

Alfonso Martín del Campo Dodd v. Mexico

ABSTRACT¹

On May 30, 1992, Mr. Alfonso Martín del Campo Dodd, a Mexican and U.S. citizen, was illegally arrested and tortured by the Judicial Police of Mexico in an attempt to compel him to confess to murdering his sister and brother-in-law. The State sentenced Mr. Martín del Campo Dodd to fifty years in prison without access to effective remedies and without a thorough investigation into his case. The Court found that it could not exercise jurisdiction over this case because the alleged violations occurred prior to the State's acknowledgment of the Court's jurisdiction.

I. FACTS

A. Chronology of Events

May 30, 1992: Mrs. Juana Patricia Martín del Campo Dodd and her husband, Mr. Gerardo Zamudio-Aldaba, live in Mexico City with their three daughters. Mr. Alfonso Campo Dodd, Mrs. Campo Dodd's brother, lives with them.² Sometime during the early morning hours, Mrs. Campo Dodd and Mr. Zamudio-Aldaba are murdered.³

That same morning, the Prosecutorial Agency starts a preliminary investigation of the double homicide.⁴ Later in the day, Mr. Campo Dodd goes to the Prosecutorial Agency's Tenth Investigation Agency, at the Benito Juárez sector, where an officer of the *Distrito Federal* Judicial Police deposes him.⁵ According to the officer's report, in his deposition, Mr. Campo Dodd stated that he had been drinking when the events took place and did not remember what had occurred.⁶ He also mentioned that he did not get along with his brother-in-law, that they

1. Monica Rodriguez, Author; Elise Cossart-Daly, Grace Kim, and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 113 ¶ 58.1.1 (Sept. 3, 2004).

3. *Id.* ¶ 58.1.6.

4. *Id.* ¶ 58.1.2.

5. *Id.* ¶ 58.1.3.

6. *Id.* ¶ 58.1.4.

had been arguing, and that he had killed his brother-in-law and his sister.⁷

After his deposition Mr. Campo Dodd is placed in custody of the Prosecutorial Agency's Tenth Investigation Agency.⁸ At 2:00 p.m. Mr. Jesús López-Sánchez, an expert of the Forensic Medicine Service of the Directorate General of Technical Services, working for the Federal District Attorney General's Office, examines Mr. Campo Dodd.⁹ He discovers two contusions on the back of Mr. Campo Dodd's head and various lacerations on Mr. Campo Dodd's face, right knee, right hand and elbow.¹⁰ Mr. López-Sánchez re-examines Mr. Campo Dodd at 7:30 p.m. and does not find any new injuries.¹¹

At 9:20 p.m. photography and criminology experts, at the request of the Head of the Special Homicide Prosecutor's Department, begin reconstructing the events of the crime.¹² Currently, Mr. Campo Dodd is the police's prime suspect in the murder of his sister and brother-in-law.¹³ They detain him from Saturday until Monday at 2:00 p.m.,¹⁴ a time that exceeds the maximum forty-eight hour holding period permitted under State law.¹⁵ While Mr. Campo Dodd is detained, Mr. Sotero Galván Gutiérrez and other police officials beat Mr. Campo Dodd.¹⁶

The Commission's version of the facts differs from the Court's description of the facts as described above.¹⁷ According to the Commission, masked assailants kidnap Mr. Campo Dodd from his home on the night of the murder.¹⁸ The masked men try to knock him unconscious then order him to get dressed, and throw him in the trunk of a car.¹⁹ The car stops twenty-five minutes later and Mr. Campo Dodd manages to escape from the trunk and tries to find help.²⁰

He arrives by foot at a tollbooth on the highway connecting the

7. *Id.*

8. *Id.*

9. *Id.* ¶ 58.1.5.

10. *Id.* ¶ 58.1.5.

11. *Id.* ¶ 58.1.7.

12. *Id.* ¶ 58.1.8.

13. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm'n H.R., Case No. 12.228, ¶ 19 (Nov. 19, 2009).

14. *Id.* ¶¶ 19, 25; Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶ 58.1.1.

15. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, ¶ 25.

16. *Id.* ¶ 41.

17. *See id.* ¶¶ 7, 18; *see* Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶ 58.1.

18. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, ¶¶ 7, 18.

19. *Id.* ¶ 7.

20. *Id.* ¶¶ 7, 18.

Federal District and Cuernavaca in the early morning hours of May 30, 1992.²¹ He tells the police officers what has happened to him and takes them to the abandoned vehicle.²² In the deserted vehicle are the gloves and knife the assailants used to kidnap him.²³ One of the officers takes Mr. Campo Dodd home where, upon arrival, he learns that his sister and brother-in-law have been murdered.²⁴

May 31, 1992: Mr. Guillermo León-González, an expert psychiatrist from the Forensic Medicine Service of the General Directorate of Technical Services examines Mr. Campo Dodd and finds numerous injuries, including two contusions on the back of his head and cuts on his face.²⁵ Mr. León-González also determines that Mr. Campo Dodd shows no signs of a mental disorder.²⁶

June 1, 1992: The Prosecutorial Agency submits an order for the arrest of Mr. Campo Dodd to the Fifty-Fifth Penal Judge of the Federal District.²⁷ The police arrest Mr. Campo Dodd and bring him before the Fifty-Fifth Penal Judge, at which time Mr. Campo Dodd alleges that his confession about committing the murders was obtained through torture.²⁸

June 4, 1992: The Fifty-Fifth Penal Judge issues an order of imprisonment for Mr. Campo Dodd for allegedly murdering Mrs. Campo Dodd and Mr. Zamudio-Aldaba.²⁹

January 6, 1993: Mr. Campo Dodd's father, Mr. Alfonso Martín del Campo de la Peña, files a complaint against the criminal proceedings against his son.³⁰

May 28, 1993: The Fifty-Fifth Criminal Court of the Federal District tries, convicts and sentences Mr. Campo Dodd to fifty years in prison

21. *Id.* ¶ 18.

22. *Id.*

23. *Id.*

24. *Id.*

25. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶ 58.1.9.

26. *Id.*

27. *Id.* ¶ 58.1.10.

28. *Id.* ¶ 58.1.11.

29. *Id.* ¶ 58.1.12.

30. *Id.* ¶ 58.2.1.

for the double homicide of his sister and brother-in-law.³¹ The Court Decision Secretary, who is not a judge, handed down the indictment and subsequent conviction.³² Mr. Campo Dodd and his attorneys file an appeal for the judgment entered against Mr. Campo Dodd in the Eighth Penal Section of the Federal District Superior Court.³³

August 17, 1993: The Eighth Criminal Chamber of the Federal District Superior Court upholds Mr. Campo Dodd's conviction.³⁴ Mr. Campo Dodd challenges the court's ruling by filing for *amparo* relief.³⁵

November 26, 1993: Mr. Galván Gutiérrez is removed from his post and barred from holding any public job for a period of three years as punishment for arbitrarily detaining and using force against Mr. Campo Dodd.³⁶

October 14, 1994: The Internal Comptroller of the Attorney General's Office determines that Mr. Galván Gutiérrez is liable for his violations as determined on November 1993.³⁷ Other public officials, Mr. Juan Marcos Badillo-Sarabia and Mr. Delfino Javier Zamora-Cortés, however, are not found administratively responsible for the acts they committed.³⁸ The Internal Comptroller also notes that nothing resulted from the complaints Mr. Campo Dodd filed with the National Human Rights Committee and the Federal District Human Rights Committee.³⁹

March 29, 1995: Mr. Campo Dodd's mother, Mrs. Bessie Dodd-Burke, requests that the General Directorate of Preliminary Investigations opens an inquiry into the officials who were involved in her son's indictment as she believes they did not act lawfully and abused their authority.⁴⁰

31. Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, Report No. 81/01, Inter-Am. Comm'n H.R., Case No. 12.228, ¶ 9 (Oct. 10, 2001).

32. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 113 ¶ 5 (Sept. 3, 2004).

33. *Id.* ¶ 58.1.16.

34. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm'n H.R., Case No. 12.228, ¶ 9 (Nov. 19, 2009).

35. *Id.*

36. *Id.* ¶ 33.

37. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶¶ 7, 16.5, 58.2.4.

38. *Id.* ¶ 58.2.4.

39. *Id.* ¶ 7.

40. *Id.* ¶ 58.2.7.

May 11, 1995: Mrs. Dodd-Burke files a complaint of torture with the Internal Comptroller of the Federal District Attorney General's Office.⁴¹ The Internal Comptroller concludes that Mr. Galván Gutiérrez arbitrarily detained and violated the physical integrity of Mr. Campo Dodd.⁴²

June 18, 1997: Mr. Campo Dodd files a direct *amparo* appeal motion with the First Circuit Court against the Eighth Section's judgment delivered on August 17, 1993.⁴³

December 2, 1997: The Fourth Penal Court of the Federal District First Circuit confirms Mr. Campo Dodd's conviction.⁴⁴

January 19, 1998: Mr. Campo Dodd files a revision remedy against the Fourth Penal Court of the Federal District First Circuit's decision.⁴⁵

February 9, 1998: The First Section of the Supreme Court dismisses the revision remedy as non-applicable.⁴⁶

December 16, 1998: The State recognizes the Inter-American Court's contentious jurisdiction.⁴⁷

B. Other Relevant Facts

The State and international law prohibit torture.⁴⁸ Additionally, the Article 23 of the Mexican Constitution establishes *res judicata*, stating that "No criminal trial shall have more than three instances" to argue their case.⁴⁹

Mr. Campo Dodd is a U.S. citizen, born in Chicago in 1965.⁵⁰ Since his conviction, many United States House Representatives have urged President Vicente Fox, Mexico's president, to free Ms. Campo

41. *Id.* ¶ 16.6.

42. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm'n H.R., Case No. 12.228, ¶ 9 (Nov. 19, 2009).

43. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶ 58.1.18.

44. *Id.* ¶ 58.19.

45. *Id.* ¶ 58.1.20.

46. *Id.*

47. *Id.*

48. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, ¶ 34.

49. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶ 12.

50. Kevin Sullivan, *Torture, a Ghost in Mexico's Closet; Forced Confession Highlights Obstacles to Ending Legacy of Abuse*, WASH. POST, June 2, 2, at A1.

Dodd.⁵¹ At the time this case was litigated, Mexico and the United States were involved in a major dispute over Mexican nationals on death-row in the United States, in violation of the Vienna Convention on Consular Relations.⁵²

II. PROCEDURAL HISTORY

A. Before the Commission

July 13, 1998: Mr. Campo Dodd submits his petition before the Inter-American Commission of Human Rights.⁵³ He alleges that the State failed to respect his due process rights, thus the State is internationally responsible for his illegal arrest, torture and subsequent conviction and sentence to fifty-year imprisonment.⁵⁴ Later, Action by Christians for the Abolition of Torture (*Acción de los Cristianos contra la Tortura*, “ACAT”⁵⁵) and the Center for Justice and International law (*El Centro por la Justicia y el Derecho Internacional*, “CEJIL”) and the Lawyers’ Committee for Human Rights (“LCHR”) register themselves as petitioners.⁵⁶

April 5, 1999: Meanwhile, Mr. Campo Dodd files a recognition-of-innocence motion with the Seventeenth Penal Section Superior Court of the Federal District of the State.⁵⁷ He does this based on the report issued by the Internal Comptroller’s office holding Mr. Galván Gutiérrez responsible for the unlawful detention and torture inflicted on him.⁵⁸

April 29, 1999: The Superior Court of Justice of the Federal District

51. *Id.*

52. *Id.*

53. Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, Report No. 81/01, Inter-Am. Comm’n H.R., Case No. 12.228, ¶ 1 (Oct. 10, 2001).

