

THE FACTS

Whereas the facts presented by the applicant may be summarised as follows:

The applicant is a citizen of the United Kingdom, born in 1931 and at present resident at M..

He first wrote to the Commission on 22nd January 1968, complaining that he had been convicted and sentenced to three years' imprisonment for an offence of housebreaking which he had not committed.

He alleged that the trial judge was biased against him and misdirected the jury by distorting the evidence; that his conviction was based only on a vague and insufficient identification by a woman who had been his mistress; and that the police had failed to investigate his alleged alibi. He further complained that the prison authorities had obstructed his correspondence with his solicitor, and that as a result new evidence was not put before the Court of Appeal and his application for leave to appeal rejected. He alleged violations of Article 6, (1), (2) and (3) (b), (c) and (d), and of Article 8, (1) and (2) of the Convention.

His application No. 3542/68 was registered on 8 March 1968. On 31 October 1968, he was sent a letter from the Secretariat asking him to confirm that he intended to maintain his application and to submit any further information which he might wish to put before the Commission. No reply was received to this letter, nor to a similar letter sent by recorded delivery on 18 November 1968. The applicant had stated, in the last letter received from him, dated 6 April 1968, that he would send copies of the transcript of the judge's summing-up at the trial, the notice of appeal with his grounds of appeal and the judgment of the Court of Appeal. On 3 February 1969 nothing further having been heard from the applicant, the Commission decided to strike the application off the list.

A letter dated 7 February 1969 informing the applicant of the Commission's decision, was returned by the prison authorities in London with the remark that his address was not known. However, on 17 March 1969, the applicant wrote from H.M. Prison, Oxford, sending a copy of his petition to the Home Secretary. It appears that he had meanwhile asked a probation officer, Mr. D., to obtain various documents in support of his application and to forward them to the Commission. In a letter dated 3 January 1969, the applicant had sent some of the documents to Mr. D., but there was a delay in obtaining other documents and the letter from Mr. D. enclosing all the documents was sent only on 11 April 1969.

The applicant was subsequently sent another application form, and his new application was registered on 2 June 1969. He was told that it would be necessary for the Commission to decide the date upon which his application would be considered as having been introduced. The application is substantially the same as the previous application, but is supported by considerable documentation.

From the documents submitted, it appears that the applicant was convicted and sentenced on .. March 1966; his applications for leave to appeal and to call further witnesses were refused by the full court of the Court of Criminal Appeal on .. July 1966. Subsequently, he attempted to appeal to the House of Lords, representations were made on his behalf to the Home Secretary, and he made numerous petitions asking for an enquiry into his conviction.

THE LAW

Whereas the Commission referred to its decision of 3 February 1969, by

which it decided to strike application No. 3452/68 off its list of cases; whereas the Commission then considered the question whether or not the applicant was entitled to have this application restored to the Commission's list and to have it examined by the Commission as to the question of its admissibility;

Whereas the Commission has previously held that an applicant may have his application restored to the Commission's list of cases where the circumstances of the case as a whole justify such restoration (cf. application No. 2840/66);

Whereas, in the present case, the applicant had apparently failed to send to the Commission certain documents in support of his application;

Whereas, however, it subsequently appeared that the applicant had in fact sent these documents, while in prison, to a person acting on his behalf in order that they should be forwarded to the Commission; whereas moreover the delay in transmitting the documents does not appear to be attributable to any fault of the applicant; whereas therefore the Commission finds that, in the circumstances, there is a justification for restoring application No. 3542/68 to its list;

Whereas the Commission having regard to the complaints in application No. 4099/69, decided to join the two applications for the purpose of considering the question of their admissibility;

Whereas, in these circumstances, it is to be observed that under Article 26 (Art. 26) of the Convention, the Commission may only deal with a matter "within a period of six months from the date on which the final decision was taken"; and whereas the decision of the Court of Criminal Appeal refusing the applicant's application for leave to appeal, which was the final decision regarding the subject of the applicant's complaints, was given on .. July 1966; whereas application No. 3542/68 was not submitted to the Commission until 22 January 1968, and application No. 4099/69 not until 17 March 1969, that is, in both cases, more than six months after the date of this decision;

Whereas, furthermore, an examination of the case does not disclose the existence of any special circumstances which might have interrupted or suspended the running of that period;

Whereas it follows that the applications have been lodged out of time (Articles 26 and 27 (3) (Art. 26, 27-3), of the Convention);

Now therefore the Commission DECLARES THIS APPLICATION INADMISSIBLE