (Total lifting), and 471-11 (Partial lifting)
Gregory Thompson and other persons regarding the United States
September 20, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Gregory Thompson, Richard Michael Rossi, German Sinnistera, Robert L. Bolden, and Arboleda Ortiz in the United States. At the time of taking the decision, the Commission notes that the beneficiaries have died, or their sentences have been commuted. The Commission assessed the actions taken by the State in implementing the measures at hand and the information provided by the representatives. In analyzing 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 the death of the beneficiaries implies a significant change in the factual circumstances that led to the granting of the precautionary measures.

II. BACKGROUND INFORMATION

2. The IACHR refers herein to three precautionary measures: PM-789-04, PM-1026-04, and PM-471-11. In all these matters, precautionary measures were granted in favor of persons sentenced to death in connection with petitions alleging violations of human rights recognized in the American Declaration of the Rights and Duties of Man. In these matters, the Commission considered that the requirements of seriousness, urgency, and risk of irreparable harm had been met.

- *PM-789-04 related to petition 194-04 (Gregory Thompson)*

3. On March 31, 2004, the IACHR granted precautionary measures in favor of Gregory Thompson in the context of the processing of petition P194-04 on the alleged violation of Articles XVII, XVIII, and XXVI of the American Declaration of the Rights and Duties of Man. It was indicated that Mr. Thompson was sentenced to death in the state of Tennessee in 1985, without regard to the impairment of his mental faculties, and pursuant to a process that was allegedly marred by irregularities. It was indicated that the execution of the sentence was scheduled for August 19, 2004. In view of the foregoing, the Commission requested the United States to stay Mr. Thompson's execution while his petition is pending before the inter-American system, in order to prevent the eventual decision from being rendered moot.¹

- *PM-1026-04 related to petition 1177-04 (Warren Wesley Summerlin, Jeffrey Timothy Landrigan, and Richard Michael Rossi)*

4. On November 12, 2004, the IACHR granted precautionary measures in favor of (1) Warren Wesley Summerlin, (2) Jeffrey Timothy Landrigan, and (3) Richard Michael Rossi, in the framework of petition 1177-04, regarding the alleged violation of Articles I, II, XVIII, and XXVI of the American Declaration of the

¹ IACHR, Annual Report 2004, Chapter III, [Section C: Petitions and Cases before the Inter-American Commission on Human Rights](#). Both the State and the petitioners informed the Commission that on June 23, 2004, the Eighth Circuit Court of Appeals had proceeded to stay Mr. Thompson's execution because a series of domestic judicial appeals were pending.

Rights and Duties of Man. It was alleged that the beneficiaries were sentenced to death and due process challenges were raised. The Commission asked the United States to stay the executions while their petition is pending before the inter-American system, in order to prevent the eventual decision from being rendered moot.²

- PM-471-11 related to petition 1285-11 (*Jurijus Kadamovas, German Sinnistera, Arboleda Ortiz, Robert L. Bolden, Iouri Mikhel, and Alejandro Umaña*)

5. On December 27, 2011, the IACHR granted precautionary measures in favor of (1) Jurijus Kadamovas, (2) German Sinnistera, (3) Arboleda Ortiz, (4) Robert L. Bolden, (5) Iouri Mikhel, and (6) Alejandro Umaña, who had been sentenced to death. Discrimination was alleged on the grounds of nationality, inhumane conditions of detention, and lack of medical care. In relation to this latter allegation, it was indicated that Robert L. Bolden was not receiving the necessary treatment for his type 1 diabetes. The Commission requested the United States to take the necessary measures to preserve the life and physical integrity of Robert L. Bolden and the other persons so as not to hinder the processing of the case currently pending before the inter-American system, under petition 1285-11.³

III. INFORMATION PROVIDED DURING THE TIME THE MEASURES HAVE BEEN IN FORCE AND RELEVANT PUBLIC INFORMATION

6. While the precautionary measures have been in force, the Commission has received information from the parties and has followed up on the situation of the beneficiaries by making requests for information.

