

**Inter-American Human Rights**

**Moot Court Competition**

**Henderson et al**

**(Petitioner)**

**V**

**The Republic of Athlima**

**(Respondent)**

**MEMORIAL FOR THE RESPONDENT**

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American Convention of Human Rights

Moot Court Hypothetical Case

Aceves, William J. () "Actio Popularis - The Class Action in International Law,"University of Chicago Legal Forum: Vol. 2003: Iss. 1,Article 9.Available at:  
<http://chicagounbound.uchicago.edu/uclf/vol2003/iss1/9>

Vohryzek-Griest, Ana T., "Unjust Enrichment Unjustly Ignored: Opportunities and Pitfalls in Bringing Unjust Enrichment Claims Under ICSID" (2008).Student Scholarship Papers. Paper 72. [http://digitalcommons.law.yale.edu/student\\_papers/72](http://digitalcommons.law.yale.edu/student_papers/72)

## Statement of Facts

In January of 2013 the City of Kefalaio passed and signed in to law the Restoration of Community Act<sup>1</sup>. The Act outlawed public vagrancy and panhandling, but provided that first time offenders could elect to enroll in the Homeless to Work program instead of facing prosecution<sup>2</sup>. The program would train individuals in either hospitality service or public works based off an initial medical and mental evaluation<sup>3</sup>. As part of the program, if any physical or mental impairments were found, the individual would be given proper treatment<sup>4</sup>. Dismissal from the program would subject an individual to the prosecution of the original violation pursuant to the Restoration of Community Act<sup>5</sup>. After completing the program, graduates would be provided housing and job counseling service for 6 months<sup>6</sup>.

In June of 2014 Mitchell Henderson was arrested for public vagrancy and panhandling in front of a store in downtown Kefalalio<sup>7</sup>. Instead of facing prosecution for violating the Restoration of Community Act, Mr. Henderson voluntarily enrolled in the Homeless to Work program<sup>8</sup>. During the program, Mr. Henderson complained about the training he had been selected for, as well as his required treatment for mental and physical disabilities found during his initial evaluation<sup>9</sup>. After some time, Mr. Henderson informed the staff of the program that he would not be

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<sup>1</sup> Hypothetical para 6.

<sup>2</sup> Hypothetical para 6.

<sup>3</sup> Hypothetical para 7.

<sup>4</sup> Hypothetical para 7.

<sup>5</sup> Hypothetical para 11.

<sup>6</sup> Hypothetical para 12.

<sup>7</sup> Hypothetical para 15.

<sup>8</sup> Hypothetical para 15.

<sup>9</sup> Hypothetical para 19, 20.

able to continue the program and that he would be leaving the program's campus shortly<sup>10</sup>. On August 30th, 2014, based off his intention to leave the program, Mr. Henderson was dismissed<sup>11</sup>.

On September 14th, 2014 after waiving his right to legal counsel, Mr. Henderson pleaded guilty to violating the Restoration of Community Act and began serving a one week sentence<sup>12</sup>.

## LEGAL ANALYSIS

### Statement of Jurisdiction

As a party to the American Convention on Human Rights, the republic of Athlima has a clear mandate to conform to the rulings, mandates, and responsibilities of the convention and the resulting rulings of the Inter-American Court on Human Rights.[1] Additionally, Athlima is treaty bound to respect the sovereignty of the court on matters of human rights violations and conform to the rulings and damages thereafter.

### Article 7

The Republic of Athlima did not violate Mitchell Henderson's Right to Personal Liberty. Section 2 states that 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<sup>13</sup>. The Restoration of Community Act was passed in January of 2013<sup>14</sup>, and was widely publicized<sup>15</sup>. Mitchell Henderson became homeless in October of

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<sup>10</sup> Hypothetical para 22.

<sup>11</sup> Hypothetical para 23.

<sup>12</sup> Hypothetical para 24.

