

THE 2024 EUGENE SCASSE MOCK OAS PROGRAM
INTER-AMERICAN COURT OF HUMAN RIGHTS MOOT COURT COMPETITION

IN THE INTER-AMERICAN COURT OF HUMAN RIGHTS

April 2024

Geraldo Karlsson

Petitioner

v.

The Republic of Notusa

Respondent

MEMORIAL FOR THE STATE

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
INDEX OF AUTHORITIES.....	3
STATEMENT OF JURISDICTION.....	4
STATEMENT OF FACTS.....	5
PLEADINGS.....	7
I. <u>THE STATE DID NOT VIOLATE THE RIGHTS OF GERALDO KARLSSON</u>	
A. Article 5: Right to Humane Treatment	7
B. Article 7: Right to Personal Liberty.....	7
C. Article 13: Freedom of Thought and Expression.....	8
D. Article 15: Right of Assembly, Article 16: Freedom of Association.....	9
E. Article 22: Freedom of Movement and Residence.....	
II. <u>THE STATE URGES THE IACHR COURT TO OBSERVE GERALDO</u>	
 <u>KARLSSON IN THE STATE’S PERSPECTIVE</u>	
A. IACHR’s Jurisdiction.....	10
B. Article 13: Freedom of Thought and Expression.....	10
REQUEST OF RELIEF.....	11

INDEX OF AUTHORITIES

American Convention of Human Rights.....	<i>passim</i>
ESMOAS 2024 Hypothetical Case.....	<i>passim</i>
ESMOAS 2024 Hypothetical Case Clarification Questions.....	<i>passim</i>
<i>Ríos et. al. v. Venezuela</i>.....	7
<i>Counterman v. Colorado</i>.....	<i>passim</i>

STATEMENT OF JURISDICTION

The Republic of Notusa is a founding member of the Organization of American States (OAS) in 1948. Notusa is a ratified member-state of the American Convention on Human Rights, and adheres to the contentious jurisdiction of the Inter-American Court of Human Rights.

STATEMENT OF FACTS

The Republic of Notusa is a founding member of the Organization of American States, and is further largely invested in other predominant international organizations, such as NATO and the UN¹. Following his retirement as a highly esteemed investigative journalist, Geraldo Karlsson continued a life of journalism for entertainment purposes with a focus on conspiratory related headlines². Upon developing a following for his platform titled, “Fighting for the Truth”, Mr. Karlsson quested for more estranged headlines. On December 15, 2021, Mr. Karlsson hosted his broadcast, however, with this broadcast containing threatening conspiracies regarding the institution of Notusa, in that the government was in possession of alien-derived substances³. The “Fighting for the Truth” stream consisted of a notion to uncover mysteries to the general public, using language that antagonized the viewers to retaliate at an organized, scheduled event. This event, scheduled and taking place on 5 January 2022, took place at the Verboten Funfzig⁴. Initially beyond the property limits, the rally intensified until riots subsequently broke out, resulting in the deaths of federal officers as well as civilians in attendance⁵.

The result of the incited-disorder on 5 January 2022 lead to the apprehension and arresting of Mr. Karlsson in conviction of First Degree Sedition and Treason⁶. After conviction, multiple civil suits originating from victims were additionally administered with two of them being settled outside the court⁷. After a year since the case came to fruition, Mr. Karlsson sought third-party assistance through the Inter-American Commission on Human Rights, holding that the Republic of Notusa violated Articles 5.3, 5.6, 7.6, 13, 15, 16, and 28 under the American

¹ Hypothetical Case ¶ 5

² Hypothetical Case ¶ 6 & 7

³ Hypothetical Case ¶ 9 & 30

⁴ Hypothetical Case ¶ 9 & 10 & 11

⁵ Hypothetical Case ¶ 11 & 12

⁶ Hypothetical Case ¶ 15

⁷ Hypothetical Case ¶ 17 & 18

Convention on Human Rights.⁸ Notusa responded in denial to these violations, further alleging Mr. Karlsson's violation of Article 13.2 while maintaining the rights of Article 28 of the American Convention.⁹

⁸ Hypothetical Case ¶ 20

⁹ Hypothetical Case ¶ 22

PLEADINGS

I. THE STATE DID NOT VIOLATE THE RIGHTS OF GERALDO

KARLSSON

A. Article 5: Right to Humane Treatment

The state recognizes that under Article 5, every person has the right to fair detainment when facing any form of criminal charges¹⁰. Specifically, the petitioner alleges that the state violated Mr. Karlsson's Article 5.3 and Article 5.6 rights. In regard to Article 5.3, state holds that, while others were also involved, the detainment of Mr. Karlsson is lawful due to the subsequent retaliation following his inciting broadcast. Following standard implemented through *Ríos et. al. v. Venezuela*, the institutions of Notusa were linked to the threats made by Mr. Karlsson which allows for the lawful, justified sentencing¹¹. As far as Article 5.6, the state holds that as there has been no pertinent evidence nor claims backing the alleged inhumane treatment of Mr. Karlsson, thus finding the supposed violation of article 5.6 dilatory.

