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REPORT No. 54/14
PETITION 684-14
REPORT ON ADMISSIBILITY

RUSSELL BUCKLEW AND CHARLES WARNER
UNITED STATES

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ADMISSIBILITY
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I. SUMMARY

1. On May 19, 2014, the Inter-American Commission on Human Rights (hereinafter, “the Inter-American Commission” or “the IACHR”) received a petition lodged by the American Civil Liberties Union (hereinafter, “the petitioners”) against the United States of America (hereinafter, “the United States” or “the State”). The petition was submitted on behalf of Russell Bucklew and Charles Warner (hereinafter, “the alleged victims” or “Mr. Bucklew” and “Mr. Warner”) who are deprived of their liberty on death row in the states of Missouri and Oklahoma respectively.

2. The petitioners submit that the current lethal injection schemes in Oklahoma and Missouri create an intolerable risk of excruciating pain. With regard to Mr. Bucklew, petitioners submit that, given a serious congenital medical condition, the current protocol creates a substantial risk that the drug will not circulate properly, leading the alleged victim to hemorrhage, choke and suffocate. Petitioners further argue that the secrecy surrounding the development and implementation of lethal injection protocols in Missouri and Oklahoma have effectively prevented death row prisoners from arguing that a given method of execution violates the prohibition of cruel and unusual punishment. The petitioners indicate that the alleged victims have litigated their claims in direct review and state and federal post-convictions proceedings. The Commission requested an expedited response from the United States given that a date for execution had been originally set for May 21, 2014, and November 13, 2014, respectively. As of the date of approval of this report, the State has not submitted its observations.

3. Without prejudging the merits of the complaint, after examining the position of the petitioners, and pursuant to the requirements set out in Articles 31 to 34 of its Rules of Procedure, the Inter-American Commission decides to declare the case admissible for the purpose of examining the alleged violation of the rights set forth in Articles I (right to life, liberty and personal security), XVIII (right to a fair trial), XXV (right to protection from arbitrary arrest) and XXVI (right to due process of law) of the American Declaration of the Rights and Duties of Man (hereinafter, “the American Declaration”). The IACHR also decides to notify the parties of its decision and include it in its Annual Report to the General Assembly of the OAS.

II. PROCEEDINGS BEFORE THE IACHR

4. The IACHR received the petition on May 19, 2014. The following day the Commission forwarded the pertinent parts to the State, granting it a one month period in which to submit its observations as provided for in Article 30(4) of the Commission’s Rules of Procedure. As of the time of the adoption of the present report, the Commission has not received any observations from the State.

Precautionary Measures

4. In addition to the petition, the petitioners also requested precautionary measures to suspend the execution of Mr. Bucklew and Mr. Warner. On May 20, 2014, the Inter-American Commission

¹ Commissioner James Cavallaro, a citizen of the United States, did not participate in the deliberations or decision in the instant case as provided in Article 17(2)(a) of the Rules of Procedure of the Inter-American Commission.

adopted Resolution 14/2014 requesting the Government of the United States to abstain from executing Mr. Bucklew and Mr. Warner until it has ruled on the merits of the petition.²

III. POSITION OF THE PARTIES

A. Position of the petitioners

5. The petitioners submit that, although the U.S. Supreme Court has held that one method of lethal injection used in the U.S. is constitutional, that method depended upon a drug which is no longer available after its manufacturer objected to the use of the drug for executions. As a result, many states, including Missouri and Oklahoma, have reportedly begun purchasing lethal drugs from compounding pharmacies that produce derivative drugs not approved by the Food and Drug Administration (FDA), and have turned to novel and untested drug combinations. In this regard, the petitioners state that the current lethal injection schemes in Oklahoma and Missouri create an objectively intolerable risk of excruciating pain, which amounts to cruel and unusual punishment.

6. Petitioners further argue that these practices have been facilitated by the secrecy surrounding the development and implementation of lethal injection protocols in these states. In this respect, they assert that the secrecy surrounding the use of untested drugs for execution is incompatible with human rights standards because the realization of specific rights imposes a duty of transparency on States. Petitioners argue that States that have maintained the death penalty have a clear obligation to disclose the details of their application of the penalty, including the methods and protocols of execution. They conclude that utilizing an untested and unproven drug combination would amount to medical experimentation without informed consent, widely condemned as an unlawful and unethical practice.