54. *Id.* ¶ 1.

55. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm’n H.R., Case No. 12.228, ¶ 1 (Nov. 19, 2009).

56. Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, ¶ 1.

57. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 113, ¶ 3 (Sept. 3, 2004).

58. *Id.* ¶ 3.

dismisses Mr. Campo Dodd's recognition-of-innocence motion.⁵⁹ Mr. Campo Dodd and his representatives claim to have exhausted all domestic remedies.⁶⁰

October 29, 1999: ACAT, CEJIL, and LCHR file a formal complaint with the Commission, delineating the human rights violations they allege the State committed.⁶¹

February 2, 2000: The State files a brief with the Commission expressing that the case is precluded by *res judicata* under Article 23 of the State's Constitution.⁶² The State also informs the Commission that both the Federal District Human Rights Commission and the National Human Rights Commission find that Mr. Campo Dodd did not prove that the State committed human rights violations.⁶³

March 19, 2001: Mr. Campo Dodd's representatives appeal the District judge's dismissal of his *amparo* remedy.⁶⁴ Mr. Campo Dodd and his representatives contend that they acted in accordance with the applicable jurisprudence of the Inter-American system, these actions were not remedies that had to be exhausted.⁶⁵

April 16, 2001: District Court Six for Penal Rights Protection of the Federal District dismiss the March 19, 2001 *amparo* appeal motion regarding the recognition-of-innocence remedy, because the motion was untimely filed.⁶⁶

May 3, 2001: The Fifth Circuit Court on Penal Matters in the Federal District hears Mr. Campo Dodd's challenge to the rejection of his *amparo* motion by the Sixth District Court by way of a revision remedy.⁶⁷

July 21, 2001: In the State's third communication with the Commission, it raises for the first time the objection that not all domestic remedies have been exhausted.⁶⁸

59. Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, ¶ 17.

60. *Id.*

61. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶ 7.

62. *Id.* ¶ 9.

63. *Id.*

64. *Id.* ¶ 16.8.

65. Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, ¶ 17.

66. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, ¶ 20.

67. *Id.* ¶ 21.

68. Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, ¶ 15.

September 3, 2001: The Fourth collegiate Criminal Court of the First Circuit dismiss Mr. Campo Dodd's *amparo* suit.⁶⁹

October 10, 2001: The Commission adopts Report on Admissibility No. 81/01 because the State waived its right to object to Mr. Campo Dodd's failure to exhaust domestic remedies by not objecting earlier in the Commission proceedings.⁷⁰ Moreover, Mr. Campo Dodd timely filed his petition⁷¹ and the Commission could find violations of the rights contained in Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention if the alleged events are proven.⁷²

October 18, 2001: Mr. Campo Dodd and the State ignore the Commission's suggestion to reach a friendly settlement according to Article 48(1)(f) of the American Convention.⁷³

March 22, 2002: The LCHR submits a notice stating its withdrawal from the case.⁷⁴

September 27, 2002: Mr. Campo Dodd requests that the preliminary investigation of the public officials, who allegedly tortured him, be reopened.⁷⁵ He provides a medical psychological diagnosis from a July 5, 2002 examination that states he suffered from severe anxiety and depression due to the torture and inhumane treatment he underwent.⁷⁶ The examination also includes a report of the physical injuries that he sustained.⁷⁷ According to the State, the medical personnel who wrote this report did not have experience in the analysis of torture.⁷⁸

October 22, 2002: The Commission approves Merits Report No.

69. *Id.* ¶ 17.

70. *Id.* ¶ 19.

