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REPORT No. 344/23
PETITION 792-21
REPORT ON ADMISSIBILITY

ANTHONY HARRIS
UNITED STATES OF AMERICA

Approved electronically by the Commission on December 29, 2023.

Cite as: IACHR, Report No. 344/23, Petition 792-21. Admissibility.
Anthony Harris. United States of America. December 29, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Anthony Harris
Alleged victim:	Anthony Harris
Respondent State:	United States of America ¹
Rights invoked:	No provisions invoked

II. PROCEEDINGS BEFORE THE IACHR²

Filing of the petition:	May 10, 2021
Notification of the petition to the State:	November 11, 2022
State’s first response:	May 19, 2023

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 (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	Article I (right to security of the person); Article XXV (right to humane treatment); and Article XXVI (right to due process of law) of the American Declaration of the Rights and Duties of Man ³
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

V. ALLEGED FACTS

1. The petitioner, Anthony Harris (“Mr. Harris”) is an inmate of the North Carolina Department of Public Safety. His petition alleges that he was subject to various acts of torture by correctional officers while he was incarcerated at the Plasquotank⁴ Correctional Institution (“PCI”).

2. According to the petition, the alleged acts of torture took place on March 17, 2021, at PCI. The petition indicates that on this day, Mr. Harris was sitting in chair when he was approached by two correctional officers identified as “Sergeant Morris” and “Officer Poyner.” According to the petition, these correctional officers ordered Mr. Harris to get out the chair. When Mr. Harris got out the chair, the petition states that Sergeant Morris blocked his path before initiating a series of physical assaults on Mr. Harris. In this regard the petition states that Sergeant Morris initially (a) placed handcuffs on Mr. Harris improperly (causing

¹ Hereinafter “the United States,” “the U.S.” or “the State.”

² The observations submitted by each party were duly transmitted to the opposing party.

³ Hereinafter “Declaration” or “American Declaration.”

⁴ Based on external research, it appears that this is a misspelling and that the correct name for the correctional institution is “Pasquotank”.

discomfort); (b) threw Mr. Harris to the ground. The petition further indicates that Sergeant Morris, together with Officer Poyner then started to punch and kick Mr. Harris. Further, according to the petition, these correctional officers also used pepper spray and a taser on Mr. Harris.

3. The petition asserts that Sergeant Morris and Officer Poyner, together with other unnamed correctional officers continued to kick and punch Mr. Harris until he was unconscious. Subsequently, the petition indicates that Mr. Harris was dragged across the ground, causing the removal of a chunk of flesh from his shoulder. Mr. Harris states that he was then taken to a room where he continued to be kicked, punched and tased by correctional officers led by Sergeant Morris. According to Mr. Harris he was also pistol-whipped by Sergeant Morris with a taser gun. Mr. Harris also alleges that he was choked while various correctional officers continued to beat him.

4. The petition further alleges that Mr. Harris was later taken to an elevator where he continued to be physically assaulted by correctional officers. According to Mr. Harris, this assault included the ramming of his head into a wall of the elevator. Mr. Harris states that he was subsequently taken to another room where correctional officers continued to punch and kick him all over this body. Mr. Harris indicates that a correctional officer/unit manager called Mr. McAdams was not only present but also kicked Mr. Harris in the head until he lost consciousness. On recovering consciousness, Mr. Harris states that a Nurse Williams checked his vital signs. He further asserts that he received no treatment for, or documentation of his injuries.

5. According to the petition, Mr. Harris was subsequently taken to another elevator where his head was rammed into a wall and beaten again by correctional officers. The petition indicates that Mr. Harris was then taken to a room where correctional officers continued to beat and kick him until he again lost consciousness.

6. Mr. Harris indicates that subsequently the handcuffs were removed by correctional officers, who then pushed hard on his wrist in attempt to fracture it. Mr. Harris further alleges that correctional officers then took turns to assault his genitals with kicks and punches. Mr. Harris alleges that Mr. Adams then forced him to lie on his stomach following which Mr. Adams repeatedly kicked Mr. Harris in the head. Mr. Harris alleges this caused a crack in his skull and a possible blood clot. Mr. Harris further alleges that Sergeant Morris and other correctional officers then attacked him again. The petition states that Sergeant Morris later refused to document the assaults committed on Mr. Harris.