7. Based on all the above facts, petitioners conclude that the United States has violated the alleged victims' rights under Articles I, XVIII and XXVI of the American Declaration.

Russell Bucklew

8. According to the information available, Mr. Russell was sentenced to death on May 15, 1997. His state direct appeal, state post-conviction, and federal habeas claims were denied.³ On April 9, 2014, the Missouri Supreme Court set his execution date for May 21, 2014. On May 9, 2014, Mr. Bucklew filed a suit in the United States District Court-Western District of Missouri challenging Missouri's execution protocol as it applies to him specifically, given that he suffers from a serious medical condition. In that litigation, Mr. Bucklew has sought a stay of execution and a temporary restraining order from the Court. On May 20, 2014, the United States Supreme Court stayed Bucklew's execution and remanded the case to the Eighth Circuit Court, where it remains pending. The appeals court will hear the alleged victim's claims under the Eighth Amendment that he faces a great likelihood of a prolonged and tortuous execution because of his medical condition.

9. Petitioners submit that the Missouri protocol calls for the administration of compounded pentobarbital, creating a substantial risk of excruciating pain based on other recent executions. They submit that, in Mr. Bucklew's case that risk of excruciating pain is a near certainty because he suffers from cavernous hemangioma, a rare and serious congenital medical condition. The condition has purportedly left him with a severely compromised airway and causes frequent bleeding in his face, difficulty speaking, and often severe pain. As a result of this condition, under the current protocol, there is allegedly a substantial risk that the

² IACHR, Resolution 14/2014, Precautionary Measure No. 177-14, Russell Bucklew and Charles Warner, United States of America, May 20, 2014.

³ Petitioners cite *State v. Bucklew*, 973 S.W.2d 83, 86-87 (Mo. banc 1998) (affirming Mr. Bucklew's convictions and sentences on direct appeal), cert. denied, 525 U.S. 1082 (1999); *Bucklew v. State*, 38 S.W.3d 395, 397 (Mo. banc 2001) (affirming the denial of post-conviction relief), cert. denied, 534 U.S. 964 (2001); *Bucklew v. Leubbers*, 436 F.3d 1010 (8th Cir. 2006), cert. denied, 549 U.S. 1079 (2006).

drug will not circulate properly, leading Mr. Bucklew to hemorrhage, choke, and suffocate. Consequently, petitioners conclude that the United States has violated the alleged victims rights under Articles I, XVIII and XXVI of the American Declaration.

10. According to the petitioners, the state of Missouri has made concerted efforts to conceal information about its execution process. They indicate that in 2007 the state's legislature revised its "Black Hood Law" to shield the entire Missouri process from the public, including the identity of the members of the execution team. They state however that, even under the revised law, Missouri routinely provided information about the source of the drugs used in its lethal injections to the public, until October 22, 2013, when the Missouri Department of Corrections (DOC) unilaterally announced that it was adding the compounding pharmacy to its execution team, in order to shield its identity from the public.

11. Following a lawsuit filed by prisoners on Missouri's death row in federal district court in 2012 raising several constitutional challenges to the state's new lethal injection protocol, the Eighth Circuit Court, en banc, vacated a district court's order to disclose the identity of the physician, the laboratory, and the compounding pharmacy. The Court found that plaintiffs failed to plead a known and available alternative to the current execution method.⁴ The plaintiffs, including Mr. Bucklew, sought rehearing of the Court's opinion, which was denied. The writ of certiorari to the United States Supreme Court was also denied on April 7, 2014.⁵ The petitioners conclude that, with these rulings, Missouri has effectively prevented death row prisoners from arguing that a given method of execution violates the Eighth Amendment's prohibition of cruel and unusual punishment by barring them from knowing what the method is.

12. On October 22, 2013, Missouri allegedly announced a new protocol, according to which it would proceed with executions using compounded pentobarbital. Petitioners indicate that this is the protocol that Missouri plans to use for Mr. Bucklew's execution. Petitioners explain that pentobarbital is a short-acting barbiturate, the efficacy of which depends on its purity and concentration. They indicate that compounding pharmacies in the United States are largely unregulated and are generally not subject to the drug approval process, rigorous checks, and regulatory procedures of pharmaceutical manufacturers regulated by the FDA. Petitioners further allege that the Missouri DOC refuses to disclose any information about the drug's safety, purity, and potency, and will not even confirm whether the drug is subject to any laboratory testing at all.

