

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF SEPTEMBER 3, 2002***

PROVISIONAL MEASURES

JAMES *ET AL.* CASES

HAVING SEEN:

1. The adoption of Provisional Measures ordered by the Inter-American Court of Human Rights (hereinafter "the Court", "the Inter-American Court" or "the Tribunal"), in the James *et al.* Cases regarding the circumstances of imminent danger and vulnerability to irreparable harm 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, 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.

2. The May 22, 1998, communication of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission"), in which the Commission submitted to the Tribunal, pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 25 of the Rules of Procedure of the Court in force at that time, a request for the adoption of Provisional Measures on behalf of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, in connection with Cases 11,814; 11,815; 11,854; 11,855; and 11,857 respectively, which were pending before the Commission against the State of Trinidad and Tobago (hereinafter "the State" or "Trinidad and Tobago"). In said communication, the Commission petitioned the Court

to request the Republic of Trinidad and Tobago to stay the executions of the individuals on death row in the five cases at issue [Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel] until such time as the Commission has had the opportunity to examine and decide these cases pursuant to the Convention and the Rules of Procedure of the Commission.

3. The Order of the President of the Court (hereinafter "the President") of May 27, 1998, in which he ordered the adoption of urgent measures and decided:

* Judge Máximo Pacheco-Gómez informed the Court that by reason of *force majeure*, he was unable to participate in the deliberation and signing of the present Order.

1. To require the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, so that the Court may examine the pertinence of the provisional measures requested by the Inter-American Commission on Human Rights.
2. To require the Republic of Trinidad and Tobago to inform the Inter-American Court of Human Rights by June 5, 1998, on the measures taken in compliance with this Order, as well as its observations on the measures requested by the Inter-American Commission on Human Rights so that this information can be studied by the Court.
3. To submit the request of the Inter-American Commission on Human Rights, this Order, and the report that will be presented by the Republic of Trinidad and Tobago for the consideration of the Inter-American Court of Human Rights during its XL Regular Session, to be held from June 8 to 19, 1998.
4. The Order of the Court of June 14, 1998, by which it ratified the Order of the President of May 27, 1998, and decided:
 1. To order Trinidad and Tobago to take all measures necessary to preserve the life and physical integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, so as not to hinder the processing of their cases before the Inter-American system.
 2. To order Trinidad and Tobago to submit a report by June 30, 1998, on the measures taken in compliance with this Order, and to require the Inter-American Commission on Human Rights to submit its observations on this report within fifteen days of its receipt.
 3. To summon Trinidad and Tobago and the Inter-American Commission on Human Rights to a public hearing on this matter at the seat of the Court on August 28, 1998, at 10:00 a.m.
5. The communication of the Inter-American Commission of January 10, 2002, in which it submitted to the Court significant information regarding developments in the circumstances of Anderson Noel (Case No. 11,854) and Christopher Bethel (Case No. 11,857), two of the persons protected by the Provisional Measures, pursuant to the Orders of the Court of June 14, 1998, August 29, 1998, May 25, 1999, August 16, 2000, and November 24, 2000.
6. The aforementioned communication (*supra* 5), in which the Commission submitted information concerning Anderson Noel and Christopher Bethel and stated that

by communication dated December 18, 2001, which was received by the Commission on December 26, 2001, the Petitioners for Anderson Noel informed the Commission that on November 12, 2001 Mr. Noel was convicted of manslaughter following his retrial and sentenced to four years of imprisonment.

This communication also informed that

[s]imilarly, by communication dated December 14, 2001, which was received by the Commission on December 26, 2001, the Petitioners for Christopher Bethel informed the Commission that Mr. Bethel no longer faces a retrial, but rather that he was offered and pleaded guilty to manslaughter and has been sentenced to four further years of imprisonment by the High Court of Trinidad and Tobago.

7. The communication of the Court of January 11, 2002, in which it transmitted to the State the Commission's communication of January 10, 2002.

8. The communication of the Court of January 17, 2002, in which information regarding the developments concerning the circumstances of Anderson Noel and Christopher Bethel was requested from the Commission, specifically on whether the circumstances of imminent danger and vulnerability to irreparable harm in these cases continued to exist.

9. The communication of the Inter-American Commission of February 1st, 2002, in which the Commission submitted to the Tribunal its confirmation of the developments in the circumstances of Anderson Noel (Case No. 11,854) and Christopher Bethel (Case No. 11,857) in relation to the existence or otherwise, of circumstances of imminent danger or vulnerability to irreparable harm as a consequence of the death penalties imposed on them.

10. The communication of the Court of February 4, 2002, in which it requested the Inter-American Commission to submit the relevant documentation regarding the new circumstances and convictions of Anderson Noel and Christopher Bethel.

11. The communication of the Inter-American Commission of February 15, 2002, in which it requested an extension of time of 10 days for the submission of the relevant documents regarding Messrs. Noel and Bethel (*supra* 10).

12. On February 18, 2002, on instructions of the President of the Court, the Secretariat informed the Commission that the extension of time (*supra* 11) was granted until February 28, 2002.

13. Further, on February 18, 2002, the Court also requested from the State, the submission of information regarding the new sentences imposed on Noel and Bethel.

14. The communication of the Commission of February 28, 2002, in which it informed the Court that the relevant documentation (*supra* 10 and 11) was being sent by the petitioners by regular mail and that as soon as it was received in its Secretariat it would be transmitted to the Inter-American Court.

15. The communication from the Inter-American Commission of March 7, 2002, by which it presented information regarding the new convictions in the cases of Anderson Noel and Christopher Bethel.

16. The communication of the Inter-American Commission of April 10, 2002, by which it submitted additional information from the Registrar of the Supreme Court of Trinidad and Tobago in the case of Christopher Bethel.

CONSIDERING:

1. That Trinidad and Tobago has been a State Party to the American Convention from May 28, 1991 (day in which it accepted the jurisdiction of the Court) until May 26, 1999.
2. That the State gave notice of its denunciation of the Convention to the Secretary General of the Organization of American States on May 26, 1998, and that, pursuant to Article 78(1) of the said Convention, the denunciation became effective on May 26, 1999.
3. That, pursuant to Article 78(2) of the American Convention, the denunciation does not have the effect of releasing the State from its obligations with respect to acts occurring, in whole or in part, prior to the effective date of denunciation, which may constitute a violation of the said Convention.
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, are adopted as a means of protection and, when adopted, should remain in force while the basic conditions mentioned above still subsist.
7. That according to the arguments of the Inter-American Commission, the situation of extreme gravity and urgency no longer persists (*supra* 6 and 9).
8. That it is appropriate to terminate the Provisional Measures adopted in the cases of Anderson Noel and Christopher Bethel, since they are no longer in circumstances of imminent danger and irreparable harm.
9. That however, the situation of extreme gravity and urgency persists for the other persons protected by the adoption of Provisional Measures ordered by the Court, making it necessary to order the State to maintain the Provisional 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, 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.

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 its Orders for Provisional Measures in favour of Christopher Bethel and Anderson Noel dated June 14, 1998, August 29, 1998, May 25, 1999, August 16, 2000 and November 24, 2000, respectively.
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, 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.
3. To communicate the present Order to the State and to the Inter-American Commission on Human Rights.