7. According to Mr. Harris, three hours later, he was taken to Polk Correctional Institution for medical treatment. Mr. Harris alleges that upon exiting the car (that took him to Polk Correctional Institution) a correctional officer identified as "Lieutenant or Captain" Sanders took photographs of his injuries. In this regard, Mr. Harris states that photographs taken of: (a) swollen right eye as well as a gash above the eyebrow; (b) swollen left eye; (c) lumps all over his head and face; (d) facial disfigurement; (e) split lip; (f) two teeth knocked out; (g) laceration to finger; (h) chunk of flesh missing from shoulder; (i) cuts and gashes on the right wrist. Apart from these injuries, Mr. Harris also mentions that he suffered from pain in his feet, head and wrist; and that he also had blood in his urine.

8. The petition claims that 24 hours later, Mr. Harris was placed in a detox shower to remove the pepper spray (that had allegedly been applied to him on the previous day). The petition also indicates that Mr. Harris asked for an investigation into the beating/torture that he suffered.⁵

9. The State submits that it does not see any basis for the petition to be considered under the Commission's Rules of Procedure. More specifically, the State argues that the petition fails to meet the requirements of Articles 28 and 21 of the Commission's Rules of Procedure, in that it fails to "identify the steps

⁵ The petition does not indicate when this complaint was made or the result.

taken to exhaust domestic remedies.”⁶ Accordingly, the State submits that the petition should be found inadmissible.

VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

10. In accordance with Article 31(1) of the Rules of Procedure of the Inter-American Commission, for a petition to be admissible, domestic remedies must have been pursued and exhausted pursuant to generally recognized principles of international law. This requirement is aimed at enabling national authorities to take cognizance of the alleged violation of the protected right and, if appropriate, resolve the matter before it is heard by an international body.

11. The State submits that the petitioner has neither invoked nor exhausted available domestic remedies.

12. However, the Commission notes that the petition complains of various acts of torture and physical mistreatment committed by correctional officers on the alleged victim while he was incarcerated in a correctional facility. The Commission has long established that under international standards applicable to cases like this one, where serious human rights violations such as torture and physical abuse are alleged, the appropriate and effective remedy is the filing and the undertaking of an effective criminal investigation aimed at the clarification of the facts and, if necessary, individualize and prosecute the persons responsible. According to the information available, the petitioner complained about the treatment, but it does not appear that any criminal investigation was undertaken by the State, which, in essence, constitutes an exception to the rule of exhaustion of domestic remedies.

13. The Commission also observes that the alleged acts at issue occurred in March 2021, and its effects concerning the alleged lack of investigation and punishment of said acts to the alleged victim continue to this date. As a result, considering the context and the characteristics of this case, the Commission concludes that it has sufficient elements to believe that the exception set forth in Article 31 (2) (b) of the IACHR’s Rules of Procedure is applicable in this case, and that the filing of the petition on May 10, 2021, was done in a reasonable time, under the terms of Article 32 (2) of the IACHR’s Rules of Procedure.

VII. ANALYSIS OF COLORABLE CLAIM

14. In view of the factual and legal elements presented by the parties and the nature of the matter brought to its attention, the Commission considers that the petition is not manifestly unfounded. In this regard, the Commission believes that the allegations regarding: (a) torture and physical abuse of the alleged victim; and (b) the failure of the State to act with due diligence or within reasonable time to investigate and clarify the facts (regarding the alleged torture and physical abuse) are not manifestly unfounded and could characterize possible violations of Article I (right to security of the person); Article XXV (right to humane treatment); and Article XXVI (right to due process of law) of the American Declaration.

VIII. DECISION

1. To find the instant petition admissible in relation to Articles I, XXV, and XXVI of the American Declaration.

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.

⁶ The State provides no further information on the issue of exhaustion of domestic remedies or any specific rebuttals of the claims of the petition.

Approved by the Inter-American Commission on Human Rights on the 29th day of the month of December, 2023. (Signed:) Margarete May Macaulay, President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón, and José Luis Caballero Ochoa, Commissioners.