

Inter-American Human Rights

Moot Court Competition

Mitchell Henderson

(Petitioner)

V.

The City of Kefalaio

(Respondent)

Memorial for the Petitioners

TABLE OF CONTENTS

STATEMENT OF FACTS.....	2
Factual Background.....	2
LEGAL ANALYSIS.....	3
Article 7.....	3
Article 8.....	5
Article 24.....	6
Article 25.....	7
REQUEST FOR RELIEF.....	9

INDEX OF AUTHORITIES

IACHR Hypothetical (The Record)

LEGAL ARTICLES

UNECE – Intellectual Property and Anti-trust.....7

Actio Popularis- The Class Action in International Law.....8

LEGAL CASES

Ethiopia v. South Africa; Liberia v South Africa.....7

STATEMENT OF FACTS:

In January 2013, the City of Kefalaio signed into law the *Restoration of Community Act* in hopes of reducing the rates of homelessness within the City by outlawing vagrancy and acts of panhandling¹. The act provided a Homeless to Work program that placed individuals in one of two training programs based off of their medical and mental evaluations, for 120 days².

Individuals who were arrested for panhandling were afforded the option of enrolling in said program or face being prosecuted for their original charge in violating the Restoration of Community Act. Violation of the rules or dismissal from the program results in prosecution of the individual's original offense, and imprisonment for an average of 2 weeks. Those who complete the program get housing for 6 months and job referrals. The program has a completion rate of 95%³.

Mitchell Henderson was a farm laborer who was injured in an accident that left him with a broken leg and the loss of 3 fingers. He was unable to return to work and was compensated for the accident, which he used to move to Kefalaio to find a new job. After being unable to hold a job, Henderson fell homeless in 2013, and was arrested for violating the Restoration of Community Act. Henderson enrolled in the Homeless to Work program to avoid prosecution⁴. Henderson's evaluations revealed mild PTSD and residual impairments from his leg injury and finger amputations. Henderson was required to attend physical therapy three times a week and

¹ Section 6 of the Record

²Section 8 of the Record

³Sections 11,12,13 the Record

⁴ Section 13,14,15 of the Record

take his medication every morning or he would be dismissed from the program. He was enrolled in the public works program⁵.

Henderson requested a lighter dosage as the current prescription left him in a “mental fog,” but was denied. Henderson also felt as though the public works program was not the best option for him, as his leg injury agitated him throughout his physical therapy. He decided to stay with his current program for an additional two weeks after being denied a transfer to the hospitality program. The grounds for denial were based on similar physical demands, and his PTSD would hinder his ability to work in customer service⁶.

Mitchell then called his brother and wanted to move with him in the state of Notios, where the Restoration Act nor the Homelessness to Work program are implemented. Henderson was dismissed from the Homeless to Work program and proceeded to be charged in violating the Restoration of Community Act in which he was sentenced to one week imprisonment, which is only half of the average time served by other individuals⁷.

LEGAL ANALYSIS

Article 7

It is noted in the record, and recognized by the Supreme Court of Athlima that Henderson admitted guilt to violating the Restoration of Community Act, and did so under no duress by the City of Kefalaio⁸. This invalidates the assumption that Kefalaio violated Article 7, Section 3 of the American Convention of Human Rights which stipulates “No one shall be subject to arbitrary arrest or imprisonment.” The arrest and imprisonment of Mr. Henderson was not random or

⁵ Sections 16,17,18 of the Record

⁶ Sections 19,20,21 of the Record

⁷ Sections 21,23 of the Record

⁸ Section 24 of the Record

arbitrary, as he was panhandling, which is a direct violation of the Restoration of Community Act⁹. Also, Henderson was notified with every request for change that he would be released from the program, which would result in prosecution for original offenses.

Section 4 of Article 7 states, “Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him,” and works in conjunction with Section 5, “Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time..”. The State is not at fault under these circumstances. Henderson was arrested in 2014, and was promptly given the option of enrolling in the Homeless to Work program or face prosecution. After failing to complete the program the Court of Kefalaio was notified, and Henderson was charged the next day, proving promptness and efficiency under Section 5¹⁰. The petitioner was also notified numerous times on the consequences of violating the rules or withdrawing from the program, and the charges he would face. Henderson admitting guilt also proves he understood and was aware of his charges, thus invalidating the alleged violation by the State of Section 4 in Article 7.

Henderson, although may not have been aware, did have other options besides the Homeless to Work program. As provided by the government of Athlima, Henderson could have signed up for welfare or some sort of disability assistance¹¹. These options were not explicitly

⁹ Section 6 of the Record

¹⁰ Sections 23,24 of the Record

¹¹ Q2 of Clarification Questions

denied of him. It is also stated in Section 21 of the Record that Henderson had a sibling who was willing to take him in, and a possible alternative before homeless¹².

Article 8

Under Article 8 of the American Convention of Human Rights, the City of Kefalaio followed Due Process of the law. Section 1 explains clearly “Everyone has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent and impartial tribunal...” Henderson was given a prompt hearing overseen by the Kefalaio Court. Henderson clearly violated the law with public vagrancy, and he was aware of that and was sentenced to only one week of imprisonment. The punishment given to the petitioner is proportional to the crime, as the average time of imprisonment served is only 2 weeks¹³.

