

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF 16 AUGUST 2000**

**PROVISIONAL MEASURES ORDERED BY THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
IN THE MATTER OF THE REPUBLIC OF
TRINIDAD AND TOBAGO**

JAMES *ET AL.* CASES

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") of 25 May 1999, in which it decided

1. With respect to the Provisional Measures adopted by the Court on 29 August 1998:

a. To maintain the Provisional Measures ordered by the Inter-American Court of Human Rights on 29 August 1998, in favour of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste. With respect to Anthony Briggs, to maintain the Provisional Measures ordered in his favour until such time as the Court, having previously considered the reports concerning the present status of his Case, issues a decision on this matter.

b. To urge the State of Trinidad and Tobago to comply with the Order of the Court of 29 August 1998, and henceforth report every fifteen days on the status of the appeals and scheduled executions of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste, and to require the Inter-American Commission on Human Rights to send its observations on these reports to the Inter-American Court of Human Rights within two days of their receipt.

c. To urge the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste.

2. With respect to the Commission's request for amplification of the Provisional Measures in favour of 20 persons:

a. To ratify the Order of the President of the Inter-American Court of Human Rights of 11 May, 1999.

b. To order the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, so as not to hinder the processing of their Cases before the Inter-American system.

c. To require the State of Trinidad and Tobago to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of this Order, information on the status of the appeals and scheduled executions of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis,

Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.

d. To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester.

2. The application submitted by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") to the Court on 25 May, 1999 against the Republic of Trinidad and Tobago (hereinafter "the State" or "Trinidad and Tobago"), with respect to the Case of Haniff Hilaire, beneficiary of the Provisional Measures (*supra* 1).

3. The Order of the Court of 27 May, 1999, in which it decided

1. To amplify the provisional measures ordered in the James *et al.* Cases and to order the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mo[wlah], Allan Phillip, Krishandath Seepersad and Narine Sooklal, so as not to hinder the processing of their Cases before the Inter-American system.

2. To require the State of Trinidad and Tobago to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of the Order of the Court of 25 May 1999 (*supra* Having seen 1), information on the status of the scheduled executions of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mo[wlah], Allan Phillip, Krishandath Seepersad and Narine Sooklal, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.

3. To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mo[wlah], Allan Phillip, Krishandath Seepersad and Narine Sooklal.

4. The communication of 7 June 1999, received in the Secretariat of the Court (hereinafter "the Secretariat") on the same date, in which the Commission informed the Court that, on 4 June 1999, the State had executed Joey Ramiah, who was protected by the Provisional Measures ordered by the Court (*supra* 1.)

5. The note of 17 June 1999 of the Commission in which it communicated to the Court that, on the same date, the State had read a warrant of execution to Anthony Briggs, beneficiary of the provisional measures ordered by the Court (*supra* 1,) and that said execution would be carried out on 22 June 1999.

6. The note of 18 June 1999 of the Secretariat in which, following instructions of the President of the Court, it urgently requested Trinidad and Tobago to present, within 48 hours, information relating to the merits of the Commission's communication (*supra* 5.) In the same note, the Secretariat reminded the State that Anthony Briggs was protected by the provisional measures ordered by the Court.

7. The communication of 21 June 1999 of the Commission in which it advised that

- a) the application for a stay of execution of Anthony Briggs had been dismissed by the High Court of Trinidad and Tobago on 18 June 1999;
- b) the next day, the Trinidad and Tobago Court of Appeal had dismissed his appeal on the said decision;
- c) the judgement of the Court of Appeal indicated that, notwithstanding the Order of the Court of 25 May 1999, it was not satisfied that any substantive issue respecting Anthony Briggs was pending before the Inter-American Court;
- d) the Court of Appeal also refused to grant a stay of execution pending an appeal to the Judicial Committee of the Privy Council, the highest appellate court for Trinidad and Tobago; and
- e) the solicitors of Anthony Briggs would bring an expedited petition for special leave to appeal to the Judicial Committee of the Privy Council and would seek a stay of his execution pending the determination of the said petition and, if leave was granted, a decision on the merits of the appeal.

8. The communication of 21 June 1999 of the Inter-American Commission in which it expressed that, on the same date, the Judicial Committee of the Privy Council granted Anthony Briggs leave to appeal the decision of the Trinidad and Tobago Court of Appeal on his constitutional motion to the Privy Council. In addition, the Commission stated that the Judicial Committee of the Privy Council had stayed the execution of Anthony Briggs pending the hearing and determination of his appeal and had requested further clarification from his solicitors as to the nature of the matter relating to him that was pending before the Inter-American Court.