<sup>13</sup> American Convention of Human Rights - Article 7

<sup>14</sup> Hypothetical para 6.

<sup>15</sup> Clarification Questions #11.

2013,<sup>16</sup> six months after the law was passed, and arrested in June of 2014<sup>17</sup>, 18 months after the law was passed. His arrest was not arbitrary: He was caught in the act of panhandling in front of a store in downtown Kefalaio<sup>1819</sup>. Mr. Henderson knew when he enrolled in the Homeless to Work Program that if he did not successfully complete the program he would be returned to court to face the original charges. His announcement that he was going to leave the program meant that he would not be completing it, which gives Athlima the right to prosecute him. He was dismissed on August 30, 2014 and brought before a judge in a competent court promptly on September 14, 2014<sup>2021</sup>. Everything the Republic of Athlima did in Mr. Henderson's case was in compliance with Article 7.

### Article 8

The Republic of Athlima honored Mitchell Henderson's right to a fair trial. After the initial arrest in June of 2014, Mr. Henderson chose to forgo a trial and enroll in the Homeless to Work Program, pursuant to the Restoration of Community Act<sup>22</sup>. After his dismissal from the program, Mr. Henderson was brought before the court on September 14, 2014, where he was presumed innocent. Prior to his trial he was informed of his right to obtain legal counsel, including the right to a public defender, but Mr. Henderson waived that right and chose to proceed without counsel<sup>23</sup>. He pled guilty, as he felt he had violated the law, and there is absolutely no

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<sup>16</sup> Hypothetical para 14.

<sup>17</sup> Hypothetical para 15.

<sup>18</sup> American Convention of Human Rights - Article 7.3

<sup>19</sup> Hypothetical para 15.

<sup>20</sup> Hypothetical para 23, 24.

<sup>21</sup> American Convention of Human Rights - Article 7.5

<sup>22</sup> Hypothetical para 15.

<sup>23</sup> Hypothetical para 24.

evidence of coercion of any kind<sup>24</sup>. Everything that the Republic of Athlima did was in accordance with Article 8.

#### Article 24

Mitchell Henderson was treated equally under the law in accordance with Article 24. Everyone who is caught panhandling or demonstrating public vagrancy is arrested under the Restoration of Community Act<sup>25</sup>. First time offenders are afforded the opportunity to enroll in the Homeless to Work program, and Mr. Henderson was afforded that opportunity<sup>26</sup>. Everyone who enters the program has to undergo an initial medical evaluation for physical and or mental impairments. If any impairments are found, treatment or therapy would be mandatory during the duration of the program<sup>27</sup>. Mr. Henderson underwent this initial evaluation and was found to have both physical and mental impairments, for which he received treatment, the same way anyone else would<sup>28</sup>. The fact that Mr. Henderson did not like his treatment is irrelevant because a) he is not a medical professional and is in no position to judge if the treatment is working or not; and b) the treatment is mandatory by the Restoration of Community Act. This is the same for everybody who enters the program. We acknowledge that Mr. Henderson had extraordinary problems completing the program, but 26% of the people enrolled in the program had some sort of mental or physical impairment or both, and only 1% did not graduate. This is clear evidence that the Homeless to Work program does not discriminate against those who are disabled. The Republic of Athlima knows that there is no perfect program, but the Republic of Athlima is a

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<sup>24</sup> Hypothetical para 24.

<sup>25</sup> Hypothetical para 6.

<sup>26</sup> Hypothetical para 6.

<sup>27</sup> Hypothetical para 7.

<sup>28</sup> Hypothetical para 16, 17.

small country with a per capita GDP of \$18,000<sup>29</sup>, the Homeless to Work program is the best program that the State can provide.

### Article 25

Mitchell Henderson is asking for reparations due to his time spent in the Homeless to Work program<sup>30</sup>. This is inappropriate because in order for in order to receive reparations in this case the Republic of Athlima must have engaged in unjust enrichment<sup>31</sup>. There are five requirements for unjust enrichment: an enrichment, an impoverishment, a connection between the two, absence of a justification for the enrichment and the impoverishment, and an absence of a remedy provided by law<sup>32</sup>. The Republic of Athlima was not enriched by Mr. Henderson's time in the Homeless to work program. Rather, the Republic of Athlima spent tremendous amounts of money, time, and effort providing Mr. Henderson with free room and board, free job training, and free medical treatment. Mr. Henderson was not impoverished, but even if he had been, the justification for it is the Restoration of Community Act, passed 18 months before Mr. Henderson's arrest. These two factors prove that no unjust enrichment occurred, and therefore no reparations are due.

The Petitioner is also asking for reparations for every disabled person who has been enrolled in the Homeless to Work program. This is not the proper forum to ask for such a thing because international law does not recognize *Actio Popularis* or actions brought by an individual

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<sup>29</sup> Hypothetical para 2.

<sup>30</sup> Hypothetical para 35.

<sup>31</sup> Vohryzek-Griest, Ana T., "Unjust Enrichment Unjustly Ignored: Opportunities and Pitfalls in Bringing Unjust Enrichment Claims Under ICSID" (2008). Student Scholarship Papers. Paper 72. [http://digitalcommons.law.yale.edu/student\\_papers/72](http://digitalcommons.law.yale.edu/student_papers/72)

<sup>32</sup> Vohryzek-Griest, Ana T., "Unjust Enrichment Unjustly Ignored: Opportunities and Pitfalls in Bringing Unjust Enrichment Claims Under ICSID" (2008). Student Scholarship Papers. Paper 72. [http://digitalcommons.law.yale.edu/student\\_papers/72](http://digitalcommons.law.yale.edu/student_papers/72)



on behalf of others<sup>33</sup>. For reparations to be paid to other people within the program, they would have to bring their own case to court, the petitioner can not do so themselves.

### The Homeless to Work Program is a Good Program

Removing the Homeless to Work Program would be a mistake. The program has done a tremendous amount of good for the community. Primarily it has drastically reduced the amount of public vagrancy and panhandling in the city of Kefalaio, leading to greater economic output for the business owners in the city. Many of the homeless people who were in violation of the Restoration of Community Act had undiagnosed mental and or physical impairments. Through the Homeless to Work Program, these people are afforded treatment for those impairments at no cost to them. Without the program, many people would not be able to get the treatment that they need. The program provides homeless with vocational training, as well as room and board, not only for the duration of the program, but for six months afterwards as well. Removing the program would force these people back on the street with no payable skills and no hope for bettering their situation. The program works. It had a 95% completion rate, and the completion rate is only getting better since the changes that the State implemented in late February of 2015<sup>34</sup>. And finally, this is a program that the people wanted. Before the Restoration of Community Act and the Homeless to Work Program, the people in the community complained of lost economic tourism due to the public vagrancy and panhandling done by the homeless. Since the program, 10,000 new jobs have been created<sup>35</sup> and many of the programs graduates are finding gainful employ-

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<sup>33</sup> Aceves, William J. () "Actio Popularis - The Class Action in International Law,"University of Chicago Legal Forum: Vol. 2003: Iss. 1,Article 9.Available at: <http://chicagounbound.uchicago.edu/uclf/vol2003/iss1/9>

<sup>34</sup> Hypothetical para 13, 31.

<sup>35</sup> Clarification Questions #1

ment. If the program were not working, the people of Kefalaio would demand another answer. The fact that they haven't shows that what the State has in place now works.

Request for Relief

Because of the reasons stipulated in this argument, and in the interest of the public good, the Republic of Athlima humbly requests that this court deny reparations and damages for Marshall Henderson and for other people with disabilities who enrolled in the Homeless to Work program. Furthermore, we request that the court reject the request to repeal the Restoration of Community Act.