

TO THE HONORABLE MEMBERS OF THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
ORGANIZATION OF AMERICAN STATES:

P-243-09

PETITION ALLEGING VIOLATIONS OF THE HUMAN RIGHTS
OF RICHARD S. LEHMAN BY THE REPUBLIC OF PANAMA,
WITH A REQUEST FOR AN INVESTIGATION AND HEARING ON THE MERITS

SUPPLEMENT

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SUBMITTED: MAY _____, 2009

I. INTRODUCTION

Richard S. Lehman, by and through undersigned counsel, respectfully seeks to supplement his Petition against Panama, No. P-243-09, filed on March 9, 2009. As requested in the April 15, 2009 letter to Mr. Lehman from Santiago A. Canton, Mr. Lehman issues this communication in Spanish, translated from the attached English original.

In his petition, Mr. Lehman described multiple violations of his human rights caused by the ongoing and systematic abuse and corruption of the judicial system in Panama. At the time Mr. Lehman filed his petition, he was unaware that another fundamental right—his freedom of expression—was also under attack from the continuing manipulation of the courts in Panama.

Specifically, on February 27, 2009, the Second Superior Court of the First Judicial District issued an order shutting down an internet website operated by Mr. Lehman. Mr. Lehman used the website to communicate with the public in Panama and elsewhere about his efforts to fulfill the final wishes of Wilson Charles Lucom, who left nearly his entire estate to the poor children of Panama, and about how the judicial system of Panama is being abused in efforts to stop him. The purported basis for the Superior Court's order is the complaint against Mr. Lehman that the Supreme Court of Panama declared groundless on October 8, 2008. The Superior Court's order, therefore, violates both Mr. Lehman's freedom of expression and his right to judicial protection under the American Convention, which Panama has ratified.

This incident, described in more detail below, further demonstrates that the violations of Mr. Lehman's human rights by Panama are ongoing even when the Supreme Court of Panama grants him judicial relief.

II. SUPERIOR COURT AGAIN IGNORES SUPREME COURT

As set forth in Mr. Lehman's petition, on August 28, 2007, Hector Infante filed a complaint against Mr. Lehman charging offenses "against honor and defamation." (Pet. 7-8.) Mr. Infante's allegations were based on deposition testimony Mr. Lehman gave in a proceeding in Palm Beach County, Florida. (Exh. 11.) Despite the fact that Mr. Lehman's testimony was privileged, based on Mr. Infante's allegations, the Fourteenth Circuit Prosecutor in Panama issued a warrant for Mr. Lehman's arrest ("Extortion/Defamation Warrant"). (Pet. 7-8.) On November 26, 2007, the Second Superior Court of the First Judicial District denied Mr. Lehman's Habeas Corpus petition, declaring the Extortion/Defamation Warrant to be legal. (Pet. 8.)

On October 8, 2008, however, the Supreme Court of Panama en banc unanimously reversed the Superior Court. (Pet. 8.) The Supreme Court ruled that "in the Court's judgment, . . . the factual and legal bases in support of the preventive detention order against RICHARD SAM LEHMAN and the probative elements that thus far have been provided in the investigation are not sufficient to establish there is a crime." (Exh. 12.) The Extortion/Defamation Warrant was thus declared illegal. (Exh. 12.)

Mr. Lehman was nevertheless arrested pursuant to the Extortion/Defamation Warrant on February 6, 2009, following a meeting at which he announced that a "united fund" of charities providing aid to poor children of Panama would receive funds from Mr. Lucom's estate. (Pet. 9-10.) This false arrest (the "first false arrest") violated Mr.

Lehman's fundamental human rights, including the right to judicial protection and the right to be free from arbitrary arrest. (Pet. 16-18.) Article 25 of the American Convention provides that States shall undertake "to ensure that the competent authorities shall enforce . . . remedies when granted." (Pet. 18.) Yet Mr. Lehman's false arrest was pursuant to a warrant the Supreme Court had declared illegal and based on allegations the Supreme Court declared groundless 15 months prior to his arrest. (Pet. 18.)

Since filing his petition to the Commission, Mr. Lehman has been subjected to another violation of his right to judicial protection against violations of fundamental rights, this time his freedom of expression. Article 13 of the American Convention provides that "[e]veryone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice." Moreover, this right to free speech "shall not be subject to **prior censorship.**" Art. 13(2) (Emphasis added).

On June 16, 2008, the Thirteenth Criminal Circuit Court for the First Judicial Circuit of Panama denied Mr. Infante's motion to shut down Mr. Lehman's website, www.lucom-ninospobresdepanama.com. This website contained information about Mr. Lucom's bequest to the poor children of Panama and the abuse of Panama's judicial system to disrupt execution of Mr. Lucom's will. The website included a report Mr. Lehman sent to the Attorney General of Panama listing the ongoing abuses. (Pet. 8 & Exh. 21.) An exhibit to that report contains the same statements made by Mr. Lehman at his deposition in the Florida proceeding cited by Mr. Infante in his August 28, 2007 complaint against Mr. Lehman. (Exh. 11.)

Mr. Infante appealed the criminal court's decision. Mr. Lehman was unaware both of Mr. Infante's request to shut down the website and his appeal of the criminal court's denial of his motion. Mr. Lehman's attorney in Panama was not served notice of the appeal. (Mr. Infante may have served a former attorney whom he knew had been discharged by Mr. Lehman.) Mr. Lehman, therefore, was not given the opportunity to appear and participate in the any part of the proceeding, including the appeal.

On February 27, 2009, the appeal was heard by the Second Superior Court of the First Judicial District, which reversed the criminal court and ordered the seizure of Mr. Lehman's website. (Exh. 30.) The Superior Court, again ignoring the October 8, 2008 ruling of the Supreme Court that Mr. Infante's charges were groundless, ordered the confiscation of the entire website because of one exhibit to Mr. Lehman's report to the Attorney General of Panama. This is another violation of Article 25 of the American Convention, which secures the right to judicial protection against violations of fundamental rights. The Supreme Court's ruling is again not being enforced. First, Mr. Lehman was arrested despite the Supreme Court's ruling and now his freedom of expression has been violated through the Superior Court's prior restraint of all the information on Mr. Lehman's website. Article 13 the American Convention specifically prohibits prior restraint of free expression.

Mr. Lehman's website that told the world about corruption in the Panama courts was shut down by a corrupt Panamanian court that chose to ignore the Panama Supreme Court's Order.

Mr. Lehman has notified the Supreme Court that the Second Superior Court has again ignored its ruling. (Exh. 31.) As set forth in his petition, however, past requests to competent authorities in Panama to stop the ongoing abuse of Mr. Lehman's human rights have either gone unanswered or were ineffective. (Pet. 13.)

Based on his petition and this supplement, Petitioner respectfully requests the Commission to declare his petition to be admissible; mediate a settlement and, if no settlement can be reached, investigate the situation, with hearings and witnesses as necessary; declare Panama in violation of Mr. Lehman's human rights; and recommend appropriate remedies, including compensation.

Respectfully submitted,

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