9. The note of 22 July 1999 in which the Commission informed the Court that, on the same date, the Judicial Committee of the Privy Council had dismissed the appeal of Anthony Briggs from the decision of the Trinidad and Tobago Court of Appeal on his constitutional motion, and that his solicitors anticipated that another warrant of execution would be read on such date, for execution on 27 July 1999.

10. The note of 26 July 1999 of the Commission in which it notified the Court that the State had read a warrant of execution to Anthony Briggs on 23 July 1999 for execution on 28 July 1999.

11. The communication of 27 July 1999 of the Secretariat in which, following instructions by the President of the Court, requested Trinidad and Tobago to present information relating to the merits of the Commission's note (*supra* 10.) In the said communication, the Secretariat indicated to the State that

[s]pecifically, in its Order of 25 May 1999, the Court considered the circumstances of Mr. Briggs' Case before the Inter-American system and after deliberation, decided "with respect to Anthony Briggs, to maintain the Provisional Measures ordered in his favour until such time as the Court, having previously considered the reports concerning the present status of his Case, issues a decision on this matter[;]"

and that

[f]or the above mentioned reasons, the Court urges the State of Trinidad and Tobago to comply with its Orders and "to take all measures necessary to preserve the life and physical integrity of Anthony Briggs."

12. The note of 28 July 1999 in which the Commission informed the Court that, on the same date, Trinidad and Tobago had executed Anthony Briggs.

13. The communication of 29 July 1999 in which the State submitted its observations on the execution of Anthony Briggs as follows:

a) On 25 November 1998 the Inter-American Commission completed its consideration of the Case of Anthony Briggs and transmitted the Article 50 Report to Trinidad and Tobago;

b) the three month period allowed under the Convention and the Statute of the Commission, during which the matter may be submitted either by the State or the Commission to the Court, expired on 25 February 1999;

c) on 3 March 1999 the Commission adopted its Article 51 Report, and said report was published on or about 3 May 1999;

d) the petition of Anthony Briggs was never submitted to the Court;

e) the Order of the Court of 29 August 1998 was spent;

f) after the Commission decided to publish its Article 51 Report, there was no matter pending before the Commission, nor any matter pending before the Court, nor any other matter capable of being submitted to the Court; and

g) after the Commission so decided, the Court had no power to adopt provisional measures. The Court's purported Order of 25 May 1999 was made without jurisdiction and, therefore, was null.

14. The Order of the Court of 25 September 1999, in which it decided

1. To ratify the Order of the President of the Inter-American Court of Human Rights of 19 June 1999.

2. To order Trinidad and Tobago to take all measures necessary to preserve the life and physical integrity of Mervyn Parris and Francis Mansingh so as not to hinder the processing of their [C]ases before the Inter-American system until the situation of extreme gravity and urgency no longer persists in relation to these persons.

3. To urge the State of Trinidad and Tobago to report every fifteen days on the status of the appeals and scheduled executions of Mervyn Parris and Francis Mansingh and to require the Inter-American Commission on Human Rights to send its observations on these reports to the Inter-American Court of Human Rights within two days of their receipt.

4. To urge the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Mervyn Parris and Francis Mansingh.

15. The application submitted by the Commission on 22 February 2000 against Trinidad and Tobago, with respect to the Cases of George Constantine, Wenceslaus James, Denny Baptiste, Clarence Charles, Keiron Thomas, Anthony Garcia, Wilson Prince, Darrin Roger Thomas, Mervyn Edmund, Samuel Winchester, Martin Reid, Rodney Davis, Gangaleen Tahaloo, Noel Seepersad, Wayne Matthews, Alfred Frederick, Natasha De Leon, Vijay Mungroo, Phillip Chotolal, Naresh Boodram, Joey Ramiah, Nigel Mark, Wilberforce Bernard and Steve Mungroo, beneficiaries of the Provisional Measures ordered by the Inter-American Court.

16. The communication of 13 July 2000 of the Inter-American Commission in which it informed the Court that, on 13 June 2000, it had approved Confidential Consolidated Report No. 53/00 in accordance with Article 50 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention,") with respect to Peter Benjamin, Krishandath Seepersad, Allan Phillip, Narine Sooklal, Amir Mowlah, Mervyn Parris and Francis Mansingh, all protected by the Provisional Measures ordered by the Court, and that said Report had been transmitted to the State on 7 July 2000.

17. The failure of the State to comply with the Orders of the Court of 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999 and 25 September 1999.

CONSIDERING:

1. That Trinidad and Tobago has been a State Party to the American Convention since 28 May 1991, and that it recognised the jurisdiction of the Court on the same day.

