



**STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION REGULAR MEETING
February 19, 2020, 3:00 p.m.**

Michael A. Bilandic Building
160 N. LaSalle, N-502
Chicago, Illinois

MINUTES

PRESENT:

Commissioners Present

Alternate Chairwoman Kathleen Pantle
Commissioner Robert Loeb
Commissioner Marilyn Baldwin
Commissioner James Mullenix
Commissioner Barry Miller
Commissioner Steven Miller
Commissioner Stephen Thurston
Commissioner Tim Touhy
Alternate Commissioner Autry Phillips

Commissioners Attending via Phone

Commissioner Marilyn Baldwin

Staff on dais

Rob Olmstead (Executive Director)
Michelle Jenkins (Staff Attorney)

Staff in Audience

DeAndrea Brown (Administrative Assistant)

ABSENT:

Alternate Commissioner Craig Futterman

I. Call to Order/Members Present

On February 19, 2020, at approximately 3:00 p.m., the meeting of the Illinois Torture Inquiry and

Relief Commission (TIRC or Commission) was called to order. Chairwoman Pantle called for a vote to allow Commissioner Baldwin to attend the meeting via telephone. Commissioner Touhy so motioned. Commissioner Thurston seconded. The motion was approved by unanimous voice vote. A quorum was established consisting of the following: Commissioners and Alternate Commissioners: Pantle, Loeb, Baldwin, Mullenix, Barry Miller, Steven Miller, Phillips, Touhy and Thurston.

II. Approval of Minutes

Chair Pantle called for a motion to approve the draft minutes of the December 17, 2019, meeting. A motion was made by Commissioner Miller and seconded by Commissioner Mullenix to approve the minutes as written. The minutes were unanimously approved by voice vote.

III. Executive Director's Report

Executive Director Olmstead's report was moved down the agenda until after Commissioners discussed claims.

IV. Claims

1) Griffin, Geoffrey (2013.144-G)

Executive Director Rob Olmstead stated that the claim of Griffin was first considered by Commissioners in April of 2019. Commissioners' votes were split 3/3 with neither enough votes to deny or refer the claim. The claim was tabled until a full commission panel was appointed by the governor's office. Olmstead stated that TIRC now had a full panel of voting Commissioners to reconsider the case and noted that Commissioners who were not present at the April 2019 meeting had been provided the audio recording of that meeting to review to ensure they were aware of the same evidence that the other Commissioners were presented.

Olmstead noted that victim notifications were sent out for this claim and if family members of the victim or for the claimants were present, they would be allowed to address the commission before the vote. He also noted that Staff Attorney Jenkins' recommendation and his recommendation would be abbreviated due to previously being presented to all Commissioners. Olmstead noted that his recommendation was to deny the claim and Jenkins recommended that the claim be referred. Olmstead then outlined the facts of the case.

Griffin was arrested June 15, 2000, for the May 12, 2000, murder of Angela Jones. Another body had been found a few blocks away, and police announced the two murders may be related. Griffin's torture allegations consisted of two key allegations that after he was arrested he was punched in the forehead with a pair of handcuffs by detective Steven Brownfield and then punched again later in the jaw by detective Michael Cummings. Olmstead stated that in Griffin's videotaped statement to police, the mark on Griffin's forehead was noted by a prosecutor and Griffin explained that he incurred the injury approximately 5 days prior at work when a hot overhead filter at Burger King

burned his forehead. At his suppression hearing, Griffin claimed the mark was not caused by a burn but by a punch with a pair of handcuffs approximately 33 hours before his booking photo was taken. Olmstead informed Commissioners that the booking photograph was in their packets. Commissioners examined the photograph.

Olmstead noted that Forensic Pathologist Michael Kaufmann was consulted by TIRC and his examination found that although the photographs were medically inconclusive, the pictures did not exhibit the redness, swelling and puss one would expect with a punch. Due to Commissioners' uncertainty about the first medical assessment at the previous meeting, TIRC staff retained a second forensic pathologist to assess the photograph and other medical evidence. Olmstead informed Commissioners that the expert's assessment concluded that the mark on the forehead was more likely a five-day-old burn rather than a thirty-three-hour old punch mark.

