

**SEVENTH ANNUAL INTER-AMERICAN HUMAN RIGHTS MOOT COURT COMPETITION
WILLIAMS *ET AL.* V. STATE OF BUENAVENTURA**

HYPOTHETICAL CASE QUESTIONS AND ANSWERS

1. In paragraph 39 of the hypothetical there is a reference to the "adoption of

in the early hours of the morning before printing time? The article should've been published in the 24th?

The facts broke out very rapidly between the 22 and 23 of September.

7. Which recourse is applicable to convictions under 6 months?

There is no specific recourse. However, in some cases, the courts of Buenaventura have admitted the recourse for protection of constitutional guarantees.

8. Is there any recourse to complain about the time elapsed in an investigation without a decision?

There is no specific judicial recourse.

9. How many times may a prosecutor require someone to supply information with respect to an investigation?

As many times as necessary.

10. In section three, "Proceedings Before the IACHR" EJM filed a petition with the Commission alleging violations of Articles 1(1), 4, 5, 8, 13, 16, 24, and 25 of the American Convention. In paragraph 32, the Commission declared the case admissible in regards to Articles 1(1), 4, 8, 13, and 25. Articles 16 and 24 were declared inadmissible. What happened to Article 5, is it admissible or inadmissible?

The allegations concerning Article 5 were declared inadmissible by the Commission.

11. Paragraph 37 states that there is a hearing scheduled for oral arguments on the preliminary objections of the State. What are the State's preliminary objections? We are asking this because we are unsure of how to counter the State's objections in our brief when we do not know what they are.

Each party must anticipate the arguments it thinks the other will offer.

12. Paragraph 31 says that a petition was filed with the Commission. Was the government of Buenaventura furnished with a transcript of the petition and a request for information pursuant to Article 48(1)(a) of the American Convention and did the State respond?

The petition was processed in conformity with the American Convention and Regulations of the IACHR. With respect to the response of the State, see the facts of the case.

13. What is the juridical nature of *habeas corpus* in Buenaventura? Is it equivalent to that provided for in the American Convention?

The legal dispositions concerning *habeas corpus* in Buenaventura establish that the detainee must be presented, without delay, before a judge competent to determine if the deprivation of liberty is in conformity with the law.

14. **Why did the Commission choose to remain silent on the allegations concerning the violation of Article 5?**

See the response to question 10.

15. **With respect to which specific facts did the Commission find the State of Buenaventura in violation of Articles 1(1), 4, 8, 13 and 25? Was this based on the same arguments set forth by the petitioners before the Commission?**

See the facts of the case.

16. **What is the reason for the Commission finding neither in favor or against the violation of Article 5 alleged by the petitioners in their original petition?**

See the response to question 10.

17. **Is the “request for review” available in the domestic jurisdiction equivalent to an extraordinary recourse?**

Yes.

18. **What internal law did the judge apply when he imposed the fine on Mr. Collins?**

This concerns an article included in the chapter on misdemeanors contained in the Criminal Code of Buenaventura.

19. **Paragraph 31 of the fact pattern states that the EJM filed its petition with respect to Articles 1(1), 4, 5, 8, 13, 16, 24 and 25 of the American Convention. Paragraph 32 declares that the case as regards Articles 1(1), 4, 8, 13 and 25 was admissible, but Articles 16 and 24 were inadmissible. Was the case based on Article 5 declared admissible or inadmissible?**

See the response to question 10.

20. **Is Article 15(3) of the Buenaventuran Constitution made subject to Article 15(1)(a) and (b) by that Constitution or any other piece of domestic legislation [i.e. is there any law making Article 15(3) subject to Article 15(1)(a) and (b)]?**

The parties must develop their arguments on the interpretation of this Article.

21. **Paragraph 23 of the hypothetical case mentions that the agents of the Cambacropolis Police Department were the first ones to arrive at the scene of the crime in the case of the death of Elena Williams. Can it be assumed that this procedure is in accordance with the internal legislation of the State of Buenaventura? That is, does the Police Department in that State have the**

29. **Which internal law of Buenaventura was applied by the courts to order Teodoro Collins to produce the notes from his interview with the anonymous source? (paragraph 26)**

This action was based on a judicial interpretation of the norms of Buenaventura concerning the public security.

- 30.

See the response to question 33.

36. **When was the Article 50 report sent to the State of Buenaventura?**

On October 10, 2001, the same day the Commission adopted the report.

37.

42. [This applies principally to the Spanish version.] **Are the Office of the Attorney General [*la Fiscalía General*] and the Office of the Public Prosecutor [*Ministerio Público*] the same in Buenaventura.**

[This question relates to the Spanish version.] Yes.

43. **To which branch of the State do the Office of the Public Prosecutor and the civil servants mentioned in paragraph belong to? What are their functions and what are the functions of the Special Prosecutor?**

See the responses to questions 37 and 41. The forensic pathologists and the Special Prosecutor are functionaries of the Prosecutor's Office. The Special Prosecutor has the same functions as any prosecutor, but by designation of the Attorney General is dedicated exclusively to this case.

44. **Did T. Collins file his legal recourses in accordance with the procedural requisites and formalities provided for in the legal system of Buenaventura?**

Yes.

45. **Does the State of Buenaventura have regular measures for the protection of witnesses who may suffer imminent attacks on their personal integrity or their lives? If so, what are they, and were they applied in the case of Alberta Jones?**

The measures of protection in this kind of situation are determined by the Office of the Prosecutor, and are similar to those offered to EJM (see para. 19 of the hypothetical case).

46. **What is the connection between those eight officers with the complaints being investigated in the Office of Professional Responsibility and how was that connection established? If they were linked, what was the reason to assign them to tasks that implied no contact with those arrested? When were they suspended from duty? (paragraph 8)**

The decisions to separate the eight officers from detainees, and to suspend them were taken on the basis of the results of the internal investigation by the Office of Professional Responsibility. With respect to the suspensions, see paras. 8 and 16.

47. **Are the three policemen that witness Alberta Jones saw included among the eight officers who were suspended? (paragraph 16)**

Yes.

48. **What necessary actions was the Police Department taking? (paragraph 17)**

The declarations of this functionary to the press were of a general character.