

**INTER-AMERICAN HUMAN RIGHTS
MOOT COURT COMPETITION**

**MITCHELL HENDERSON ET. AL
(PETITIONERS)**

V.

**THE REPUBLIC OF ATHLIMA
(STATE)**

**MITCHELL HENDERSON MEMORIAL
(PETITIONERS)**

TEAM 5

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STATEMENT OF FACTS

Factual Background

Mitchell Henderson is a 43-year-old man who by trade had been a farm laborer. But in the summer of 2012, Mitchell was involved in a traumatic accident that resulted in a broken left leg and the loss of three fingers on his dominant hand. The injuries prevented Mitchell from reentering his career as a farm laborer. He was awarded modest compensation for the work-related incident.¹ Mr. Henderson didn't lament on his misfortune and automatically begin panhandling for money. He took the very modest workers compensation and relocated to the bustling city of Kelafaio in hopes of finding work.

14 million people live in Kefalaio, which is half the population of Athlima. Although land reforms throughout the 20th century sought to bring more economic equality to the country, wealth concentration remains a challenging problem with a Gini coefficient of 0.62. 1% of the population holds 60% of the nation's wealth.² This gross inefficiency of wealth management in the nation didn't allow Mr. Henderson much room to progress after his accident. An annual census revealed that the homeless population Kefalaio did increase by over 50 percent in 2010.³ It is the responsibility of the government to make sure that the citizens that elect them are being taken cared of. So as to prevent the current situation where 1% of the population holds 60% of the wealth and 50% percent of the population are homeless. That is inappropriate and inexcusable way of governing for an OAS chartered member.

In June 2014 when Mr. Henderson was arrested for panhandling in downtown Kefalaio, the authorities gave him two choices. Either face prosecution and jail time in which after he was

¹ Hypothetical Paragraph 13

² Hypothetical Paragraph 2

³ Hypothetical Paragraph 5

released he would have no other options but to return to panhandling or enroll in the Homeless to Work Program. After enrolling in the program, Mr. Henderson was given an evaluation by the authorities. During the initial evaluation, Mitchell was noted as having physical disabilities to include residuals of a left leg injury and the amputation of three fingers on his dominant hand. He was also assessed as having mild post-traumatic stress disorder (PTSD) resulting from the accident.⁴ That means the State knew of Mr. Henderson's physical disabilities yet chose to enroll him in the Public Works training program. The more arduous of the training programs, they even rejected a request by Mr. Henderson to move to the Hospitality Services training program. Which would have been less physically taxing on Mr. Henderson's body.

Through his mental therapy, Mitchell learned that the symptoms of his PTSD were likely the reason he was unable to maintain a job. He learned of the symptoms of PTSD and identified how they impeded his employment. The medication was helpful in relieving many of the symptoms, but Mitchell felt the medication was too strong and often left him in a mental fog. When he requested that his medication be reduced, he was told he had to take what was prescribed or be dismissed from the program.⁵ Besides the physical impediments that prevented Mr. Henderson from completing the program, there was his PTSD. Which is recorded and known to both the program leaders and the state. Once again Mr. Henderson shows that he is committed to completing the program course and being a valuable member of society, and yet the authorities were not helpful. They dismissed him, even threatened to kick him out of the program just for suggesting that he receive a lower dosage, so that he could perform better.

⁴ Hypothetical Paragraph 16

⁵ Hypothetical Paragraph 19

After receiving the denial to transfer programs, Mitchell stuck with the public works training for two more weeks. However, he felt the training was intolerable. Mitchell called his brother and discussed the situation with him. His brother, Francis, agreed to come to Kefalaio to pick him up and bring him to his home in the southern state of Notios within the Republic of Athlima.⁶ Mitchell informed the staff of the Homeless to Work program of his plans. The staff informed him this would be considered grounds for dismissal from the program and they would have to inform the Kefalaio court, which would proceed with prosecuting his violation of the Restoration of Community Act. Mitchell told them he could not physically continue in the program and was going to leave Kefalaio with his brother so they did not have to worry about him remaining homeless or panhandling.⁷ Mr. Henderson understood that leaving the program would be a violation of the Restoration of Community Act, but he had no criminal or indecent intentions. He provided the staff of the program with knowledge of his plans after leaving the program. Prosecution was no longer necessary because he was not a threat to the law or the business owners of Kefalaio.