13. According to the petitioners, Missouri has acquired its pentobarbital in a suspect manner, in the absence of any regulation or accountability. They refer to a recent legislative hearing in which the Missouri DOC's Director admitted that the Department had purchased its execution drugs for at least three recent executions from a compounding pharmacy out-of-state. He also purportedly admitted that an official from the Missouri DOC drives across state lines to purchase the drug, and that the Department uses cash payments to protect the anonymity of the compounding pharmacy. Accordingly, the identity of the compounding pharmacy currently supplying Missouri with its lethal drugs is unknown. In addition, the Missouri protocol further provides, according to the petitioners, the option to use a central venous line (femoral, jugular, or subclavian) for the placement of the intravenous line, over the peripheral line access, commonly used in other states' protocols. The petitioners claim that central line access is inherently more invasive and painful, and presents a significant risk of complications.

14. The petitioners contend that Mr. Bucklew's execution with this protocol also presents a unique threat of cruel, inhuman, or degrading treatment and even torture. Mr. Bucklew allegedly has a massive vascular tumor occupying his nose, throat, and airway passages. The size of the tumor and the weakness of Mr. Bucklew's distended vessels create, according to the petitioners, the very substantial risk that he will suffer excruciating, even torturous pain during an execution. In this regard, the petitioners argue that the execution could cause him to bleed in his face, mouth, and throat. If the blood enters his airway, it would likely cause choking and coughing, which Mr. Bucklew would experience as severe pain and

⁴ The petitioners cite *In re Lombardi*, No. 13-3699, 2014 WL 288937 (8th Cir. Dec. 27, 2013).

⁵ The petitioners cite *Zink v. Lombardi*, Sup. Ct. No. 13-8435 (Apr. 7, 2014).

suffocation. Further, the petition indicates that the alleged victim takes several medications to manage his medical condition, creating a substantial risk of adverse events resulting from drug interactions.

15. In this respect, petitioners point out that there is no one in the execution chamber during the administration of the lethal injection drug other than the prisoner, given that the execution is monitored remotely from the “execution support room.” Accordingly, if the prisoner is not killed by the execution, there is no protocol or equipment for resuscitation, and nothing in Missouri’s execution protocol purportedly addresses how to handle the risks posed by a prisoner’s unique medical or physical condition. The petitioners conclude in this regard that Missouri’s execution of Mr. Bucklew would amount to an unregulated experiment on a human subject. According to the information provided, after discussions with counsel, the state Attorney General and the Missouri DOC initially agreed that an MRI was necessary. However, petitioners report that as of the date of the filing of the petition before the IACHR, no testing had been ordered or completed by the Missouri DOC.

Charles Warner

16. According to the information in the file, Mr. Warner was sentenced to death on July 23, 2003. He appealed the death sentence and conviction in Oklahoma state courts and before the United States Supreme Court on direct review; his claims were denied.⁶ Mr. Warner then sought review of his conviction and sentence in state post-conviction and federal habeas proceedings. The claims were all denied.⁷ After the United States Supreme Court denied certiorari of his federal habeas case on January 13, 2014, the Oklahoma Court of Criminal Appeals had set an execution date for Mr. Warner for March 27, 2014. The same court had set an execution date the week before, on March 20, 2014, for another Oklahoma death row inmate, Clayton Lockett. Because of the proximity of their execution dates, the two inmates filed joint challenges to the new 2011 Oklahoma statute governing their executions.

17. The petitioners state that, given that the only FDA-approved manufacturer of pentobarbital in the country imposed new restrictions to ensure that the drug could no longer be used in executions, the last Oklahoma execution to use manufactured pentobarbital was in August 2012. In response, in 2011 Oklahoma reportedly changed its laws in two major ways. First, it permitted executions by lethal injection of any “drug or drugs”, no longer specifying the kinds or class of drugs permitted; and second, it shrouded the entire process in total secrecy.