Sections 2d and 2e of Article 8 provide the “victim” with the right to counsel, whether private or provided by the state, and the right to defend himself. This process is also spelled out in Section 24 of the Record. The state was in compliance with these sections as Henderson was indeed afforded the right to counsel as stated in Section 24 of the Record. Henderson “felt he had violated the law” and, under no duress or coercion by the State, waived his right to counsel, which is also in accordance to Section 3 of Article 8 which states “A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.”

As previously stated Henderson was made fully aware of his consequences and the charges to come, which invalidates the State's alleged guilt under Section 2b of Article 8. He was notified while submitting many requests to authorities in charge of his plan in the program that he would be dismissed from the program as well as the prosecution he would face upon

¹² Section 21 of the Record

¹³ Sections 13, 24 of the Record

dismissal. The State takes no fault as he was conscious of his decisions, the consequences, and as a result admitted to being guilty.

Henderson was able, and did, appeal to a higher court. The petitioner contacted the Human Rights Kefalaio, who then filed a motion of appeal to the Athlimian Supreme Court¹⁴. The Record shows in Section 26 that The Athlimian Supreme Court denied this motion on the ground that Henderson was not under any state of duress or force by the State. The HRK then proceeded to file for Constitutional relief from the Restoration Act under the Kefalaio district Court¹⁵. With these statements from the Record and Section 2h of Article 8, which stipulates the right to appeal to a higher court, the City cannot be held accountable for violation.

Article 24

Equal protection under the law is provided to individuals under Article 24. The Article clearly states “All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.” It is stated in Section 32 of the Record that the City took corrective action in revising the program. Additional funding was added to the Homeless to Work program to better accommodate those with disabilities. These accommodations were made in the form of a Disability Track that extended the training program by 30 days¹⁶. The Athlimian Supreme Court recognized no fault in institutionalization of those with disabilities under Section 31 of the Record.

Despite Henderson’s failure to complete the program, it was still highly successful and had a percentage rate of 94 in helping participants find jobs after completing the program. 26%

¹⁴ Sections 25, 26, 30 of the Record

¹⁵ Section 27 of the Record

¹⁶ Section 32 of the Record

of participant in the program showed to have some sort of disability upon enrollment and 25% of those with some sort of disability completed the program¹⁷. The State acted in good faith by providing a work program for those who were homeless, and took corrective action when needed. The State of Athlima is not economically inclined and cannot provide assistance for each individual disability, but did prove successful at providing general intervention and training for those who did participate.

Article 25

The City believes providing reparations are not appropriate under this circumstance. Henderson cannot claim Unjust Enrichment, which is defined as “when a person unfairly gets a benefit by chance, mistake or another's misfortune for which the one enriched has not paid or worked and morally and ethically should not keep¹⁸.” The Petitioner was not exploited, used for money, or forced to enroll in the program¹⁹. Participants of similar programs i.e. hospitality or public works, are not providing any financial benefit for the state other than reducing the rates of homelessness. The program is not privately run and does not contribute to any profits, in fact it is run by the government and costs them what little money they actually have²⁰. It is stated in Section 6 of the Record the intentions of the Restoration Act and the Homeless to Work program, which is to reduce the homeless population and remedy the complaints of local business owners. There is no sign of profits gained by the government thus far.

¹⁷ T1 Q3, T2 Q2 of the Clarification questions

¹⁸ UNECE- Intellectual property and Anti-trust

¹⁹ *Ethiopia v. South Africa; Liberia v. South Africa*

²⁰ Section 6 of the Record

International law also does not recognize *Actio Popularis*²¹, which is a class action lawsuit brought by a third party on the behalf of the public interest as a whole. When the motion to appeal the conviction of Henderson was denied by the Athlemian Supreme court, the HRK then filed for constitutional relief on behalf of all disabled citizens²². Their argument stating the Restoration Act discriminated against those with disabilities, and resulted in “unjust institutionalization.”²³ All individuals enrolled in the program are subject to the same treatment and regulations. They all go through examination to determine their program placement as well as dismissal if any rules are violated. No one is exempt from dismissal guidelines, or due process laws while in the program. It was noted in Section 31 of the Record that there was no unjust institutionalization of those with disabilities by the Restoration Act.

Article 25 provides individuals the right to “simple and prompt recourse” and “to develop the possibilities of judicial remedy.” This can be seen in the form of revising the program to better accommodate the disabled within the homeless population²⁴. There is also the high success rate of the program, and Henderson was not directly or purposefully exploited for the benefit of the government or any authorities²⁵. With success rates being exceptionally high the Court should not discontinue the program that helps the rehabilitation of many homeless individuals. Killing the program can result in homeless populations increasing yet again, and many people will not get the same opportunities for a better life like other participants have previously received.

²¹ *Actio Popularis*- The Class Action in International Law

²² Section 27 of the Record.

²³ Section 28 of the Record.

²⁴ Sections 30,31 of the Record

²⁵ Section 13 of the Record

REQUEST FOR RELIEF

Due to the reasons stipulated in this argument and for the interest of the remaining homeless population, the State respectfully requests the denial in repealing the Restoration of Community Act. Furthermore, the state requests the denial in providing reparations and damages for Mitchell Henderson, as well as individuals with disabilities who were also detained by the program.