B. Article 7: Right to Personal Liberty

The Republic of Notusa promotes its proud obligation to the American Convention on Human Rights. In turn, the state adheres to all provisions regarding the deserved rights of life prescribed, and further reverence the work of the court in delivering justice to any individual in need of it. This court is highly observed by the Republic of Notusa, and provides its gratitude towards Article 28 of the American Convention. This federal clause grants any contracting state the undeniable right of possessing individual, intrinsic legislation¹². Following a thorough investigation by the state, the carefully crafted sentence has been administered in response to the actions committed by Mr. Karlsson. The implementation of Article 28 in the American

¹⁰ Article 5 of the American Convention on Human Rights

¹¹ "*Ríos et Al. V. Venezuela*." n.d.

¹² Article 28 of the American Convention on Human Rights

Convention allows the state to conclude that there is no more action to be taken by any further judiciary, as any further jurisdiction is redundant, unnecessary, and an encroachment of sovereignty. This article validates the domestic sedition laws in place in Notusan statute, and again, not requiring an adjustment to the verdict.

C. Article 13: Freedom of Thought and Expression

The catastrophic results from 5 January 2022 are a direct result of Mr. Karlsson's broadcasting. Per the language used in Mr. Karlsson's "Fighting for the Truth", the State holds that the objective reasonable person standard can be applicable to decipher the instance of incitement. As seen in *Counterman v. Colorado*, the vocalization of an idea that can have a potential threat attached conveys a message of engendered protest.¹³ In the case of the harasser, Mr. Counterman, the court rejected his notion that Mr. Counterman individually had to understand the menacing demeanor of his message in order for his words to be unlawful. Mr. Karlsson was aware of the said potential threat of his words that were broadcasted to a national audience, as he did not even attend the 5 January 2022 event singularly, compared to every other event he organized in which he was present. Argued in *Counterman v. Colorado* by the court, the judiciary ruled, "...the existence of a threat depends not on the mental state of the author, but what the statement conveys to the person on the receiving end."¹⁴ The state turns to evaluate some language derived from the 15 December 2021 "Fighting for the Truth" broadcast while keeping in mind the objective reasonable person standard. Upon examining quotes from multiple excerpts, instances such as, "I'm calling for all listeners to gather up, gear up.", "...the only way to uncover the truth is to take bold action...", "...waiting for us to uncover..."¹⁵ These statements, when taken together and within the context of Mr. Karlsson's national broadcasts clearly

¹³ Syllabus, *Counterman*, and *Colorado*. 2023. "SUPREME COURT of the UNITED STATES."

¹⁴ *Ibid*.

¹⁵ Hypothetical Case ¶ 29 & 30

demonstrate a deliberate intent to encourage and incite his audience towards aggressive and potentially unlawful retaliatory actions against the Verboten Funfzig, thereby fulfilling the legal threshold for incitement as established in *Counterman v. Colorado*. The malicious fixation for retaliation on the federal institution of Verboten Funfzig, as well as the presumable desire to retaliate against the state as a whole, is blatantly communicated through Mr. Karlsson’s “calls to action”. Digesting Mr. Karlsson’s ambiguous claims regarding the national security directives of the Republic of Notusa will unquestionably be translated as language with threatening character, leaving Mr. Karlsson liable for any actions committed by the recipient of the message. Furthermore, in an attempt to de-escalate the potentially ensuing, yet inevitable tribulation, the state and its various actors warned Mr. Karlsson a multitude of times to terminate broadcastings with such various hoaxes and conspiracies, and Mr. Karlsson failed to do so.

D. Article 15: Right of Assembly, Article 16: Freedom of Association

Mr. Karlsson is credited to the organization of the protests that occurred on 5 January that resulted in civilian and federal deaths, as well as trespassing on federal property. While not physically at the protest on 5 January 2022, the state holds that Mr. Karlsson has direct responsibility for developing, organizing, and publicizing the rally and is thus responsible through association. Specifically, Mr. Karlsson provides an admission of guilt in organizing the event in one of his earlier broadcasts, verbatim-ly stating, “That’s why I’ve set a date — on January 5 I’m calling for all listeners...”¹⁶.

¹⁶ Hypothetical Case ¶ 30

E. Article 22: Freedom of Movement and residence

The state affirms that article 22 is irrelevant to this case. While it is acknowledged that Mr.Karlsson was not in physical attendance of the event, as stated earlier, Mr. Karlsson has direct responsibility for developing, organizing, and publicizing the rally and is thus responsible.

II. THE STATE URGES THE IACHR COURT TO OBSERVE GERALDO KARLSSON IN THE STATE’S PERSPECTIVE DID NOT VIOLATE THE RIGHTS OF GERALDO KARLSSON

A. IACHR’s Jurisdiction

As argued prior, the state affirms that this court lacks jurisdiction in this litigation, given Article 28 allows for Mr.Karlsson’s conviction of Notusan sedition laws. Additionally, found in the IACHR’s request for relief, a reduction in sentencing is a logical admission of guilt by the IACHR, in that there is no request to prove innocence¹⁷.

B. Article 13: Freedom of Thought and Expression

Given the undoubted correlation of Mr. Karlsson to the trespassing of the Verboten Funfzig, Mr. Karlsson is in violation of Article 13.2, precisely in that he is liable for his message on 15 December 2021 by applying the objective reasonable person standard.

¹⁷ Hypothetical Case ¶ 23(i)

REQUEST FOR RELIEF

For the above stated reasons, the Republic of Notusa respectfully asks that the court to:

- I. Declare that the Republic of Notusa did not violate Articles 5.3, 5.6, 7.6, 13, 15, 16, and 28 under the American Convention on Human Rights;
- II. Uphold the ruling of the Notusan Supreme Court and respect the twenty-year sentencing of Mr. Karlsson.