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REPORT No. 382/22
PETITION 2136-18
REPORT ON INADMISSIBILITY

STEVEN MCCANN
UNITED STATES OF AMERICA

Approved electronically by the Commission on December 30, 2022.

Cite as: IACHR, Report No. 382/22, Petition 2136-18. Inadmissibility. Steven McCann. United States of America. December 30, 2022.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Steven McCann
Alleged victim:	Steven McCann
Respondent State:	United States of America ¹
Rights invoked:	No specific provisions invoked (of the American Declaration on the Rights and Duties of Man ²)

II. PROCEEDINGS BEFORE THE IACHR³

Filing of the petition:	August 13, 2018
Notification of the petition to the State:	February 28, 2022
State's first response:	August 3, 2022
Notification of the possible archiving of the petition:	September 22, 2021
Petitioner's response to the notification regarding the possible archiving of the petition:	November 12, 2021

III. COMPETENCE

Competence <i>Ratione personae</i>:	Yes
Competence <i>Ratione loci</i>:	Yes
Competence <i>Ratione temporis</i>:	Yes
Competence <i>Ratione materiae</i>:	Yes, American Declaration (ratification of the OAS Charter on June 19, 1951)

IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL *RES JUDICATA*, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

Duplication of procedures and International <i>res judicata</i>:	No
Rights declared admissible	None
Exhaustion of domestic remedies or applicability of an exception to the rule:	No, in terms of Section VI
Timeliness of the petition:	N/A

V. ALLEGED FACTS

1. The petitioner is an inmate of the Western Reception Diagnostic Correctional Center ("the Center"), located in St. Joseph, Missouri. He generally complains of substandard conditions and treatment experienced by himself and other inmates.

2. According to the petitioner he was incarcerated at the Center on March 2, 2018, because of a parole violation; and that he is serving a term of imprisonment of 10.5 months.

3. The petitioner complains that the substandard conditions/treatment that he has witnessed or encountered include: (a) assaults by inmates on other inmates; (b) numerous thefts by inmates; (c)

¹ Hereinafter "United States", "the U.S." or "the State."

² Hereinafter "the American Declaration" or "the Declaration".

³ The observations submitted by each party were duly transmitted to the opposing party.

unwillingness of correctional officers to protect vulnerable inmates. The petitioner also complains that inmates are denied adequate lack of medical attention when needed. Further the petitioner alleges that there is overcrowding and that inmates are exposed to black mold in some areas of the Center. The petitioner also alleges that inmates are locked in their cells for most of the day.⁴ He also mentions he has reported sexual harassment by correctional staff, but that it was not investigated⁵.

4. The State submits that the petition is inadmissible for (a) failure to state an account of the act or situation that is denounced, specifying the place and date of the alleged violations (pursuant to Article 28 of the Commission's Rules of Procedure); and (b) failure to indicate any steps taken to exhaust domestic remedies, or the impossibility of doing so (pursuant to Article 31 of the Commission's Rules of Procedure).

5. More particularly, the State argues that the documentation submitted by the petitioner fails to provide a specific account, "specifying the place and date of the alleged violations," (as required by Article 28(4)). The State also indicates that the documentation also fails to demonstrate "any steps taken to exhaust domestic remedies" (as required by Article 28(8)); and fails to demonstrate how the petition complies with the exhaustion requirement in Article 31. The State further contends that the petition does not specify whether it complies with the timeliness requirement prescribed by Article 32 of the Commission's Rules of Procedure.

VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

6. In determining the admissibility of a petition, the Commission is required (in accordance with Article 31 (1) of its Rules of Procedure) to verify whether the remedies of the domestic legal system have been pursued and exhausted in accordance with the generally recognized principles of international law. The Commission observes that the requirement of prior exhaustion of domestic remedies is intended to enable the national authorities to take cognizance of the alleged violation of a protected right and, if appropriate, to resolve the situation before it is brought before an international body.

7. The Commission also notes that there is an interplay between Article 31 (a) and Article 28 of its Rules of Procedure. More specifically, Article 28 (8) requires petitions to indicate any steps taken to exhaust domestic remedies, or the impossibility of doing so; and Article 28 (4) requires a petition to provide an account of the fact or situation that is denounced, specifying the place and date of the alleged violations.

8. The Commission notes that the petition sets out a miscellany of complaints alleging substandard conditions and treatment experienced or witnessed by the petitioner and fellow inmates. However, the petition does not contain any specific information on the dates on which these conditions or alleged mistreatment were experienced. For the most part, the petition contains no information on steps taken to complain about the conditions/treatment to the relevant authorities. Regarding the complaint about sexual harassment, while the petitioner states that a report was made (but allegedly ignored), the petition itself is ambiguous about whether the sexual harassment was directed only at the petitioner or to himself and other inmates. There is no information provided about when the report was made or to whom.

9. Having regard for the lack of specificity and ambiguity regarding the petition's claims (as well as lack of information on steps taken to redress the claims) the Commission is unable to verify that the petitioner has exhausted domestic remedies in relation to the alleged claims. The Commission is similarly unable to verify whether the petitioner is entitled to any exception to the requirement to exhaust domestic remedies. Accordingly, the Commission considers that the petition is inadmissible for failure to comply with the requirements of Article 31 (1) of the Commission's Rules of Procedure.

⁴ Generally, the petitioner does not provide specific dates or details about the various grievances set out in the petition.

⁵ It is not clear from the petition whether this alleged sexual harassment was directed at the petitioner and/or other inmates. No dates are provided as to when this alleged sexual harassment took place, or when it was supposedly reported.

10. Having regard for the foregoing, the Commission does not consider it necessary to analyze any of the other admissibility requirements.

VII. DECISION

1. To find the instant petition inadmissible; and

2. To notify the parties of this decision; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 30th day of the month of December, 2022. (Signed:) Julissa Mantilla Falcón, President; Margarete May Macaulay, Second Vice President; Joel Hernández and Roberta Clarke, Commissioners.