18. Further, the petitioners claim that, faced with the lack of manufactured sodium thiophenol or pentobarbital, the Oklahoma DOC obtained compounded pentobarbital for the 2014 execution of Michael Wilson. In this regard, they allege that compounded pharmaceuticals carry unique risks because they are manufactured with minimal government oversight and have a documented history of contamination. Petitioners indicate that observers of the execution of Mr. Wilson, which took place on January 9, 2014, reported that he cried out after he was injected, “I feel my whole body burning.” Mr. Warner and Mr. Lockett also reportedly objected to the secrecy provisions, which blocked information about the source of the drugs used in the protocol. According to the petition, the DOC informed Mr. Lockett and Mr. Warner that manufactured forms of midazolam and pancuronium had been obtained, but refused to disclose the manufacturer or source of the drugs.

19. With regard to the litigation on the merits of the claim that the new statute was unconstitutional, the petitioners indicate that the District Court ruled for the plaintiffs on March 26, 2014, and found that Title 22 of the Oklahoma Statute, Section 1015(b) was an unconstitutional denial or barrier to Mr. Warner’s and Mr. Lockett’s right to access to courts. The district court denied the plaintiffs’ other substantive

⁶ The petitioners cite *Warner v. State*, 2006 Okla. Crim. 40 (2006) (denying Warner’s direct appeal), cert denied, *Warner v. Oklahoma*, 550 U.S. 942 (2007).

⁷ The petitioners cite *Warner v. State*, No. PCD-2003-897 (Okla. Crim. Dec. 19, 2006) (denying Warner’s state post-conviction petition); *Warner v. Workman*, 814 F. Supp. 2d 1188 (W.D. Okla. 2011) (denying federal habeas petition), *aff’d*, *Warner v. Trammell*, 520 F. Appx. 675 (10th Cir. 2013), cert denied, *Warner v. Trammell*, 134 S. Ct. 924 (2014).

and procedural challenges to the statute. After winning on the merits, they filed a renewed application for stays in the Court of Criminal Appeals, which ruled that it lacked the authority to grant the stays on April 9, 2014. Finally, on April 21, 2014, the Supreme Court of Oklahoma granted the application for stays of execution pending the appeal, and ordered the case expedited.

20. The petitioners state that on April 22, 2014, the Governor of Oklahoma issued an Executive Order stating that she could not give effect to the order by the Supreme Court. She then exercised her own authority to stay Mr. Lockett's execution for seven days to April 29, 2014, the same date of Mr. Warner's scheduled execution. Mr. Lockett's execution went forward. The petitioners indicate that Mr. Lockett was subjected to prolonged and apparent excruciating pain, which was widely reported as a "botched execution." Petitioners indicate that this execution serves as an example of the manner in which executions have taken place in Oklahoma and in other states like Missouri, specifically in the use of untested combinations of drugs administered under a shroud of secrecy.

21. In light of these facts, Oklahoma Governor granted a two-week stay to Mr. Warner, moving the execution date to May 13, 2014. On May 8, 2014, the Oklahoma Court of Criminal Appeals granted an additional six-month stay to allow for a "full and final review" of the execution of Mr. Lockett. Mr. Warner's execution is now scheduled for November 13, 2014. The petitioners further allege that the appointment of the Commissioner of Public Safety to conduct the investigation falls far short of the true independence necessary to fully assess what went wrong with the execution of Mr. Lockett.

B. Position of the State

22. The IACHR has not received any information or observations from the State regarding the present petition.

IV. ANALYSIS ON COMPETENCE AND ADMISSIBILITY

A. Competence

23. The petitioners are entitled, in principle under Article 23 of the Rules of Procedure of the Commission, to file petitions before it. The petition identifies as the alleged victims as individuals for whom the United States has committed itself to respect and ensure the rights enshrined in the American Declaration. As to the State, the Commission notes that the United States is subject to the obligations set forth through the American Declaration, the OAS Charter, Article 20 of the Statute of the IACHR and Article 51 of its Rules of Procedure. The United States has been a member of the Organization of American States since June 19, 1951, when it deposited the instrument of ratification of the OAS Charter.⁸ Consequently, the IACHR is competent *ratione personae* to examine the petition.

24. Additionally, the Inter-American Commission is competent *ratione loci* to hear the petition, inasmuch as violations of rights protected in the American Declaration are alleged to have taken place within the territory of the United States. The IACHR is competent *ratione temporis* given that the obligation to respect and ensure the rights protected in the American Declaration was already in effect for the State on the date when the facts alleged in the petition presumably occurred. Lastly, the Inter-American Commission is competent *ratione materiae*, because the petition charges potential violations of human rights protected by the American Declaration.