71. *Id.*

72. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm'n H.R., Case No. 12.228, ¶ 4 (Nov. 19, 2009); Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, ¶ 22.

73. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 113, ¶ 24 (Sept. 3, 2004).

74. *Id.* ¶ 29.

75. *Id.* ¶ 58.2.40.

76. *Id.*

77. *Id.*

78. *Id.* ¶ 58.2.47.

63/02.⁷⁹ The Commission finds violations of Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, as well as violations of Articles 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), 8 (Obligation to Investigate and Prosecute), and 10 (Statements Obtained Through Torture Are Inadmissible) of the Inter-American Convention to Prevent and Punish Torture; all in relation to Article 1(1) of the American Convention.⁸⁰

December 26, 2002: The Deputy Attorney General for Central Preliminary Investigations of the Federal District Attorney General's Office reopens the preliminary investigations regarding the public officers who allegedly violated Mr. Campo Dodd's human rights.⁸¹

December 30, 2002: In response to the Commission's recommendations, the State decides to encourage legislative reform to make annulment proceedings possible, at any stage of a trial, when it can be proved that a confession has been obtained through torture or similar circumstances.⁸² The State notes, however, that revision of the proceedings against Mr. Campo Dodd is not legally possible because Mr. Campo Dodd's case had already been prosecuted and is foreclosed by *res judicata*.⁸³ Nonetheless, the State will try to find a legal basis to comply with the Commission's recommendation.⁸⁴

April 4, 2003: The State reopens the case before the Federal District Attorney General's Office regarding the investigation into Mr. Galván-Gutiérrez's actions in the alleged torture of Mr. Campo Dodd.⁸⁵

B. Before the Court

January 30, 2003: The Commission refers the case to the Court, after the State failed to adopt its recommendations.⁸⁶

79. *Id.* ¶ 31.

80. *Id.*

81. *Id.* ¶ 34.

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.* ¶ 28.

86. *Id.* ¶ 1.

1. Violations Alleged by Commission⁸⁷

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 8 (Obligation to Investigate and Prosecute)

Article 10 (Statements Obtained Through Torture Are Inadmissible) of the Inter-American Convention to Prevent and Punish Torture

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁸⁸

Same Violations Alleged by Commission, plus:⁸⁹

Article 2 (Obligation to Give Domestic Legal Effects to Rights) of the American Convention.

May 5, 2003: The State files two Preliminary Objections:⁹⁰

First, the State contends that the Inter-American Court lacks jurisdiction as the events in question took place before it accepted the Court's compulsory jurisdiction.⁹¹

Second, it argues that the Commission failed to follow the basic rules for processing individual petitions according to the American

87. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm'n H.R., Case No. 12.228, ¶ 3 (Nov. 19, 2009); Alfonso Martín del Campo Dodd v. Mexico, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.228, ¶¶ 20, 63-86 (Jan. 30, 2003).

88. Ms. Viviana Ksticevic, Mr. Juan Carlos Gutiérrez-Contreras and Ms. Alejandra Nuño, of CEJIL, and Ms. Nehyelo Ortiz of ACAT, served as representatives of Mr. Campo Dodd, Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 113 ¶ 39 (Sept. 3, 2004).

89. *Id.* ¶ 7.

90. *Id.* ¶ 41.

91. *Id.*

Convention and that the Commission lacked objectiveness and neutrality during the process.⁹² The State also asserts that the Commission unduly influenced the procedural balance, rendering the State defenseless when processing the complaint.⁹³

September 3, 2004: The Court unanimously admits the *ratione temporis* objection of the State, finding that it cannot exercise contentious jurisdiction.⁹⁴ In reaching its determination, the Court refers back to Article 62 of the American Convention, which establishes that acceptance of jurisdiction is optional.⁹⁵ Nonetheless, the Court emphasizes that the State has to fulfill its obligations under the American Convention regardless of whether or not the State has accepted jurisdiction.⁹⁶ The State's recognition of jurisdiction establishes an understanding that Article 62 of the American Convention limits the Court's jurisdiction to only those events or legal actions occurring after the State's acceptance of jurisdiction.⁹⁷