LEGAL ANALYSIS

Mitchell Henderson was charged with violating the Restoration of Community Act and he did turn down the opportunity to have legal counsel represent him. But I believe that was due to the mental stress he was under with being charged as a criminal. He didn't believe himself to be a criminal and thought that the judicial system would agree with him.

On February 23, 2015, the Athlima Supreme Court found that the work training program discriminated against those with disabilities. The Court ordered the program to implement a

⁶ Hypothetical Paragraph 21

⁷ Hypothetical Paragraph 22

work training program suitable for those with disabilities.⁸ While the Court did not find that the Restoration of Community Act did not inherently try to be unjust in regard to people with disabilities. I believe it is a gross miscalculation on the state's efforts to fully implement the program. Which led to the dismal percentages of success for people with disadvantages.

In May 2015, HRK filed a petition before the Inter-American Commission on Human Rights (Inter-American Commission, Commission, or IACHR), alleging the international responsibility of the Republic of Athlima for the violation of the rights set forth in Articles 5, 7, 8, 24 and 25 of the American Convention, all in conjunction with Articles 1.1 and 2 of the American Convention, to the detriment of Mitchell Henderson and disabled citizens of Athlima.⁹ In September 2016, the Commission issued its report on admissibility and merits (Report 194/2016). The IACHR found violations of articles 7, 8, 24 and 25. It recommended that the State of Athlima invalidate the Restoration of Community Act and implement comprehensive reparation measures to compensate Mitchell Henderson and other disabled Athlimians subjected to the Restoration of Community Act.¹⁰

IACHR VIOLATIONS

The State has been found guilty of four violations of the IACHR Articles. Articles 7, 8, 24, and 25.

Article 7. Right to Personal Liberty

1. Every person has the right to personal liberty and security.

⁸ Hypothetical Paragraph 31

⁹ Hypothetical Paragraph 33

¹⁰ Hypothetical Paragraph 35

2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment.
4. 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.
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 or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for nonfulfillment of duties of support.¹¹

Article 8. Right to a Fair Trial

1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the

¹¹ IACHR Articles

substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:

- a. the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;
- b. prior notification in detail to the accused of the charges against him;
- c. adequate time and means for the preparation of his defense;
- d. the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
- e. the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
- f. the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
- g. the right not to be compelled to be a witness against himself or to plead guilty; and
- h. the right to appeal the judgment to a higher court.

3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.

4. An accused person acquitted by a non appealable judgment shall not be subjected to a new trial for the same cause.

5. Criminal proceedings shall be public, except insofar as may be necessary to protect the interests of justice.¹²

Article 24. Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

Article 25. Right to Judicial Protection

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

2. The States Parties undertake:

- a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
- b. to develop the possibilities of judicial remedy; and
- c. to ensure that the competent authorities shall enforce such remedies when granted.¹³

REQUEST FOR RELIEF

The petitioners for Mitchell Henderson would like comprehensive reparations of one payment installment of \$1,000 US dollars as well 1 mile of land in the state of Notios. With property, farming, agricultural and mineral rights belonging to Mr. Mitchell Henderson. The petitioners would also like for the state to compensate other disabled Athlimians subjected to Restoration of Community Act. In legal accordance with agreements made between the legal

¹² IACHR Articles

¹³ IACHR Articles

counsels or citizens directly that were disabled and affected by the program. Lastly the petitioners would like for the State to revise the Restoration of Community Act program indefinitely. Using the methods that was implemented due to the Athlimian Supreme Court's ruling, that accommodated for the disabled. Which led to an eight percent increase in the completion/graduation rate among those with disabilities.