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REPORT No. 202/19
PETITION 55-12
REPORT ON ADMISSIBILITY

MARK ALLEN TAYLOR AND FAMILY
UNITED STATES OF AMERICA

Approved by the Commission at its internal session held on December 6, 2019 in
San Salvador, El Salvador

Cite as: IACHR, Report No. 202/19, Petition 55-12. Admissibility. Mark Allen Taylor and family.
United States of America. December 6, 2019.



I. INFORMATION ABOUT THE PETITION

Petitioner:	Janet Parker
Alleged victim:	Mark Allen Taylor and family
Respondent State:	United States of America ¹
Rights invoked:	No (relevant) Articles specified ²

II. PROCEEDINGS BEFORE THE IACHR³

Filing of the petition:	January 11, 2012
Additional information received at the stage of initial review:	March 19, 2012, November 25, 2012, January 1, 2013, January 8, 2016
Notification of the petition to the State:	January 8, 2016
State's first response:	December 6, 2016
Additional observations from the petitioner:	May 12, 19, 20, 23, 28 and 31, 2016, June 27, 2016, July 18, 2016, December 18, 2016, January 16, 2017, August 16, 2017
Additional observations from the State:	April 18, 2017

III. COMPETENCE

Competence <i>Ratione personae</i>:	Yes
Competence <i>Ratione loci</i>:	Yes
Competence <i>Ratione temporis</i>:	Yes
Competence <i>Ratione materiae</i>:	Yes, American Declaration of Rights and Duties of Man ⁴ (ratification of the OAS Charter on June 19, 1951)

IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL *RES JUDICATA*, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

Duplication of procedures and International <i>res judicata</i>:	No
Rights declared admissible	Articles I (life, liberty and personal security), II (Equality before law), IV (freedom of investigation, opinion, expression and dissemination), V (protection of honor, personal reputation, and private and family life), VI (family and to protection thereof), XI (preservation of health and well-being), XVII (recognition of juridical personality and civil rights), XVIII (fair trial), and XXV (protection from arbitrary arrest) of the American Declaration
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes (in terms of Section VI)
Timeliness of the petition:	Yes (in terms of Section VI)

¹ Hereinafter "USA", "US", or "United States".

² The petitioner invoked various rights under the American Convention, but the State is not a signatory to this instrument.

³ The observations submitted by each party were duly transmitted to the opposing party.

⁴ Hereinafter "the American Declaration".

V. ALLEGED FACTS

1. This petition is filed by Dr. Janet Parker, DVM, on behalf of Mark Allen Taylor (“Mr. Taylor” or “the alleged victim”). According to the petitioner, since 2009 the alleged victim has been systematically forced to undergo psychiatric treatment without consent in violation of his right to personal liberty and physical integrity.

2. By way of background, the petitioner states that in 1999, the alleged victim was shot and injured during the mass shooting that took place at Columbine High School, Colorado where he was a student. According to the petitioner also sustained post-traumatic stress disorder (PTSD) as a result of this event. The petitioner indicates that Mr. Taylor successfully recovered from his injuries, and was able to manage his PTSD without psychiatric treatment. In this respect, the petitioner affirms that in the decade following the shooting Mr. Taylor became an activist speaking out against the use of psychotropic medications⁵, and was considered to be a “whistleblower”.

3. In 2009, the petitioner alleges that on two occasions, Mr. Taylor was arrested in Colorado Springs, Colorado and placed in mental hospitals. On both occasions, the petitioner alleges that psychotropic drugs were administered to Mr. Taylor without his consent. According to the petitioner, Mr. Taylor’s arrests were based on anonymous tips to the police⁶. The petitioner states that Mr. Taylor was ultimately released from these hospitals⁷, but forced to continue with the medication as an outpatient. The petitioner alleges that Mr. Taylor was subsequently hospitalized several times as result of adverse effects to the medication⁸. Between January 2010 and March 2011, the petitioner states that Mr. Taylor was hospitalized in Arizona, initially because of seizures⁹. According to the petitioner, Mr. Taylor was ultimately diagnosed with schizophrenia while institutionalized in Arizona, and administered medication without his consent. The petitioner claims that the drug regime imposed on Mr. Taylor has produced adverse effects, including difficulty in talking, thinking, and eating.

4. The petitioner claims that the medical status of the alleged victim generated litigation both in Arizona and in Colorado¹⁰ in regard to his guardianship and care¹¹, which was ultimately resolved in favour of Mr. Taylor’s father by the Denver Probate Court¹². The petitioner claims that in granting temporary

⁵ In this regard, the petition contends that (a) Mr. Taylor was shot by Eric Harris, one of two shooters; (b) Eric Harris was on an anti-depressant drug called Luvox, and that this drug induced his violent behavior. Based on this, the petitioner alleges that Mr. Taylor (and others) sued the pharmaceutical company called Solvay, which manufactures the drug. According to the petitioner, Mr. Taylor also wrote a book about his experiences, and up to 2009, making multiple appearances in the electronic media.