The Commission, the representatives, and the State agreed that the events occurring after December 16, 1998, might fall within the Court's *ratione temporis* jurisdiction.⁹⁸ The State, however, disagrees with the Commission's and the representatives' argument that the acts of torture that occurred prior to December 16, 1998, are of a continuous or permanent nature.⁹⁹ The Court sides with the State determining that the acts of torture were instantaneous and not permanent or continuous in nature.¹⁰⁰ The Court feels strongly about abiding with the principles of non-retroactivity laid out in international law and in the Vienna Convention on the Law of Treaties.¹⁰¹ The Court emphasizes that had the events or acts been ongoing, then the Court would have found that it had contentious jurisdiction.¹⁰²

The representatives and the Commission also argued that the State violated Article 8 (Right to a Fair Trial) of the American Convention

92. *Id.*

93. *Id.*

94. *Id.* ¶ 85.

95. *Id.* ¶ 68.

96. *Id.*

97. *Id.* ¶ 70.

98. *Id.* ¶ 76.

99. *Id.* ¶ 76.

100. *Id.* ¶ 79.

101. *Id.*

102. *Id.*

because the State does not recognize an innocence remedy.¹⁰³ An innocence remedy is a remedy that acknowledges the innocence of person sentenced in a criminal trial and is provided when there is supervening evidence that invalidates a finding of guilt.¹⁰⁴ The Court finds that it lacks the jurisdiction to address this issue since neither the Commission nor the representatives alleged specific facts demonstrating the State's non-compliance with due process rules.¹⁰⁵

As a result, the Court cannot hear the alleged violations of the American Convention or the Inter-American Convention to Prevent and Punish Torture that occurred before December 16, 1998, the day the State acknowledged the Court's contentious jurisdiction.¹⁰⁶ Therefore, the Court does not need to analyze the second preliminary objection.¹⁰⁷

III. MERITS

A. Composition of the Court

Alirio Abreu Burelli, President
Sergio García Ramírez, Vice-President
Oliver H. Jackman, Judge
Antônio Augusto Cançado Trindade, Judge
Cecilia Medina Quiroga, Judge
Manuel E. Ventura Robles, Judge
Diego García-Sayán, Judge

Pablo Saavedra-Alessandri, Secretary
Emilia Segares-Rodríguez, Deputy Secretary

B. Decision on the Merits

[None]

C. Dissenting and Concurring Opinions

103. See *id.* ¶¶ 3,82; Olga Sánchez Cordero, *El Derecho a La Inocencia. Apertes Sobre Una "Forma de Extinción de la Responsabilidad Penal,"* at VIII, available at <https://www.scjn.gob.mx/conocelacorte/ministra/EL%20DERECHO%20A%20LA%20INOCENCIA.pdf>.

104. *Id.*

105. *Id.*

106. *Id.* ¶ 85.

107. *Id.*

1. Judge Celia Medina Quiroga's Concurring Opinion

In a separate opinion, Judge Medina Quiroga agrees with the Court's decision to not consider the alleged events that violated Mr. Campo Dodd's human rights, however, she does so for slightly different reasons.¹⁰⁸

Responding to the State's first objection to the alleged violation of Article 7 (Right to Personal Liberty) of the American Convention, Judge Medina Quiroga emphasizes that the Court cannot examine the arbitrariness of the detention without examining the initial proceedings that resulted in his conviction.¹⁰⁹ The Court cannot do this because it does not have jurisdiction over the events leading to the final judgment as they occurred before the State accepted the Court's contentious jurisdiction.¹¹⁰