⁸ See also, IA Court of HR, Interpretation of the American Declaration on the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights, OC-10.89, par. 45 (July 14, 1989).

B. Admissibility Requirements

1. Exhaustion of domestic remedies

25. In accordance with Article 31(1) of the Rules of Procedure of the Inter-American Commission, for a petition to be admissible, domestic remedies must have been pursued and exhausted pursuant to generally recognized principles of international law. This requirement is aimed at enabling national authorities to take cognizance of the alleged violation of the protected right and, if appropriate, resolve the matter before it is heard by an international body.

26. According to the information available, Mr. Bucklew and Mr. Warner were sentenced to death on May 15, 1997, and July 23, 2003, respectively. As indicated in paragraphs 9 and 17 *supra*, both exhausted all direct appeals, state post-conviction and federal habeas proceedings. The execution dates were initially scheduled for May 21, 2014, and March 27, 2014, respectively.

27. On May 20, 2014, the United States Supreme Court stayed Mr. Bucklew's execution and remanded the case to the Eighth Circuit Court, which will hear the claim under the Eighth Amendment that the alleged victim faces a great likelihood of a prolonged and tortuous execution because of his serious medical condition. As of the date of the adoption of this report, the proceedings before the appellate court are pending. With regard to Mr. Warner, the execution date was rescheduled for November 13, 2014, pending an investigation on the execution of Clayton Lockett.

28. The IACHR notes that the rule requiring exhaustion of domestic remedies does not mean that alleged victims have to exhaust every remedy available. In this regard, the Commission has repeatedly held that "(...) the rule which requires the prior exhaustion of domestic remedies is designed for the benefit of the State, for that rule seeks to excuse the State from having to respond to charges before an international body for acts imputed to it before it has had the opportunity to remedy them by internal means."⁹ Therefore, if the alleged victim raised the issue by any lawful and appropriate alternative under the domestic juridical system and the State had the opportunity to remedy the matter within its jurisdiction, then the purpose of the international rule has thus been served.¹⁰

29. The main allegation brought by the petitioners before the Inter-American System concerns the secrecy surrounding the current methods of execution in Missouri and Oklahoma and that the current lethal injection protocols constitute cruel and unusual punishment. The alleged victims have raised those issues before domestic courts. In 2011 Mr. Bucklew and other death row prisoners in Missouri filed a federal lawsuit raising several constitutional challenges to the new execution protocol, including its secrecy. The Court, in full, ruled against the plaintiffs on December 27, 2013. Mr. Warner for his part litigated his claims in direct review and post-convictions proceedings and finally had his petition for certiorari denied by the Supreme Court on January 13, 2014.

30. Further, according to the jurisprudence of the system, as a general rule the remedies that need to be exhausted are ordinary rather than extraordinary remedies.¹¹ In this regard, the Commission notes that the alleged victims have not only exhausted all direct review proceedings, but also various rounds of state and federal post-conviction proceedings.

31. Based on the above factors, the Inter-American Commission concludes that the petitioners properly exhausted domestic remedies available within the domestic legal system and, therefore, that the

⁹ IACHR, Report No. 5/02, Admissibility, Petition 12,080, Sergio Schiavini and María Teresa Schnack de Schiavini, Argentina, February 27, 2002, para. 45.

¹⁰ IACHR, Report No. 57/03, Admissibility, Petition 12.337, Marcela Andrea Valdés Díaz, Chile, October 10, 2003, para. 40.

¹¹ See in this regard IACHR, Report No. 51/03, Petition 11.819, Admissibility, Christian Daniel Domínguez Domenichetti, Argentina, October 22, 2003, para. 45.

alleged victims' claims before the Commission are not barred from consideration by the requirement of exhaustion of domestic remedies under Article 31(1) of its Rules of Procedure.

2. Timeliness of the petition

32. Article 32(1) of the IACHR's Rules of Procedure requires that for a petition or communication to be admitted, it must be lodged within a period of six months from the date on which the party alleging the violation of his rights was notified of the final judgment.