2. That the State gave notice of its denunciation of the Convention to the Secretary General of the Organisation of American States on 26 May 1998, and that, pursuant to Article 78(1) of the said Convention, the denunciation became effective on 26 May 1999.

3. That Article 63(2) of the Convention provides that

[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

4. That, pursuant to Article 25 (1) of the Rules of Procedure,

[a]t any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

5. That Article 1(1) of the American Convention specifies the obligations of the States Parties to respect the rights and freedoms recognised in said treaty and to ensure to all persons subject to their jurisdiction, the free and full exercise of those rights and freedoms.

6. That, in conformity with Article 78(2) of the American Convention, the denunciation made by Trinidad and Tobago does not have the effect of releasing it

from its obligations with respect to acts occurring prior to the effective date of denunciation which may constitute a violation of the said Convention.

7. That, pursuant to the Orders of the Inter-American Court of 14 June 1998, 29 August 1998 and 25 May 1999, Trinidad and Tobago had a duty to preserve the life and physical integrity of Anthony Briggs and Joey Ramiah.

8. That the State has failed to submit fortnightly reports concerning the circumstances of the beneficiaries of the Provisional Measures, as required by the Orders of the Court of 29 August 1998, 25 May 1999, 27 May 1999 and 25 September 1999.

9. That Trinidad and Tobago did present its observations on the execution of Anthony Briggs and, in like manner, this Court deems important to obtain information on the circumstances that led to the execution of Joey Ramiah.

10. That Article 68(1) of the American Convention establishes that

[t]he States Parties to the Convention undertake to comply with the judgement of the Court in any case to which they are parties.

11. That the States Parties to the Convention should fully comply in good faith (*pacta sunt servanda*) with all of the provisions of the Convention, including those relative to the operation of the two supervisory organs of the American Convention; and, that in view of the Convention's fundamental objective of guaranteeing the effective protection of human rights (Articles 1(1), 2, 51 and 63(2),) States Parties must refrain from taking actions that may frustrate the *restitutio in integrum* of the rights of the alleged victims.

12. That, pursuant to Article 65 of the Convention,

[t]o each regular session of the General Assembly of the Organi[s]ation of American States the Court shall submit, for the Assembly's consideration, a report on its work during the previous year. It shall specify, in particular, the cases in which a [S]tate has not complied with its judgements, making any pertinent recommendations.

13. That the Cases of Haniff Hilaire, George Constantine, Wenceslaus James, Denny Baptiste, Clarence Charles, Keiron Thomas, Anthony Garcia, Wilson Prince, Darrin Roger Thomas, Mervyn Edmund, Samuel Winchester, Martin Reid, Rodney Davis, Gangaleen Tahaloo, Noel Seepersad, Wayne Matthews, Alfred Frederick, Natasha De Leon, Vijay Mungroo, Phillip Chotolal, Naresh Boodram, Joey Ramiah, Nigel Mark, Wilberforce Bernard and Steve Mungroo are currently pending before the Inter-American Court; and that the Cases of Peter Benjamin, Krishandath Seepersad, Allan Phillip, Narine Sooklall, Amir Mowlah, Mervyn Parris and Francis Mansingh are currently pending before the Inter-American Commission.

14. That the Inter-American Court requires detailed information on the status of the Cases of Anderson Noel, Christopher Bethel, Kevin Dial, Andrew Dottin and Anthony Johnson.

15. That this Court concludes that the situation of "extreme gravity and urgency" of the persons protected by the Orders of the Court of 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999 and 25 September 1999 continues, making it

imperative to require the State to maintain the provisional measures necessary to preserve their life and physical integrity.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to the authority conferred by Article 63(2) of the American Convention on Human Rights and Article 25 of the Rules of Procedure,

DECIDES:

1. To order Trinidad and Tobago to maintain the Provisional Measures ordered by the Inter-American Court of Human Rights on 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999 and 25 September 1999 in favour of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh so as not to hinder the processing of their Cases before the Inter-American system.
2. To require Trinidad and Tobago to submit information, on or before 31 August 2000, on the circumstances that led to the execution of Joey Ramiah so that the Inter-American Court of Human Rights may consider it and include it in its report to the next General Assembly of the Organisation of American States.
3. To require the Inter-American Commission on Human Rights to submit, on or before 31 August 2000, detailed information on the status of the Cases of Anderson Noel, Christopher Bethel, Kevin Dial, Andrew Dottin and Anthony Johnson.
4. To urge the State of Trinidad and Tobago to report every two months on the status of the appeals and scheduled executions of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh and to require the Inter-American Commission on Human Rights to send its observations on these reports to the Inter-American Court of Human Rights within six weeks of their receipt.
5. To urge the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin

Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez
Pesantes

Hernán Salgado-

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary