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REPORT No. 334/23
PETITION 2029-21
REPORT ON INADMISSIBILITY

JULIUS JONES
UNITED STATES OF AMERICA

Approved electronically by the Commission on December 29, 2023.

Cite as: IACHR, Report No. 334/23, Petition 2029-21. Inadmissibility. Julius Jones. United States of America. December 29, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Cece Jones Davis
Alleged victim:	Julius Jones
Respondent State:	Unites States of America ¹
Rights invoked:	Articles I (Right to life, liberty and personal security), II (Right to equality before law), XI (Right to the preservation of health and to well-being), XVIII (Right to a fair trial) and XXVI (Right to due process of law) of the American Declaration on the Rights and Duties of Man ²

II. PROCEEDINGS BEFORE THE IACHR³

Filing of the petition:	November 16, 2021
Notification of the petition to the State:	December 8, 2022
State's first response:	December 27, 2022
Precautionary measure granted and lifted:	November 17, 2021; December 21, 2021 (Resolution No. 90/21, PM- 1041-21)

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 on the Rights and Duties of Man (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
Timeliness of the petition:	N/A

V. ALLEGED FACTS*The petitioner*

1. The petition⁴ is brought on behalf of Julius Jones (hereafter "Mr. Jones" or "the alleged victim"), who was sentenced to death for murder in 2002, following a trial. According to the petition, Mr. Jones was scheduled to be executed on November 18, 2021. The petition claims that the execution of Mr. Jones would

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

² Hereafter "the American Declaration" or "the Declaration."

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

⁴ The petition also contained a request for precautionary measures which were granted by the IACHR on November 17, 2021 (Resolution No. 90/21, PM- 1041-21). The precautionary measures were aimed at preventing the execution of Mr. Jones on November 18, 2021, pending the consideration of his petition.

violate his right to life and to humane treatment; and that the criminal proceedings that led to the conviction and death sentence generally violated his right to due process together with other associated rights.

2. By way of background, the petition indicates that in July 1999 Mr. Jones, an African American was arrested and charged with the murder of Paul Howell ("Mr. Howell"), a white businessman. According to the petition, Paul Howell was shot and killed in Oklahoma on July 28, 1999, in the driveway of his parents' house.

3. The petition indicates that Mr. Howell's sister Megan Tobey witnessed the fatal shooting and described the shooter as a black man, wearing jeans, a white t-shirt, a black stocking cap and a red bandana over his face, with about half an inch of hair sticking out from under his hat description. The petition further states that confidential informants stated that the perpetrators were Mr. Jones and another individual called Christopher Jordan ("Mr. Jordan"). According to the petition, Mr. Jordan was detained by the police when he claimed that Mr. Jones was responsible for the murder of Mr. Howell. The petition indicates that on the day after the killing, Mr. Jones was arrested and charged with capital murder.

4. According to the petition, in April 2002, Mr. Jones was tried and convicted of the capital murder of Mr. Howell and sentenced to death (by lethal injection). The petition alleges that Mr. Jones was not accorded a fair trial for various reasons. In the regard, the petition alleges, firstly, that Mr. Jones was represented by three inexperienced public defenders, none of whom had ever tried a capital case. The petition further states that Mr. Jones' defense attorneys did not call any witnesses in the trial despite the availability of extensive exculpatory evidence. In this regard, the petition alleges that Mr. Jones' mother, father, sister, and brother were available to testify and would have told the jury that Mr. Jones was at home eating spaghetti with them at the time the crime was committed.

5. The petition also claims that Megan Tobey, the state's key witness, described the perpetrator as having hair that was long enough to stick out about half an inch from under his stocking cap. However, the petition alleges that in July 1999, Mr. Jones had short, closely cropped hair, and a picture of him taken just days before the crime occurred showed that his hair could not have been long enough to match Megan Tobey's description.

6. The petition also alleges that Mr. Jones was not tried by a jury of his peers; and that in this regard, there were eleven white jurors and only one black juror. According to the petition, one of the jurors, Victoria Armstrong, came to Mr. Jones' lawyers during trial and told them that she had overheard another juror comment that "*they should just place [Jones] in a box in the ground for what he has done.*" The petition also states that in 2017, the same juror who had reported these concerns during trial told Mr. Jones' legal team that reported that another juror had stated "they should just take the n***** out and shoot him behind the jail". The petition indicates that none of these jurors were removed; and that these instances demonstrated that racial prejudice played a role in Mr. Jones' being ultimately sentenced to death.