- PM-789-04 related to petition 194-04 (*Gregory Thompson*)

7. On April 13, 2022, the IACHR sent a request for information to the representatives. To date, there has been no response. Information submitted by the State in the context of petition 194-04 indicated that Mr. Thompson died on November 27, 2014, of natural causes while on death row at a Tennessee state prison. With regard to the related petition, on December 31, 2021, the IACHR published the Merits Report 455-21 in which it established the responsibility of the United States for the violation of Article I (Right to life), Article XVIII (Right to a fair trial), Article XXV (Right to protection against arbitrary detention), and Article XVI (Right to due process) of the American Declaration.⁴

- PM-1026-04 related to petition 1177-04 (*Warren Wesley Summerlin, Jeffrey Timothy Landrigan, and Richard Michael Rossi*)

8. On October 4, 2010, the IACHR requested information from the State, but received no response. On September 29, 2021, the IACHR requested information from both parties without obtaining a response. On April 13, 2022, the Commission requested updated information from the representatives, informing them that it would analyze whether these precautionary measures should remain in force. On June 9, 2022, the IACHR requested additional information from the State. No response has been obtained to date.

² IACHR, Annual Report 2004, Chapter III, [Section C: Petitions and Cases before the Inter-American Commission on Human Rights](#). On November 30, 2004, the Government of the United States reported that the request for precautionary measures was forwarded to the Governor and Attorney General of the State of Arizona.

³ IACHR, Annual Report 2011, Chapter III, [Section C: Petitions and Cases before the Inter-American Commission on Human Rights](#).

⁴ IACHR, [Report No. 455/21](#), Case 12.832, Merits (Publication). Gregory Thompson regarding the United States. December 31, 2021

Information submitted by the State on July 22, 2015, in petition 1177-44 indicated that Mr. Richard Michael Rossi died on April 22, 2006, of natural causes while on death row at a state prison in Arizona.

9. With regard to the petition filed, the nine alleged initial victims were the following: Warren W. Summerlin, Richard M. Rossi, Rudi A. Apelt, Kenneth J. Laird, Jeffrey T. Landrigan, Gregory S. Dickens, Theodore Washington, Charles M. Hedlund, and Danny Lee Jones.⁵ On October 29, 2009, the IACHR issued Admissibility Report No. 100/09 and the matter was then identified as Case 12.729 “Warren Summerlin *et al.*”⁶ Subsequently, the IACHR disaggregated the case of Mr. Landrigan and assigned him Case 12.776, continuing with the analysis of the matters separately.

10. Finally, in Case 12.776, the IACHR issued Merits Report No. 81/11 on July 21, 2011, whereby it declared the State’s liability with respect to Jeffrey Timothy Landrigan.⁷ With regard to Case 12.729, on January 29, 2021, the Commission informed the parties of its decision to archive the case.

- *PM-471-11 related to petition 1285-11 (Jurijus Kadamovas, German Sinnistera, Arboleda Ortiz, Robert L. Bolden, Iouri Mikhel, and Alejandro Umaña)*

11. The IACHR forwarded information and requested information from the parties in the framework of the precautionary measures. On January 5, 2012, the representatives sent information to the Commission. On March 1, 2012, the representatives sent information on the beneficiary Robert L. Bolden. On April 30, 2012, the State submitted information to the Commission, who forwarded the information to the representatives on May 10, 2022. On June 4, 2012, the representatives requested a timeline extension to submit their observations on the information provided by the State. On July 20, 2012, the Commission granted a time extension. On August 2, 2012, the representatives submitted their observations on the State’s communication to the Commission. On August 17, 2012, the information was forwarded to the State. On September 5, 2012, the State submitted information regarding Mr. Robert L. Bolden. On October 15, 2012, the Commission forwarded this information to the representatives. On November 19, 2012, the representatives submitted their observations on the information provided by the State regarding Mr. Robert L. Bolden. On February 15, 2013, the Commission requested updated information to the representatives. On March 16, 2018, the representatives submitted information regarding the beneficiary Jurijus Kadamovas. On August 6, 2018, the representatives submitted information about Mr. Kadamovas. On July 30, 2019, Mr. Kadamovas submitted updated information regarding changes in his representation.

12. On August 20, 2021, the IACHR sent a request for updated information to the parties, without obtaining a response. Subsequently, on April 18 and June 6, 2022, updated information was requested from the representatives and the State. To date, no response has been received.

