

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 28, 2005**

**PROVISIONAL MEASURES
REGARDING THE STATE OF TRINIDAD AND TOBAGO**

CASE OF JAMES *ET AL.*

HAVING SEEN:

1. The Order of May 27, 1999 issued by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court", "the Court" or "the Tribunal"), which decided, *inter alia*:

[t]o 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 Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal, so as not to hinder the processing of their Cases before the Inter-American system.

2. The communication of the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") of August 31, 2000, in which the Commission advised that on "July 21, 1999, the Judicial Committee of the Privy Council allowed an appeal by Mr. [Anthony] Johnson, quashed his conviction and sentence for murder, and [subsequently] remitted the matter to the Trinidad and Tobago Court of Appeal [...] to consider whether a re-trial should be ordered."

3. The Order of December 2, 2003 issued by the Court, which decided, *inter alia*:

3. To reiterate to the State the order to maintain the provisional measures ordered by the Inter-American Court in its June 14, 1998, August 29, 1998, May 25, 1999, May 27, 1999, September 25, 1999, August 16, 2000, November 24, 2000, November 26, 2001, and September 3, 2002 Orders to preserve the lives and physical integrity of Wenceslaus James, Anthony Garcia, 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, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan.

4. The communication of the Inter-American Commission of July 14, 2004, in which the Commission stated that "the Court of Appeal subsequently ordered that Mr. Johnson be re-tried for murder, the re-trial took place, and Mr. Johnson was convicted of manslaughter and sentenced to seven years' imprisonment with hard labor." Further, the Commission advised that "Mr. Johnson then appealed his conviction and sentence to the Court of Appeal [...], which dismissed his appeal in a judgment delivered on July 26, 2002." As a result, the Commission observed that "Mr. Johnson is no longer subject to a death sentence" and that "the threat of irreparable damage [with regard to] Mr. Johnson no longer exists or persists". In light of the above, the Commission concluded that "it would be appropriate to rescind [the Court's] provisional measures in respect of Mr. Anthony Johnson."

5. The communications of the Secretariat of the Court of November 16, 2004, December 10, 2004 and January 20, 2005, in which the Secretariat, following the instructions of the President of the Court, requested the representatives of the beneficiaries of the present provisional measures to submit, as soon as possible, their observations on the Commission's proposal to rescind said measures with respect to Mr. Johnson.

6. As of the date of this Order the representatives of the beneficiaries have failed to submit observations on the Commission's aforementioned proposal.

CONSIDERING:

1. That Trinidad and Tobago was a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") from May 28, 1991 until May 26, 1999. Furthermore, the State recognized the contentious jurisdiction of the Inter-American Court on May 28, 1991.

2. That on May 26, 1998 the State notified the Organization of American States of its denunciation of the Convention, which, pursuant to Article 78(1) of said treaty, became effective on May 26, 1999.

3. That pursuant to Article 78(2) of the Convention, the denunciation does not have the effect of releasing the State from its obligations with respect to any act that may constitute a violation of those obligations and that has occurred prior to the effective date of denunciation.

4. 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.

5. That according to Article 25(1) of the Rules of Procedure of the Court:

[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.

6. That provisional measures have an exceptional character, and should only remain in force while the necessary conditions of extreme gravity and urgency subsist.

7. That according to the information provided by the Inter-American Commission, such a situation of extreme gravity and urgency no longer persists with respect to Anthony Johnson, as he "is no longer subject to a death sentence" (*supra* fourth "Having Seen").

8. That since Mr. Johnson no longer faces circumstances of imminent danger and irreparable harm, it is appropriate to rescind the provisional measures ordered in his favor.

9. That the situation of extreme gravity and urgency persists, however, for the other individuals currently protected by the Court's provisional measures in the present case. Thus, the State must maintain these measures in order to preserve the life and personal integrity of Wenceslaus James, Anthony Garcia, 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, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

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

DECIDES:

1. To rescind the provisional measures adopted in favor of Anthony Johnson, which were originally ordered by the Inter-American Court on May 27, 1999.
2. To require Trinidad and Tobago to maintain all measures necessary to preserve the life and personal integrity of Wenceslaus James, Anthony Garcia, 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, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan.
3. To require Trinidad and Tobago to inform the Court two months after the notification of the present Order, and every two months subsequent to the State's initial submission, regarding the measures it has taken in fulfillment of this Order.
4. To require the representatives of the beneficiaries of the present provisional measures and the Inter-American Commission to submit their observations on those State reports within four and six weeks, respectively, of the reception of such reports.
5. To notify the present Order to the State, the Inter-American Commission and the representatives of the beneficiaries.