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REPORT No. 182/22
PETITION 1334-16
REPORT ON INADMISSIBILITY

MICHAEL ANTHONY BROWN
UNITED STATES OF AMERICA

Approved by the Commission electronically on July 27, 2022.

Cite as: IACHR, Report No. 182/22, Petition 1334-16. Inadmissibility. Michael Anthony Brown.
United States of America. July 27, 2022.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Michael Anthony Brown
Alleged victim:	Michael Anthony Brown
Respondent State:	United States of America ¹
Rights invoked:	No specific provisions invoked (of the American Declaration on the Rights and Duties of Man ²)

II. PROCEEDINGS BEFORE THE IACHR³

Filing of the petition:	July 12, 2016
Notification of the petition to the State:	November 6, 2019
State's first response:	May 6, 2020
Additional observations from the petitioner:	January 11, 2021

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 (ratification of the 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 alleges violations of his due process rights arising out of criminal proceedings which led to his conviction and imprisonment for second degree murder and felony stalking in 1996. The petitioner also claims that these due process violations also led to a violation of his right to liberty. The petitioner is currently incarcerated at the Wakulla Correctional Institution, in the state of Florida.

2. According to the petitioner, in 1994, he was indicted for the offences of first-degree murder, aggravated stalking, and aggravated burglary. According to the record, these offences arose from the circumstances leading to the death of Donna Howard ("the deceased") on October 29, 1994. The petitioner indicates that he had an altercation with the deceased which ultimately led to her death. According to the record, the prosecution offered the petitioner a plea bargain that would (a) reduce the charge of first-degree murder to second degree murder; (b) reduce the charge of aggravated stalking to felony stalking; and (c)

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

² Hereinafter "the American Declaration" or "the Declaration".

³ The observations submitted by each party were duly transmitted to the opposing party.

abandon the charge of burglary. The petitioner indicates that he was initially reluctant to agree to the plea bargain but was ultimately persuaded to do so by his defense counsel.

3. According to the record, a plea hearing was conducted in August 1996, during which the petitioner formally pleaded “no-contest” to the charges of first-degree murder and felony stalking (in accordance with the plea bargain). This was followed by a sentencing hearing in September 1996 that was conducted over a four-day period. The petitioner indicates that he was assured by his defense counsel and the court⁴, that he would receive a fair hearing, and that he would be permitted to present relevant evidence during the proceedings (in mitigation of sentence).

4. The petitioner complains that the sentencing hearing was vitiated by various factors. Firstly, the petitioner alleges that his defense counsel did not obtain and present the cell phone records of the deceased. The petitioner indicates that these records would have shown that he was not stalking the deceased prior to her death. Secondly, the petitioner alleges that the prosecution made several submissions that were factually incorrect or misleading. In this regard, the petitioner mentions, for example, that the prosecution falsely stated that the petitioner beat the deceased to death in front of her children. The petitioner claims that the children of the deceased were not present at the altercation that ultimately led to the death of the deceased. The petitioner also alleges that the prosecution falsely stated that the deceased died on a street (following the altercation). According to the petitioner, the deceased died in hospital, following surgery.

5. The petitioner also complains that the presiding judge was not impartial in his conduct of the sentencing hearing. With reference to the transcript of the sentencing hearing⁵, the petitioner cites various quotes from the judge such as the following:

... I’ve sat here for almost four days listening to what can only be described as a nightmare for both the Howard family and for the Brown family. All cases weigh heavily on me and certainly this one does so in particular. I’ve listened to and observed the evidence during these difficult proceedings. I have seen nurses cry and a doctor and police officers struggle to prevent themselves from doing the same. I’ve watched as the testimony brought tears to the eye of more than one of the attorneys and some of the court personnel. Quite frankly, the only thing that kept me from doing the same at times is the force of knowing that judges just aren’t supposed to do that.

6. The petitioner also complains that the judge unjustifiably rejected his testimony in the following terms: “... Let me find some facts on the evidence. You [the petitioner] have done a horrible thing in this case and quite frankly more horrible than you confess to on the witness stand. You literally beat this woman to death. I do not find your description of much of the events credible. Some aspects of your testimony are not consistent with the other evidence, and some are simply inconsistent with common sense.”

7. The petitioner indicates that the judge ultimately imposed a sentence of life imprisonment for the offence of second-degree murder and five years’ imprisonment for felony stalking (to run concurrently). The petitioner complains that the imposition of the sentence of life imprisonment was an unwarranted departure from sentencing guidelines that prevailed at the time of the sentencing hearing. In this respect, the petitioner submits that the sentencing guidelines prescribed a sentence of 22 years imprisonment for second degree murder. The petitioner claims that the alleged deviation from the sentencing guidelines resulted in a violation of his right to liberty. The petitioner further argues that in general, the case against him amounted to the lesser offence of manslaughter, and not second-degree murder. The petitioner ultimately claims that his (no contest) plea to second degree murder and felony stalking was involuntary because he was not given a fair hearing as promised by his counsel and the court.

8. According to the record, the petitioner unsuccessfully challenged the legality of the sentence imposed by way of litigation pursued before various courts of review or appeal. In this regard, the petitioner

⁴ St. Lucie County Court (Florida).

⁵ The transcript of the sentencing hearing (relevant portions) is attached to the petition as Exhibit P and Exhibit Q.

appealed his sentence to Court of Appeal of Florida (4th District), which dismissed the appeal in 1997. Subsequently, between 1999 and 2015, the petitioner initiated multiple motions for post-conviction relief pursuant to the Florida Rules of Criminal Procedure (Fl.R.Crim.Proc.). All these applications were all dismissed by the state and/or appellate courts of Florida. According to the record, the petitioner's ultimate motion for post-conviction relief (in 2015) was upheld by the Court of Appeal of Florida (4th District) on January 15, 2016. The record also indicates that in May 2000, the petitioner also applied for (federal) habeas corpus relief in the United States District Court for the Southern District of Florida which refused the application. This ruling was upheld by the U.S. Court of Appeals for the Eleventh Circuit in 2003. Based on the information available, the petitioner also filed suit (certiorari) before the United State Supreme Court to challenge the denial of federal habeas relief, but this was dismissed in 2004. The petitioner submits that he has exhausted all available domestic remedies.

9. The State dismisses the petition as inadmissible principally for (a) failure to pursue and exhaust domestic remedies; (b) untimeliness; (c) failure to state a colorable claim; and (d) violation of the Commission's fourth instance doctrine.

Exhaustion

10. Regarding the issue of exhaustion of domestic remedies, the State acknowledges that, following conviction and sentencing in 1996, the petitioner filed multiple motions for post-conviction relief (mainly under the Florida Rules of Criminal Procedure) as well as motions for habeas corpus relief. With respect to the motions for post-conviction relief, the State contends that the petitioner failed to file these motions within the applicable two-year limitations period (i.e., within two years of conviction and sentence). Regarding the petitioner's application for federal habeas corpus relief, the State indicates that this application was not filed until 2000, and therefore outside of the prescribed one-year deadline. Accordingly, the State submits that the petitioner failed to meet "*reasonable procedural requirements established under domestic law*" establishing timeframes for filing certain types of claims; and that accordingly, with respect to his fair trial and associated claims, the petitioner failed to pursue and exhaust his domestic remedies as required by Article 31 of the Commission's Rules of Procedure.

Timeliness

11. The State argues that even if the Commission were to determine that petitioner had exhausted his domestic remedies, that the petition should be dismissed as untimely. In this regard the State notes that the petition was received on July 11, 2016, nearly twenty years after the petitioner pled no contest in August 1996 to the offenses underlying the petition, and more than fourteen years after review by the United States Supreme Court of the petitioner's federal habeas petition was denied (in certiorari proceedings) in 2004.

12. The State further submits that even if the Commission were to construe the 2004 denial of certiorari for Supreme Court review of denial of the petitioner's habeas petition as notification of the decision that exhausted domestic remedies, the petitioner's subsequent filing of the petition in 2016 cannot be considered timely within the meaning of Article 32 of the Commission's Rules of Procedure, because the petition was not lodged within a period of six months following the date on which the petitioner was notified of the decision that exhausted the domestic remedies.

13. The State also argues that the petitioner's multiple motions for post-conviction from 2003 onward, cannot transform his petition into a timely one. The State submits that belatedly seeking relief to which the petitioner was not entitled cannot be used to satisfy the requirement under Article 32(1) that a petitioner file his petition within a period of six months following the date on which the petitioner was notified of the decision that exhausted the domestic remedies. The State also argues that even if the Commission were to construe the petitioner's various motions as part of his exhaustion of domestic remedies within the meaning of Article 31, the extensive periods of time between the petitioner's conviction and his untimely post-conviction filings preclude any deferral of the six-month deadline. Given the foregoing, the State contends that the petition is not timely.

Colorable claim

14. The State contends that the petition fails to state facts that tend to establish a violation of rights set forth in the American Declaration; and that the claims contained in the petition are otherwise manifestly groundless. The State notes that the allegations of the petitioner refer principally to alleged violations of his right to fair trial and to his right to liberty.

15. The State rejects the petitioner claim that his 1996 no-contest plea to second degree murder and felony stalking was involuntary because he was induced into entering that plea by the court. The State submits that this claim is clearly refuted by the transcript⁶ of the petitioner's plea hearing. In this regard, the State submits that the presiding judge fully informed the petitioner of the legal options available to him, and that ultimately, the petitioner voluntarily chose to proceed with the plea of no contest.⁷ Further the State contends that the petitioner repeatedly stated during the plea hearing that he would enter his no contest plea because "I feel it is in my best interests."⁸ The State concludes that the claim that the court induced the petitioner to enter a no-contest plea is entirely baseless and must be rejected.

16. The State also rejects the petitioner's claim that the court and his counsel misled him into believing that he would be allowed to present all evidence to the court during the sentencing hearing, particularly regarding the cell phone records of the deceased. The State also rejects the petitioner's corollary complaint that his defense counsel failed to present these cell phone records during the sentencing hearing. The State indicates that the court made clear to the petitioner that the ability to present evidence at sentencing was not open-ended. According to the State, the court stated that "You would be able to submit whatever evidence and facts that you wished that was legally relevant on the issue of sentencing. Obviously if it's not relevant on the issue of sentencing if there was an objection, then the evidence would not be admissible."⁹ The State further submits that the petitioner's belief that the deceased's phone records might have mitigated his sentence for felony stalking—a sentence served concurrently with his life sentence for murder—has no bearing on the sentence of life in prison for second degree murder. Accordingly, the State concludes that the petitioner's claim does not amount to a cognizable violation of the American Declaration.

17. The State rejects the petitioner's claim that his right to liberty was violated by the imposition of a life sentence, which deviated from applicable sentencing guidelines. The State asserts that the applicable sentencing guidelines provide for departure from those guidelines if an aggravating circumstance is present. With respect to the petitioner, the State contends that such a deviation from the sentencing guidelines was consistent with the aggravating factors identified by the court and fell within the statutory parameters for the sentence of second-degree murder. According to the State, the aggravating factors identified by the court included: (a) the "offense was one of violence and was committed in a manner that was especially heinous, atrocious or cruel,;" (b) the "victim suffered extraordinary physical or emotional trauma or permanent physical injury, or was treated with particular cruelty," and (c) the "victim was physically attacked by the defendant in the presence of one or more members of the victim's family."¹⁰ Further, the State contends that during the plea hearing a deviation from the sentencing guidelines (that could result in a life sentence) was expressly raised by the court and addressed by the petitioner himself.¹¹ Ultimately, the State submits that the petitioner's claim is without merit.

⁶ The transcript of the plea hearing is attached to the State's response (Attachment 1).

⁷ The State cites various excerpts from the transcript including the following:

[Court:] [U]nder the rules regulating The Florida Bar, the decision of whether or not to enter a plea or to go to trial is the client's. You have the ultimate say and that's also true under the Florida and the Federal Constitutions. It is your decision whether you go to trial or whether you accept a plea offer from the State or whether you plead directly to the Court, that choice is yours. Do you understand that sir? [page 3 of the plea hearing transcript]

[Court:] Now you have—you have three choices in this case. You can go to trial if you wish to go to trial, you can enter into a plea agreement with the State between you, your attorney, and the Prosecution, if you wish, or you can enter a plea directly to the Court . . . Do you understand those three choices, sir? [page 4 of the plea hearing transcript]

⁸ In this regard, the State cites pages 34 and 68 of the plea hearing transcript.

⁹ In this regard, the State cites page 30 of the plea hearing transcript.

¹⁰ In this regard, the State cites a sentencing hearing transcript (attached to State's response as Attachment 2).

¹¹ In this regard the State refers to pages 54-56, and 59-61 of the plea hearing transcript.

Fourth instance doctrine

18. The State argues that any adjudication of the petition would violate the Commission's fourth instance doctrine. In this regard, the State contends that the petition represents an attempt by the petitioner to use the Commission to review claims already heard and rejected by U.S. courts. The State argues that 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. Accordingly, the State submits that the Commission is precluded from considering the petitioner's claims.

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

19. The parties diverge on the issue of exhaustion of domestic remedies. On the one hand, the petitioner alleges that he exhausted all available domestic remedies, whereas the State contends that the petitioner failed to do so.

20. The Commission notes that following his conviction and sentence for second degree murder and felony stalking, the petitioner unsuccessfully pursued numerous remedies, including motions for post-conviction relief (pursuant to the Florida Rules of Criminal Procedure) as well as applications for habeas corpus relief. The record indicates that the last remedy invoked by the petitioner was a motion for post-conviction relief in 2015, which was dismissed by the St. Lucie County Court (Florida). This dismissal was upheld by the Court of Appeal of Florida (4th District) on January 15, 2016.

21. The Commission notes that the requirement of exhaustion of domestic remedies does not mean that the alleged victim has the obligation to exhaust every possible remedy available to them. The IACHR has maintained that if the alleged victim endeavored to resolve the matter by any of the valid and available options under domestic law, and the State had an opportunity to remedy the issue within its jurisdiction, the purpose of the international legal precept is fulfilled. The Commission therefore concludes that the domestic remedies were exhausted with the decision of the Court of Appeal of Florida (4th District) on January 15, 2016. The petition to the IACHR was filed on July 12, 2016, and thus meets the requirement of timeliness prescribed by Article 32(1) of the Commission's Rules of Procedure.

VII. ANALYSIS OF COLORABLE CLAIM

22. The Commission notes that this petition principally alleges violations of due process arising from criminal proceedings which concluded with the petitioner's conviction and imprisonment for second degree murder and felony stalking. The petition also complains that these alleged due process violations led to a denial of his right to liberty.

23. From the record, the Commission notes that all these allegations were adjudicated and rejected in the course of multiple proceedings before various review and appellate courts. The petitioner is dissatisfied with the outcome of the domestic judicial proceedings and now seeks relief from the Commission. The Commission has observed that the interpretation of the law, the relevant proceeding, and the weighing of evidence, is among others, a function to be exercised by the domestic jurisdiction, which cannot be replaced by the IACHR. In this regard, it should be recalled that the Commission does not have authority to review sentences 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. Based on available information, the Commission considers that the petitioner was accorded all due judicial guarantees, and that he has not provided sufficient evidence to indicate, *prima facie*, any violations of his rights as guaranteed by the American Declaration. There is no *prima facie* evidence of potential violations of the human rights of the petitioner enshrined in the American Declaration.

24. 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 27th day of the month of July, 2022.
(Signed:) Julissa Mantilla Falcón, President; Margarett May Macaulay, Second Vice President; Joel Hernández, and Roberta Clarke, Commissioners.