7. Generally, the petition alleges that Mr. Jones' conviction and sentence are byproducts of systemic racism plaguing the courts of the state of Oklahoma. The petition claims that from the start, Mr. Jones' case was characterized in racial terms. In this regard, the petition claims that an arresting officer called Mr. Jones a racial slur as he was arresting him. The petition also asserts that the district attorney Robert "Cowboy" Macy, who prosecuted Jones's case, described the case against Mr. Jones in expressly racial terms, announcing "a Black man had killed a white man in a white neighborhood."

8. Broadly, the petition alleges that criminal proceedings against Mr. Jones were conducted in violation of his rights under Articles II (right to guarantee of equal protection before the law without distinction based on race), XVIII the (right to a fair trial), XXVI (right to due process of law) of the American Declaration.

9. According to the petition, Mr. Jones has been on death row since his conviction. The petitioner indicates that at the time of filing (November 16, 2021), Mr. Jones had been scheduled to be executed on November 18, 2021. According to the petition, the state of Oklahoma uses lethal injections as its method of execution. The petition submits that this method had been proven cruel and inhumane and for five years

executions had been suspended. The petition indicates that on October 28, 2021, the state of Oklahoma resumed executions, using lethal injections that were claimed to assure a painless death. However, the petition claims that the state of Oklahoma now uses three drugs for its lethal injection: Midazolam (an anesthetic); Pancuronium Bromide (a muscle paralyzer); and Potassium Chloride (which causes ventricular fibrillation). The petition contends that since the resumption of executions, the drug Midazolam has been largely responsible for causing painful deaths of persons being executed. In this regard, the petitioner cites the execution of John Marion Grant (“Mr. Grant”) which took place on October 28, 2021. The petitioner mentions that a witness to the execution (a reporter for the Associated Press), reported that after Midazolam was administered to Mr. Grant, he began to convulse, and then vomited twice. The petitioner further indicates that Mr. Grant continued to have convulsions before he died. The petition generally submits that the lethal injection used by the state of Oklahoma is inhumane, and if applied to Mr. Jones, would violate his right to be free from cruel, infamous, and unusual punishment (as well as his right to life).

10. The petition also indicates that on September 13, 2021, the Oklahoma Pardon and Parole Board voted, in a 3-1 decision to recommend the commutation of Mr. Jones’ death sentence to life imprisonment. However, Oklahoma Governor Kevin Stitt declined to accept this recommendation, stating in a letter that a clemency hearing would be a more “appropriate venue” to determine whether Mr. Jones should remain on death row. According to the petition, this clemency hearing for Mr. Jones clemency hearing was originally scheduled for October 26, 2021, but was postponed to November 1, 2021, after Mr. Jones and other death row inmates filed an emergency appeal challenging the safety and efficacy of the state of Oklahoma’s execution protocols. After that emergency appeal was denied⁵, the petitioner contends that the state of Oklahoma executed another death-row inmate on October 28, 2021, in a botched execution in which the inmate repeatedly convulsed and vomited before losing consciousness.⁶

11. The petition further indicates that on November 1, 2021, the Oklahoma Pardon and Parole Board again voted (3-1) to recommend the commutation of Mr. Jones’ death sentence to life imprisonment. At the time of filing, the petition indicates that the Governor Stitt had not acted on the recommendation of the Oklahoma Pardon and Parole Board.

12. Generally, the petition submits that Mr. Jones has pursued appeals and applications for post-conviction relief in both state and federal courts, but that all these appeals and applications have been denied. For the most part, the petition is silent on the chronology or other details of these court proceedings.⁷ In this regard, there are no judgments or rulings provided by the petitioner on any of these court proceedings.

Position of the State

13. The State submits that on November 18, 2021, the Governor of Oklahoma commuted the death sentence of Mr. Jones to life imprisonment without the possibility of parole. The State also notes that the Commission had granted precautionary measures in favor of Mr. Jones which were subsequently lifted (following the commutation of Mr. Jones’ death sentence).