As to the State's second objection to the declaration of an innocence remedy, the Court would have had jurisdiction over this claim since the alleged events occurred after the State accepted the Court's contentious jurisdiction, but the Court cannot adjudicate this issue since neither the Commission nor the victim's representatives properly alleged the violations of Article 8 (Right to a Fair Trial) of the American Convention.¹¹¹ Judge Medina Quiroga notes that the Commission's and the representatives' assertion that the State violated Mr. Campo Dodd's rights because it issued a judgment based solely on a torture-induced confession and did not administer a remedy when it should have is insufficient to permit the Court to adjudicate the issue.¹¹²

Finally, Judge Medina Quiroga agrees with the Court's reasoning regarding the lack of continuity of the crime of torture.¹¹³ Judge Medina Quiroga states that accepting the Commission and the representative's definition of torture would force the Court to overstep its jurisdictional boundaries.¹¹⁴ Additionally, she contends that the Court's basis for not examining the State's claim regarding non-compliance with the obligation to investigate, prosecute and punish acts of torture is not that the Court lacks jurisdiction, but that the Commission and the victim's rep-

108. Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Separate Opinion of Judge Medina Quiroga, Inter-Am. Ct. H.R. (ser. C) No. 113, ¶ 1 (Sept. 3, 2004).

109. *Id.* ¶ 3.

110. *Id.*

111. *Id.* ¶ 4.

112. *Id.*

113. *Id.* ¶ 5.

114. *Id.* ¶ 5.

representatives' presented circulatory arguments on the matter which do not provide a valid basis for examination.¹¹⁵

IV. REPARATIONS

[None]

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

2000: Ms. Mariclaire Acosta, Mexican President Vicente Fox's top human rights advisor, stated that if the Commission recommended that the State release Mr. Campo Dodd, then President Fox would find a way to comply.¹¹⁶

November 15, 2005: The Legislative Assembly of the Federal District amended Article 614 of the Federal District Code of Criminal Procedure to establish that a defendant maintains a presumption of innocence when a sentence is based primarily on a confession obtained through torture.¹¹⁷

March 9, 2006: The Mexican Senate issued a resolution urging the President to order the immediate release of Mr. Campo Dodd, identify and punish his torturers, and compensate him for the physical and moral damages he suffered.¹¹⁸

April 25, 2006: A congressman introduced a resolution before the Legislative Assembly of the Federal District urging Mr. Alejandro Encinas Rodríguez, the Head of the Federal District, to comply with the Commission's recommendations and to release Mr. Campo Dodd from prison.¹¹⁹

115. *Id.* ¶ 6.

116. Kevin Sullivan, *Torture, a Ghost in Mexico's Closet; Forced Confession Highlights Obstacles to Ending Legacy of Abuse*, WASH. POST, June 2, 2002, at A1.

117. Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm'n H.R., Case No. 12.228, ¶ 94 (Nov. 19, 2009).

118. *Id.* ¶¶ 90, 116.

119. *Id.* ¶ 88.

May 9, 2006: The Legislative Assembly adopted the above resolution.¹²⁰

May 17, 2006: The Secretary of the Federal District Government ordered the Director General of the Bureau of Prisons to take the appropriate steps to comply with the Commission's recommendations.¹²¹

June 8, 2006: The Director General stated that he did not have the authority to comply with the order of May 17, 2006.¹²²

October 2006: The State concluded that no criminal acts were committed in the Preceding Investigation that was reopened on December 26, 2002 regarding the alleged crimes of the police officers that interrogated Mr. Campo Dodd.¹²³

Additionally, the Commission decided to follow-up on the recommendations in its Report No. 63/02 despite the Inter-American Court's decision to dismiss the case.¹²⁴

October 2008: The Commission decided to continue processing Report No. 63/02 and to follow up with the State on its recommendations after considering the Commission's mandate to "safeguard the promotion and protection of human rights."¹²⁵ The Commission maintained that it had jurisdiction to follow up on its recommendations because the Court rejected the complaint on the formal grounds of lack of jurisdiction.¹²⁶

March 30, 2009: The Commission approved Report on the Merits No. 33/09.¹²⁷

November 19, 2009: The Commission adopted Report on the Merits No. 117/09.¹²⁸ The Commission found that Mr. Campo Dodd's due process rights were denied and that the State failed to protect his fundamental rights.¹²⁹ The State's failure to do so violated Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair

120. *Id.*

121. *Id.* ¶ 89.