⁶ In relation to the first arrest, the petitioner claims that the anonymous tip claimed that Mr. Taylor had written a letter saying that that he would “bomb a bookstore in Colorado Springs. For the second arrest, the petitioner claims that the anonymous tip claimed that “Mark is acting weird”.

⁷ In relation to the first arrest, the petitioner states that Mr. Taylor was detained at Peak Vista Mental Hospital for a month. In relation to the second arrest, the petitioner indicates that Mr. Taylor was detained at the State Hospital in Pueblo, Colorado, but gives no indication as to the duration.

⁸ The petitioner states that on two occasions, the alleged victim was hospitalized because of Selective serotonin reuptake inhibitors (SSRI) withdrawal syndrome and another time for Serotonin Syndrome.

⁹ The petitioner attributes these seizures to “Neuroleptic Discontinuation Syndrome”, which she says may occur when discontinuing or withdrawing from a psychiatric medication that affects the brain’s serotonin level.

¹⁰ In relation to the Arizona litigation, the petitioner alleges that in 2010 there was a secret hearing by the Arizona Public Fiduciary Office for the appointment of a temporary guardian for Mr. Taylor; and that notice of this hearing was not sent to neither of Mr. Taylor’s parents.

¹¹ According to the petitioner, the Arizona Superior Court, in 2011, initially appointed a “Public Fiduciary” as Mr. Taylor’s guardian, but later granted temporary guardianship to Mr. Taylor’s brother Todd Taylor. The petitioner complains that this Public Fiduciary refused to share any medical records (relating to Mr. Taylor) with his mother or her attorney. Upon Mr. Taylor’s return to Colorado in March 2011, the Denver Probate Court granted temporary guardianship to Mr. Taylor’s mother. According to the petitioner, the temporary guardianship was for 60 days, following which Mr. Taylor’s mother would be required to file a guardianship report and other documentation to obtain permanent guardianship. The petitioner states that the lawyer representing Mr. Taylor’s mother refused or neglected to file these documents.

¹² According to the petitioner, in November 2011, the Denver Probate Court conducted a hearing on the guardianship of Mr. Taylor, when it awarded temporary guardianship to Mr. Taylor’s father. The petitioner complains that the Denver Probate Court did not address a number of pertinent issues, including the issue of informed consent (to being medicated); the issue of adverse effects of the medications;

guardianship to Mr. Taylor's father, the Denver Probate Court failed to take into account (a) the fact that Mr. Taylor's father had been uninvolved with his son's care for a period of at least four years; and (b) the preferences of Mr. Taylor in the selection of a guardian. The petitioner also claims that while Mr. Taylor's mother acted as his temporary legal guardian, she was not informed of the guardianship hearings to be able to participate. Additionally, petitioner claims that his mother Donna Taylor, was deliberately kept from seeing her son nor she was consulted by any of the institutions on the treatment of her son.

5. According to the petitioner, on his return to Colorado, the alleged victim continued to be periodically institutionalized or treated as an outpatient for the purpose of involuntary psychiatric treatment. In 2014, the petitioner also filed a complaint on this matter to the United Nations pursuant to the Optional Protocol to International Covenant on Civil and Political Rights (ICCPR)¹³.

6. The State rejects the petition as inadmissible on the ground that (a) the petitioner is not authorized to represent Mr. Taylor; (b) the petition fails to state facts that might characterize violations of the American Declaration; and (c) that the petitioner has failed to exhaust domestic remedies. In relation to the issue of representation, the State contends that the petitioner's authority to present a petition to the IACHR was premised on the guardianship rights of Mr. Taylor's mother. When Mr. Taylor's mother lost her guardianship rights in 2011 (to Mr. Taylor's father), the State argues that this effectively terminated the petitioner's authority to represent Mr. Taylor before the IACHR. As regards the issue of characterization, the State notes that the petition invokes a number of rights under the American Convention and that the State is not a party to this Convention¹⁴. Apart from this, the State contends that the petitioner provides no clear or coherent evidence to support any violations of the American Declaration. In any event, the State submits that the Commission is not qualified to pronounce on the medical diagnosis or treatment of the alleged victim.