33. In the case under analysis, the United States Supreme Court denied certiorari to Mr. Bucklew and Mr. Warner on April 7, 2014, and January 13, 2014, respectively. The IACHR received the petition on May 19, 2014. The Inter-American Commission therefore concludes that the present petition satisfies the requirement specified in Article 32(1) of its Rules of Procedure.

3. Duplication of proceedings and international *res judicata*

34. Nothing in the present file indicates that the subject of this petition is pending in any other international proceeding for settlement, or that it is substantially the same as another petition previously studied by the Inter-American Commission or by any other international organization. Hence, the requirements set forth in Article 33 of the IACHR Rules of Procedure have been met.

4. Colorable claim

35. Under Article 34(2) of its Rules of Procedure, the Commission must declare any petition or case inadmissible when it does not state facts that tend to establish a violation of the rights referred to in Article 27 thereof, in which case the petition is to be dismissed by virtue of the fact that it is "manifestly groundless" or "out of order", as provided in Article 34(b). The criterion for analyzing a petition's admissibility differs from the one used to analyze its merits, since in the admissibility phase the Inter-American Commission does only a *prima facie* analysis to determine whether a petition establishes the apparent or possible violation of a right guaranteed by the American Declaration. It is a preliminary analysis that does not imply any prejudgment or a preliminary opinion on the merits of the case.

36. The Inter-American Commission's Rules of Procedure do not require a petitioner to identify the specific rights allegedly violated by the State in the matter brought before the Commission, although petitioners may do so. It is for the IACHR, based on the inter-American system's jurisprudence, to determine in its admissibility report which provisions of the relevant instruments are applicable and could be found to have been violated if the alleged facts are proven by sufficient elements.

37. The petitioners contend that the current lethal injection schemes in Oklahoma and Missouri create an intolerable risk of excruciating pain. They claim in this regard that new protocols are introducing the administration of compounded pentobarbital despite the fact that this drug is not subjected to FDA regulations. With regard to Mr. Bucklew, petitioners submit that, given his serious congenital medical condition, the current protocol creates a substantial risk that the drug will not circulate properly, leading the alleged victim to hemorrhage, choke and suffocate. Petitioners further argue that the secrecy surrounding the development and implementation of lethal injection protocols in Missouri and Oklahoma have effectively prevented death row prisoners from arguing that a given method of execution violates the prohibition of cruel and unusual punishment by barring the alleged victims from knowing what the method is.

38. Given the more rigorous scrutiny that the Inter-American Commission applies in death penalty cases,¹² it observes that if proven, the petitioners' allegations could tend to establish violations of

¹² According to the IACHR's established jurisprudence, it will review and decide capital punishment cases with a heightened level of scrutiny, to ensure that any deprivation of life that an OAS member state proposes to effect through the death penalty complies strictly with the requirements of the applicable inter-American human rights instruments. See IACHR, Report No. 73/12, Petition 15-12, Admissibility, Edgar Tamayo Arias, United States, July 17, 2012, para. 47; IACHR, Report No. 117/11, Petition 12.341, Admissibility,

[continues ...]

Articles I, XVIII, XXV (final paragraph) and XXVI of the American Declaration. The IACHR reiterates that it has an enhanced obligation to ensure that any deprivation of life which may occur through the application of the death penalty is in strict compliance with the applicable inter-American human rights instruments, including the American Declaration.¹³

39. In conclusion, the IACHR decides that the petition is not manifestly groundless or out of order and declares that the petitioners have, *prima facie*, complied with the requirements established in Article 34 of the Commission's Rules of Procedure.

V. CONCLUSIONS

40. The Inter-American Commission concludes that it is competent to take cognizance of the present matter and that the petition is admissible under Articles 31 to 34 of its Rules of Procedure. Based on the arguments of fact and of law set forth herein and without prejudging the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare the present petition admissible with respect to Articles I, XVIII, XXV and XXVI of the American Declaration;
2. To notify the parties of this decision;
3. To proceed to the analysis of the merits of the case; and
4. To publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

[... continuation]

James Wilson Chambers, United States, July 22, 2011, para. 25; and IACHR, Report No. 61/03, Petition 4446-02, Admissibility, Roberto Moreno Ramos, United States, October 10, 2003, para. 66.

¹³ IACHR, Report No. 1/05, Case 12,430, Merits, Roberto Moreno Ramos, United States, January 28, 2005, para. 43.