14. The State submit it does not appear that these developments have been considered by the Commission in continuing to process the petition. Further the State asserts that it does not appear that the petitioner has updated the petition to reflect these developments; or indicated any continued interest in pursuing the petition.

15. The State submits that the Commission must consider whether supervening information renders this matter inadmissible or out of order pursuant to Article 34 of the Commission’s Rules of Procedure.⁸

⁵ The petition does provide any information on which court heard and dismissed the emergency appeal.

⁶ This appears to be a reference to the execution of Mr. Grant (previously mentioned by the petitioner).

⁷ The petition makes reference only to an online news article entitled “US Supreme Court Rejects Oklahoma Death Row Inmate’s Appeal,” which appears in on the website of the Associated Press, and is dated April 2, 2019) <https://apnews.com/c802112b780649339bef2c0d3e3b2a59>

⁸ The State does not address any of the other complaints contained in the petition.

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

16. The Commission notes that this petition deals mainly with the possible impact of the death penalty on the alleged victim. In this regard, the petition contends that the manner of execution (lethal injection) would violate Mr. Jones' right to life and to humane treatment. Secondly, the petition alleges that the criminal proceedings that led to the conviction and death sentence generally violated his right to due process together with other associated rights, including the right to equal protection under the law.

17. Article 31 (1) of the Commission's Rules of Procedure provides that for a petition to be admissible the Commission shall verify whether the remedies of the domestic legal system have been pursued and exhausted in accordance with the generally recognized principles of international law. This requirement ensures the State the opportunity to hear the alleged violation of a protected right and, if applicable, settle the issue before it is brought before an international body settle human rights complaints within its own system of justice before being addressed by an international body.

18. Regarding the application of the death penalty, the Commission notes that Mr. Jones was scheduled to be executed by the state of Oklahoma on November 18, 2021, and that the petition on his behalf was filed on November 16, 2021. The Commission further notes that the petition contained an application for precautionary measures seeking to prevent Mr. Jones' execution pending the adjudication of his petition. The requested precautionary measures were granted on November 17, 2021. According to the State, the death sentence imposed on Mr. Jones was commuted to life imprisonment on November 18, 2021. This has not been disputed by the petitioner. Based on this information, the alleged victim is no longer at risk of being executed (or being executed in a manner that could be inhumane). Accordingly, it would appear to the Commission that the petition's complaints in this regard have effectively been redressed domestically; and that as a result, the issue of exhaustion of domestic remedies has now been rendered moot, based on Article 34 (c) of the Rules of Procedures.

19. Regarding the petition's complaints about the criminal proceedings the Commission notes that the petition alleges that Mr. Jones has pursued appeals and applications for post-conviction relief in both state and federal courts, but that all these appeals and applications have been denied. However, the petition has not provided any information on the chronology or other details of these court proceedings.⁹ In this regard, the petition does not include any judgments or rulings arising from any of these proceedings in state and federal courts. Given the absence of this information, the Commission is unable to conclusively verify whether the alleged victim pursued and exhausted remedies with respect to his complaints; or whether these remedies were ineffective in addressing the petition's complaints. The Commission considers that an unfavorable result does not prove in and of itself the lack of suitability or effectiveness of these remedies.

20. Based on the foregoing, the Commission is also unable to verify whether the petitioner is entitled to any exception to the requirement to exhaust domestic remedies. Accordingly, the Commission considers that in relation to the petition's complaints (regarding the failure of due process and associated claims), the petition is inadmissible for failure to comply with the requirements of Article 31 (1) of the Commission's Rules of Procedure.

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

⁹ The petition makes reference only to an online news article entitled "US Supreme Court Rejects Oklahoma Death Row Inmate's Appeal," which appears in on the website of the Associated Press, and is dated April 2, 2019) <https://apnews.com/c802112b780649339bef2c0d3e3b2a59>

VII. DECISION

1. To find the instant petition inadmissible.
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 29th day of the month of December, 2023. (Signed:) Margarete May Macaulay, President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón, and José Luis Caballero Ochoa, Commissioners.