13. On April 30, 2012, the State sent information on the situation of Mr. Jurijus Kadamovas and Mr. Robert L. Bolden, prisoners at the *USP Terre Haute* prison. Regarding Mr. Kadamovas, the State reported that he was receiving a monthly visit from the psychologist of the United States Federal Bureau of Prisons. It was indicated that Mr. Kadamovas does not have a history of mental health problems and that he has remained stable during his time in prison. However, it is reported that he expressed frustration at the impossibility of receiving psychological assistance in his native language. In addition, Mr. Kadamovas allegedly received additional psychological assistance visits at the request of the staff of the Federal Bureau of Prisons. In total, over a period of five years, there is documentation of 87 clinical check-ups with eight psychologists at the

⁵ IACHR. [Report No. 81/11](#). Case 12.776. Jeffrey Timothy Landrigan (United States), July 21, 2011.

⁶ IACHR. [Report No. 81/11](#). Case 12.776. Jeffrey Timothy Landrigan (United States), July 21, 2011, para. 4.

⁷ IACHR. [Report No. 81/11](#). Case 12.776. Jeffrey Timothy Landrigan (United States), July 21, 2011.

doctoral level and two interns in psychology at the predoctoral level. Thus, there have been no administrative complaints regarding the psychology services since 2008, and no requests for psychological assistance in addition to the monthly visit have been received for a year. Regarding Mr. Bolden, the State points out that he is receiving extensive treatment for his diabetic condition and that the last tests carried out have shown a good control of his diabetes throughout the months preceding the communication. In addition, it is indicated that a diabetic diet was approved for Mr. Bolden, but that he refused it. Failure to follow this diet reportedly resulted in episodes of low blood sugar levels. However, the State asserts that prison staff members closely monitor his condition and remain available to assist in monitoring his blood sugar level as recommended by medical staff. In terms of medical visits, the State reports that quarterly consultations are being held with a physician from the Chronic Care Clinic. In addition, a nurse visits his prison unit daily to conduct rounds and distribute medication, which reportedly allows Mr. Bolden to express his medical concerns and request a visit from physicians or mid-level professionals (physician's assistants). Finally, in relation to the IACHR request not to execute the sentences of the beneficiaries of precautionary measures, the State informed, with respect to Mr. Kadamovas and Mr. Bolden, that it was not aware of any actions taken at the time of the communication.

14. On August 2, 2012, the representatives submitted their observations to the State's communication, emphasizing Mr. Bolden's state of health. In particular, they reported difficulties in accessing his medical records. Despite repeated requests to the United States Federal Bureau of Prisons, the information to which they have been given access is said to be incomplete and, at times, the requests of Mr. Bolden and his representatives remain unanswered. Furthermore, it was noted that the evidence on which the State relied to argue that Mr. Bolden's glucose levels were adequate is purportedly unreliable because it ignores daily, or even hourly, fluctuations. It is also reported that Mr. Bolden still suffers from numerous hypoglycemic episodes and an adequate diet is not being provided. The representatives report that a diabetes diet does not exist and that the proposed *heart healthy* diet is not equivalent to the calorie controlled diabetic diet requested by Mr. Bolden since he entered the prison. Moreover, Mr. Bolden allegedly does not have regular medical visits. The representatives reported that Mr. Bolden has filed complaints through the internal administrative appeal process of the United States Federal Bureau of Prisons. The said Office has therefore initiated a pattern of interference to prevent the use of those appeals. In retaliation, their appeals have begun to be denied on the basis of technical issues not taken into consideration before. For example, several administrative appeals were reportedly rejected because Mr. Bolden did not produce the required number of copies of certain documents. However, the very staff of the Federal Bureau of Prisons reportedly refused to provide such copies. Similarly, the Federal Bureau of Prisons reportedly gave Mr. Bolden fifteen days to remedy procedural defects in his claims; however, the *USP-Terre Haute* prison staff reportedly failed to provide him with this information.

15. On September 5, 2012, the State indicated that it was unable to provide information on Mr. Bolden's health status and medical treatment because he had not authorized their disclosure. On November 14, the representatives reported that the said information was requested by *USP-Terre Haute* personnel and that, given the ongoing legal proceedings against the State for lack of medical attention, Mr. Bolden found it suspicious that this information was requested directly instead of contacting his legal representatives. The representatives indicated that they were open to reaching a resolution on the disclosure of the above-mentioned information in a manner satisfactory to the parties.

16. In 2018, the representatives sent information regarding Mr. Kadamovas. It was noted that he remained in custody at the *Terre Haute* Federal Correctional Institution, where he continued to suffer the impact of prolonged solitary confinement. In July, September, and October 2017, administrative claims were allegedly made for the impact of solitary confinement on his mental, physical, and emotional health.

17. Petition No. 1285-11 is at the merits stage. According to public information, German Sinnistera and Robert L. Bolden died in 2013 and 2021, respectively.⁸ In January 2017, Arboleda Ortiz's death sentence was commuted to life imprisonment without parole.⁹

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

18. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in the Charter of the Organization of American States, and in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. In accordance with this Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

19. The Inter-American Commission and the Inter-American Court of Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.¹⁰ With respect to their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. In the process of reaching a decision, according to Article 25(2) of the 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.

20. With respect to the foregoing, Article 25(7) of the Commission's Rules of Procedure establishes that decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions. Article 25(9) establishes that the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to keep, 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 that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

21. The Commission observes that these precautionary measures were granted with the purpose of adopting measures aimed, *inter alia*, at protecting the life and personal integrity of the beneficiaries, and

⁸ St. Louis post-dispatch, [Man on death row for fatal St. Louis bank robbery dies](#), September 30, 2021; Death Penalty Information Center, [Case summaries for modern federal death sentences](#), June 13, 2019; The Guardian, [Death row: the lawyer who keeps losing](#), November 24, 2016

⁹ ABA, [Abelardo Arboleda Ortiz](#), June 5, 2020

¹⁰ 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; I/A Court H.R., [Case 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.

the Commission requested the stay of the execution of the respective death sentences in all of them, in order to allow the analysis of the allegations of violation of the American Declaration presented by the representatives of the beneficiaries in the framework of the petitions filed.

22. Based on the information available, the Commission notes that the circumstances that led to the granting of the precautionary measures have changed. In the cases of *Gregory Thompson*, *Richard Michael Rossi*, *German Sinnistera*, and *Robert L. Bolden*, the Commission notes that they have died and that the precautionary measures have lost their protective purpose. In the case of *Arboleda Ortiz*, it was reported that his sentence was commuted to life imprisonment without parole in 2017, and in that sense, the death penalty will no longer be applicable to him.

23. In the case of the petition related to PM-789-04 regarding Gregory Thompson, the Commission issued its Merits Report in 2021, and continues to follow up on it. In the case of the other persons included in PM-1026-04 and their relation to the petition presented, the Commission recalls that, in the case of Mr. Landrigan, the Commission issued a Merits Report in 2011, and in the case of the other eight alleged victims in the petition, it decided to close the case in 2021. Thus, the Commission has already issued rulings on the merits in the petitions related to PM-789-04 and PM-1026-04, and has already communicated its response to the parties in accordance with the applicable legal provisions. Finally, as for the petition related to PM-471-11, the Commission notes that it is at the merits stage.

24. In this regard, taking into account that precautionary measures are temporary and exceptional, the Commission considers that it is appropriate to lift the precautionary measures in force with respect to all the beneficiaries in PM-789-04 and PM-1026-04. With respect to PM-471-11, the Commission decides to lift the precautionary measures regarding German Sinnistera and Robert L. Bolden, who have died, and with respect to Arboleda Ortiz, whose death sentence was commuted. With regard to the remaining beneficiaries of PM-471-11, the Commission considers it appropriate to have more information on their current situation.

V. DECISION

25. The Commission decides to lift the precautionary measures with respect to all the beneficiaries under the registries of PM-789-04 and PM-1026-04. As for PM-471-11, the Commission decides to lift the precautionary measures with respect to German Sinnistera, Robert L. Bolden, and Arboleda Ortiz.

26. The Commission requests that the State report on the situation of the other beneficiaries under PM-471-11 within 15 days.

27. The Commission instructs the Executive Secretariat of the IACHR to notify the United States and the representatives of this Resolution.

28. Approved on September 20, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Esmeralda Arosemena de Troitiño; and Roberta Clarke, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary