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REPORT No. 57/23
PETITION 284-19
REPORT ON INADMISSIBILITY

TODD AURIT
UNITED STATES OF AMERICA

Approved electronically by the Commission on May 12, 2023.

Cite as: IACHR, Report No. 57/23, Petition 284-19. Inadmissibility. Todd Aurit. United States of America. May 12, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Kathleen-Ann Aurit
Alleged victim:	Todd Aurit
Respondent State:	United States of America ¹
Rights invoked:	None specified

II. PROCEEDINGS BEFORE THE IACHR²

Filing of the petition:	February 6, 2019
Additional information received at the stage of initial review:	March 6, 2019, April 8 2019, July 29, 2019, August 5, 2019, October 11, 2019, October 18, 28, 2019, November 26, 2019, December 5, 2019, January 16, 2020, June 16, 2020 June 24, 2020 June 29, 2020 July 2, 21, 2020, August 13, 20, 31, 2020 September 2, 6, 8, 2020, October 1, 2020, October 2, 9, 26, 2020 November 10, 2020 November 18, 2020 December 4, 8, 31 2020,, January 7, 2021 March 22, 2021 June 7, 2021 August 12, 2021 September 9, 10, 15,2021, November 25, 2021
Notification of the petition to the State:	September 15, 2021
State's first response:	January 18, 2022
Additional observations from the petitioner:	January 13, 2022, February 2, 18, 2022, March 2,2022 June 28, 2022, October 17, 2022

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:	No
Timeliness of the petition:	N/A

V. ALLEGED FACTS

1. This petition is brought on behalf of the alleged victim (Todd Aurit) by his mother (Kathleen-Ann Aurit). According to the petition, the alleged victim has been an inmate of the Colorado Department of Corrections ("CDC") for over 15 years. The petition alleges that during this time the alleged victim has suffered from multiple health problems which have either been inadequately treated or ignored by the prison authorities.

¹ Hereinafter "U.S.A", "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".

2. According to the petitioner, the alleged victim has suffered from various medical conditions such as, a herniated disc, rheumatoid arthritis kidney stones, and colitis. Broadly, the petitioner contends that the alleged victim continues to suffer from these medical conditions because of the failure of the CDC to provide adequate treatment.⁴

3. Based on the documentation from the petitioner, it appears that the most serious medical condition is the herniated disc. According to the petitioner, the herniated disc has caused the alleged victim to have limited mobility because of back pain. However, according to documentation submitted by the petitioner it appears that from 2008 onwards, the alleged victim has received episodic medical attention, including several MRIs as well as medication. The petitioner contends that this medication has not worked. The petitioner also claims that the alleged victim needs to be seen by a neurologist but that this has not been arranged by the CDC.

4. Regarding the medical condition of rheumatoid arthritis, the petitioner states that the alleged victim has been receiving medication (Xeljanz).⁵ Regarding the medical condition of kidney stones, the petitioner states that in April 2022, an ultrasound was administered to the alleged victim but that there was no follow-up by the CDC (in terms of medical treatment). Regarding the medical condition of colitis, the petitioner states that an ultrasound was administered to the alleged victim in April 2022, followed by an x-ray in September 2022. According to the petitioner, the alleged victim has not received any follow-up treatment from the CDC.⁶

5. The petitioner's submission contains multiple legal documents relating to various court proceedings; however, none appear to be immediately, but none appear to be related to the claims raised in the petition.⁷

6. The State contends that there is no basis for the petition to be considered by the Commission's Rules of Procedure. The State indicates that Article 28 (4) of the Commission's Rules of Procedure requires petitions to contain "an account of the act or situation that is denounced, specifying the place and date of the alleged violations". Noting that the petitioner has submitted a massive amount of material, the State contends that there is no clarity on what is being alleged. In this regard, the State notes that while there is a general claim that the alleged victim has received inadequate medical care while in prison, there is no explanation as to how exactly the alleged victim has been denied medical care. Accordingly, the State submits that the petition fails to comply with Article 28(4) of the Commission's Rules of Procedure. Generally, the State asserts that there is nothing in the petitioner's submissions that disclose any specific failure by the State to live up to its commitments under the American Declaration.

7. The State also contends that the petition does not contain a description of the steps taken to exhaust domestic remedies, and thus does not comply with Article 28 (8) of the Commission's Rules of Procedure.

8. Having regard for these considerations, the State submits that the petition is inadmissible.

⁴ The documentation from the petitioner is generally confusing and disjointed and does not provide a clear or comprehensive chronology/account of the medical conditions of the alleged victim or the CDC's alleged lack of adequate treatment of these conditions. Much of the documentation supplied by the petitioner is extraneous; and appears to be mostly about unconnected matters (such as an unresolved property/money dispute involving private third parties).

⁵ It is not clear from the petitioner's documentation when the alleged victim began to receive this medication.

⁶ However, the petitioner's documentation does mention that that Prilosec (a drug to treat stomach disorders) was previously prescribed for the petitioner in July 2020.

⁷ The documents relate to miscellaneous legal proceedings including dispute over property/money; appeals relating to the petitioner's conviction that led to his incarceration.

VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND COLORABLE CLAIM

9. As a preliminary consideration, the Commission notes that the petition is primarily about an alleged failure by prison authorities (the CDC) to provide adequate or timely medical attention to the alleged victim for various health problems. However, the documentation provided appears to lack a coherent narrative on the nature, chronology, and treatment of these health problems. The Commission notes that some of the submissions indicate that the alleged victim did receive medical attention for some of the health problems, but with little clarity as to the outcome of this medical attention. The Commission also notes that documentation provided by the petitioner is also largely lacking with respect to any domestic remedies pursued or exhausted.

10. Given the foregoing, the Commission considers that the issues of domestic remedies and colorable claims are interconnected and therefore the Commission finds it convenient to analyze these issues concurrently under this section.

11. In keeping with the Commission's Rules of Procedure (Article 31), and Article 20 (c) of its Statute, a petitioner is required to satisfy the rule of exhaustion of domestic remedies or otherwise demonstrate that an exception to this requirement is warranted. To satisfy this rule, a petitioner must exhaust the remedies that are suitable, i.e., those that are available and effective for remedying the claims presented by the petition.

12. The petitioner's submissions contain multiple legal documents relating to various court proceedings; however, none appear to be related to the claims raised in the petition. These documents seem to relate to extraneous legal proceedings regarding disputes over property/money; and appeals relating to the alleged victim's conviction that led to his incarceration. Ultimately, the documentation provided does not demonstrate that the petitioner has pursued or exhausted available domestic remedies, or (b) provided any information to demonstrate that an exception to the requirement to exhaust domestic remedies is warranted. Having regard for the foregoing, the Commission is unable to verify whether the petitioner pursued and exhausted domestic remedies; or whether there are any circumstances that warrant an exemption from the requirement to exhaust domestic remedies. Accordingly, the Commission considers this petition to be inadmissible.

13. With respect to the claim of inadequate medical treatment, as indicated before, the information provided is lacking in coherence. There is also a lack of clear chronology regarding the nature, duration and treatment of the medical conditions alleged suffered by the alleged victim. Regarding the principal medical complaint regarding the petitioner's back, the petitioner complains that the alleged victim has been denied medical attention while also submitting information that demonstrates that the alleged victim has received medical attention in the form of MRs and medication.

14. Based on the foregoing, the Commission considers that the information provided by the petitioner is insufficient to establish a *prima facie* violation of the American Declaration. Accordingly, the Commission also considers the petition to be inadmissible on this ground.

VII. 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 12th day of the month of May 2023.
(Signed:) Margarete May Macaulay, President; Roberta Clarke, Second Vice President; Joel Hernández García and Julissa Mantilla Falcón, Commissioners.