7. On the matter of exhaustion of domestic remedies, the State contends that no judicial steps were taken to challenge the Denver Probate Court's decision to deny guardianship to Mr. Taylor's mother¹⁵. The State also observes that during the Court's hearing, both Mr. Taylor and Mr. Taylor's mother were represented by (separate) counsel who would have been well placed to advise on challenging the Court's decision. In the absence of any judicial challenge, the State concludes that the petitioner failed to exhaust domestic remedies.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

8. According to the record, the complaints relating to the guardianship and care of the alleged victim (including the alleged forced hospitalization/psychiatric treatment) was litigated in Arizona and Colorado, culminating in a decision in 2011 by the Denver Probate Court to award temporary guardianship and custody to the father of the alleged victim. The State contends that it was open to counsel for Donna Taylor or Mark Taylor to appeal the decision of the Denver Probate Court but that this step was never taken. However, the petitioner contends that (a) there exists a lack of access to effective remedies where victims, such as the presumed victim, cannot access the courts due to their mental disability and/or drug induced incapacitation (b) during critical points, Mr. Taylor's mother was denied access to the medical records relating to her son¹⁶; (c) the Denver Probate Court did not address a number of pertinent issues, including the issue of informed

and the issue of whether the diagnosis of schizophrenia was correct. The petitioner also complains that Mr. Taylor was not allowed to attend court to identify the parent he preferred as guardian.

¹³ A copy of this complaint was received by the IACHR Secretariat on October 14, 2014. However, the IACHR notes that the United State is not a signatory to the Optional Protocol to the ICCPR.

¹⁴ The State also notes that the petitioner invokes violations of other instruments to which the US is not a party, such as the Convention Against Torture.

¹⁵ In this regard, the State notes that the Denver Probate Court found that Mr. Taylor suffered from schizophrenia; and that he was an incapacitated person. According to the State, the Court also found that Mr. Taylor's identified needs could not be met at that time by a less restrictive means than hospitalization; and that he was unable to manage property and business affairs; and further, that he was unable to effectively receive or evaluate information or communicate decisions. In relation to Mr. Taylor's mother, the State asserts that the Court had "grave concerns" about her, finding that "she does whatever her son wants to do without taking into account what's best for him".

¹⁶ During the guardianship proceedings in Arizona.

consent (to being medicated); the issue of adverse effects of the medications; and the issue of whether the diagnosis of schizophrenia was correct; (d) that Mr. Taylor's mother was not informed and therefore had no access to participate in the guardianship hearings stripping her rights to access to justice and due process guarantees for the effects of temporary and permanent appointed guardianship, and (e) that her lawyer representing before the Denver Probate Court refused or neglected to file the documents necessary to convert her temporary guardianship to permanent guardianship; and (f) Mr. Taylor was not allowed to attend court to identify the parent he preferred as guardian.

9. The Commission observes that the petitioner has argued that the Mr. Taylor and his mother have effectively been denied adequate or any due process with regard to Mr. Taylor's situation of forced hospitalization/medication. Given these circumstances the Commission concludes, without prejudging the merits of the case, that the exception to the rule of exhaustion of domestic remedies contained in article 31.2(b) of its Rules of Procedure is applicable to the present case. Given that the petition was filed when, according to the allegations, the denounced human rights violations were still taking place, the Commission also concludes that the petition was filed within reasonable time in the terms of article 32.2 of its Rules of Procedure.

VII. ANALYSIS OF COLORABLE CLAIM

10. The petitioner contends that the State did not provide the due process guarantees required to ensure the protection of the rights of Mr. Taylor and his mother throughout the judicial processes in which decisions were made pertaining Mr. Taylor, including those of a medical nature. In this regard, the petitioner alleges that these forced psychiatric interventions were authorized by the State, in violation of Mr. Taylor's right to personal liberty and the right to physical integrity. On the other hand, State contends that the petitioner provides no clear or coherent evidence to support any violations of the American Declaration; and that the Commission is not qualified to pronounce on the medical diagnosis or treatment of the alleged victim.

11. Based on the elements of fact and law submitted by the parties and the nature of the matter brought before it, and the paramount importance of the principle of free and informed consent for all forms of medical treatment, the Commission finds that, should the alleged facts be proven, they could tend to establish violations of Articles I (liberty and personal security), II (Equality before law), IV (freedom of investigation, opinion, expression and dissemination), V (protection of honor, personal reputation, and private and family life), VI (family and to protection thereof), XI (preservation of health and well-being), XVII (recognition of juridical personality and civil rights), XVIII (fair trial), and XXV (protection from arbitrary arrest) of the American Declaration.

VIII. DECISION

1. To find the instant petition admissible in relation to Articles I, II, IV, V, VI, XI, XVII, XVIII, and XXV of the American Declaration and

2. To notify the parties of this decision; to continue with the analysis on the merits; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 6th day of the month of December, 2019. Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández García (dissenting opinion), First Vice President; Antonia Urrejola Noguera, Second Vice President; Margarete May Macaulay, Francisco José Eguiguren Praeli, Luis Ernesto Vargas Silva and Flávia Piovesan, Commissioners.