122. *Id.*

123. *Id.* ¶ 95.

124. *Id.* ¶ 84.

125. *Id.* ¶ 96.

126. *Id.* ¶ 111.

127. *Id.* ¶ 124.

128. *Id.* ¶ 3.

129. *Id.*

Trial), and 25 (Right to Judicial Protection) of the American Convention and Articles 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, all in violation of the general obligation in Article 1(1) of the American Convention.¹³⁰

The Commission, although it looked favorably on the information supplied by the Legislative Assembly and the Senate, concluded that its resolutions had not been effectively implemented.¹³¹ The Commission will continue to monitor the State's compliance with its recommendations until the State has fully complied.¹³²

October 10, 2010: The Seventh Criminal Chamber of the Superior Court of Justice of the Federal District announced its intention to prepare a resolution ordering the immediate release of Mr. Campo Dodd and recognition of innocence, but denied his recognition of innocence at the last minute.¹³³

November 11, 2011: Mr. Campo Dodd and his representatives filed for a petition for relief in the Sixth District Court against the Seventh Criminal Chamber of the Superior Court of Justice of the Federal District's resolution.¹³⁴

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 113 \(Sept. 3, 2004\).](#)

[Alfonso Martín del Campo Dodd v. Mexico, Preliminary Objections, Separate Opinion of Judge Medina Quiroga, Inter-Am. Ct. H.R. \(ser. C\) No. 113 \(Sept. 3, 2004\).](#)

130. *Id.*

131. *Id.* ¶ 119.

132. *Id.* ¶ 130.

133. *Secuestro Legalizado del Sistema de Justicia en México*, Caso Alfonso Martín del Campo Dodd, <http://www.alfonsomartindelcampododd.com/> (last visited Aug. 23, 2013).

134. *Id.*

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2. Decisions on Merits, Reparations and Costs

[None]

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Alfonso Martín del Campo Dodd v. United Mexican States, Petition No. 12.228, Inter-Am. Comm'n H.R. (July 13, 1998).

2. Report on Admissibility

[Alfonso Martín del Campo Dodd v. Mexico, Admissibility Report, Report No. 81/01, Inter-Am. Comm'n H.R., Case No. 12.228 \(Oct. 10, 2001\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 117/09, Inter-Am. Comm'n H.R., Case No. 12.228 \(Nov. 19, 2009\).](#)

Alfonso Martín del Campo Dodd v. Mexico, Report on Merits, Report No. 63/02, Inter-Am. Comm'n H.R., Case No. 12.228 (Dec. 30, 2002).

5. Application to the Court

Alfonso Martín del Campo Dodd v. Mexico, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.228 (Jan. 30, 2003).

VIII. BIBLIOGRAPHY

Kevin Sullivan, *Torture, a Ghost in Mexico's Closet; Forced Confession Highlights Obstacles to Ending Legacy of Abuse*, WASH. POST, June 2, 2002, at A1.

Olga Sánchez Cordero, *El Derecho a La Inocencia. Apertes Sobre Una "Forma de Extinción de la Responsabilidad Penal,"* at VIII, available at <https://www.scjn.gob.mx/conocelacorte/ministra/EL%20DERECHO%20A%20LA%20INOCENCIA.pdf>.

Secuestro Legalizado del Sistema de Justicia en México, CASO ALFONSO MARTÍN DEL CAMPO DODD, <http://www.alfonsomartindelcampododd.com/> (last visited Aug. 23, 2013).