

INTER-AMERICAN HUMAN RIGHTS
MOOT COURT COMPETITION

MITCHELL HENDERSON

(VICTIM)

VS

THE REPUBLIC OF ANTHLIMA

(RESPONDENT)

MEMORIAL FOR THE STATE

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STATEMENT OF FACTS

Factual Background

The Republic of Athlima(hereafter called “the State” or “Athlima”) is currently in the process of trying to rid itself of the homeless problem that began plaguing the country in 2010 following the completion of the Junior International Rugby Federation finals.¹ The businesses sales were affected by the presence, appearance, and panhandling activities of the homeless who began to move into the area at the time of the event.¹ A census taken showed a rise in homeless populations by 50%.¹ Using the example of the 2010 Junior International Rugby Federation finals the businesses preemptively ask for implementation of law that would prevent the same result from occurring during the 2018 finals.² The city council then purposed the bill only to have it veto’d by the mayor because of a lack of a non-judicial alternative for punishment.² With pressure from the businesses the National Assembly drafted The Restoration of Community Act that outlawed public vagrancy and panhandling, but allowed first time offenders the option to enroll in the City’s Homeless to Work program instead of face prosecution.² It must be noted that if a person failed to complete or was dismissed from the program that they would be subjected to original prosecution of the Restoration of Community Act³, which carried an average penalty of 2 weeks imprisonment.⁴

Mitchell Henderson is a 43 year old ex farm laborer who was employed up until an accident left him disabled and unable to return to work.⁴ After draining his compensation money attempting to find a job in the city of Kefalaio, Mitchell was charged with violation of the Restoration of Community Act after he was found panhandling outside a sporting goods store in July 2014.⁵ Mitchell elected to enroll in the work program and was placed into a public works

¹ Hypothetical Paragraph 5

² Hypothetical Para. 6

³ Hypothetical Para. 11

⁴ Hypothetical Para. 13

⁵ Hypothetical Para. 15

program.⁶ Mitchell felt he could not continue so he notified the staff of the Homeless to Work program of his intent to leave the program to live with his brother Francis.⁷ He was informed that would lead to his dismissal from the program and would constitute a violation and would be subject to the original punishment for breach of the Restoration of Community Act.⁷ Mitchell was dismissed and court was notified on August 30, 2014.⁸ The next day(August 31, 2014) Mitchell was charged with violating the terms of the agreement and pleaded guilty to the offense and served 1 week jail-time.⁹ Francis contacted Human Rights Kefalaio(HRK) about the case.¹⁰ A lawyer from HRK contacted Mitchell and told him they would appeal the conviction but they were notified on January 14, 2015 that their appeal was denied on the grounds that Mitchell had pleaded guilty on his own accord.¹⁰ The HRK then filed a petition for relief on behalf of all disabled citizens and was granted a hearing in November 2014.¹¹ The court ruled in favor of the State so the HBK filed an appeal to the Athlima Supreme Court and was granted a certification.¹² The Supreme Court found that the state had discriminated against people with disabilities but also noted that the act itself did not result in the unjust institutionalization of people with disabilities.¹³ HBK then filed a petition with IACHR. They recommended that the State retract the law and compensate Mitchell accordingly, however the State did not retract the law and insisted they had acted correctly within the parameters of the law.¹⁴

⁶ Hypothetical Para. 18

⁷ Hypothetical Para. 22

⁸ Hypothetical Para. 23

⁹ Hypothetical Para. 24

¹⁰ Hypothetical Para. 26

¹¹ Hypothetical Para. 27

¹² Hypothetical Para 30

¹³ Hypothetical Para. 31

¹⁴ Hypothetical Para 33-35

LEGAL ANALYSIS

1- ADMISSIBILITY

1.1 Notification of the Law

According to the Hypothetical Clarification Questions and Answers number 11¹⁵, Mitchell Henderson was clearly informed of the law due to it being widely publicized within the homeless communities. This was an effort by the State do right by the population and ensure that the affected persons were properly notified of the new law and the repercussions that could result from its breach. By enrolling in the program Mitchell was directly informed by the state of the terms and conditions of the program, in which he willingly chose to submit to following his arrest.⁵

1.2 Waiver of Right to Legal Counsel

In accordance with the the laws of Athlima and the American Convention, Mitchell Henderson was offered the right to legal counsel following his breach of the agreement with the court. He declined the counsel citing his own guilt as the reason for waiving his rights. This is a clear admission of guilt citing Mr. Henderson knew he had failed in his agreement and was accepting the punishment for his actions.⁹

2- ARGUMENTS ON THE MERITS

2.1- The State Did Not Violate the Right to Humane Treatment

According to Article 5 Subsection 6 in the American Convention, “Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.”¹⁶ Mr. Henderson was given a punishment that fit his crime with the ultimate goal of reforming his behavior, as not to conflict with the law again at a later date.

¹⁵ Hypothetical Case Clarification Questions #11

¹⁶ American Convention Article 5

Though the implementation of the new law the State was seeking to curb the behavior of panhandling in preparation for the 2018 Junior International Rugby Tournament.

2.2 The State Did Not Violate Right to Personal Liberty

In accordance with the American Convention article 7¹⁷, Mr. Henderson was afforded the reading of the charges levied against him, a quick trial and was afforded the availability of standing in front of a competent court on multiple levels. In Hypothetical Case paragraph 24⁹ it states that Mr. Henderson was charged with violating the terms of his program the next day after his declared intention to halt his participation.

2.3 The State Did Not Violate The Right to Judicial Protection

According to Article 25 of the American Convention “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.”¹⁸ Mr. Henderson was clearly afforded multiple recourse trials for he alleged violation of his rights. It is the opinion of the IACHR that he was not given such.

3- REQUEST FOR RELIEF

Based on the statements above the State respectfully requests the Court:

- a) Dismiss the IACHR alleged infringements of the petitioners rights.
- b) Allow the State to reinstate its judgement on the petitioner
- c) Allow the State to continue to enforce the Restoration of Community Act

¹⁷ American Convention Article 7

¹⁸ American Convention Article 25