Olmstead stated that his recommendation to deny the claim rested heavily not only upon the two medical experts' opinions, but upon the photograph itself. In addition, he believed Griffin's credibility was lacking.

Staff Attorney Michelle Jenkins, however, recommended the claim be referred to court. She found the detectives' complaint histories persuasive. She also found the Cermak Hospital description of the forehead mark as a "sore" persuasive. She was also persuaded by employers' testimony that they had no record of a burn of Griffin at work. Jenkins reported to Commissioners that Griffin's torture allegations were made early, often, and consistently, including during Griffin's interview with TIRC. She noted that the Commission's standard of decision did not require absolute proof of abuse, only sufficient evidence of abuse meriting judicial review.

Chair Pantle opened the floor for discussion. Commissioner Barry Miller stated that he listened to the audio recording of the previous presentation at which he was not present. He thought that it was a very close case. He felt that the evidence was not fully satisfactory for either referral or dismissal. Barry Miller agreed with the other commissioners that pathology evidence is suggestive but not conclusive. He stated that the absence of a lineup photo is a troubling procedural issue that there was an indication of malpractice by Chicago Police. Nonetheless, Barry Miller was not convinced that Griffin was tortured into confessing to the crime and felt the claim didn't quite meet statutory standard for referral.

Commissioner Loeb asked what happened to the other five murder charges Griffin faced. Olmstead stated Griffin was convicted of a second murder charge and at that point prosecutors declined to prosecute the other charges. Olmstead stated that Griffin was also convicted of another charge of aggravated sexual assault. Commissioners continued to discuss the claim of Griffin.

Chair Pantle asked if there were any family members of the victim present. There were none. Pantle asked there were any claimant family members present. There were none.

Chair Pantle called for a vote. Commissioners Mullenix and Touhy voted to refer the claim to court. Commissioners Loeb, Thurston, Baldwin, Steve Miller, Barry Miller and Pantle voted to dismiss. By a 6/2 vote, Commissioners voted to dismiss the claim of Geoffrey Griffin.

Commissioner Barry Miller requested a slight wording change to a section of the Griffin draft. He and Director Olmstead proposed they leave the meeting to write the section while others considered of the Hatch claim, from which they were not voting on or participating in anyway. Commissioners agreed.

2) Hatch, Jesse (2011.026-H)

Director Robert Olmstead informed Commissioners that this claim was presented at the December, 2019 meeting. He stated that he and the previous Executive Director, Barry Miller, were named defendant in a lawsuit by Hatch alleging discrimination over the length of time necessary to resolve his claim; a lawsuit that was dismissed. Commissioner Barry Miller and Executive Director Olmstead both recused themselves from discussion and consideration of the claim. Olmstead noted he had turned the claim over to Staff Attorney Michelle Jenkins, who investigated it and presented the recommendation.

Jenkins briefly reiterated the facts of the claim. Jenkins stated that Hatch was arrested on August 5, 1980 and interviewed about the underlying crime involving the armed robbery and murder of victim Robert Magoon. Jenkins stated that Hatch was interviewed twice by Detectives Corless and Dignan, ultimately giving an incriminating statement. Hatch's statement was given to ASA Patrick J. Callahan in the presence of Detective Corless. Jenkins stated that Hatch was significantly vocal about torture claims during his voir dire, pre-trial, bench trial, appellate, and post-conviction proceedings, but he did not testify in any of those proceedings. Jenkins stated that Hatch initially lodged his claims of torture during his motion to suppress and repeated the same claims in later post-conviction filings and complaints to IPRA, and TIRC.

Jenkins stated that Hatch's claim form alleged that Det. Gerald Corless and Investigating Officer Dignan tortured him. He alleged having been kicked in the groin, beaten with fists while handcuffed, and being struck in the head. Jenkins stated that Hatch remained consistent between two TIRC interviews and his written accounts of his torture allegations, although he had elaborated some of the details of allegations.

Per Commissioners' request made at the December 2019 meeting, Jenkins conducted more investigation regarding the commutation offer made by a special prosecutor representing the Cook County State's Attorney's Office. Jenkins informed Commissioners that Hatch had provided a copy of 2016 correspondence from his attorney at the time. In that 2016 letter to Hatch, the offer was summarized and discussed in detail.

Jenkins stated that the Special Prosecutor called Hatch's attorney on May 2, 2016 to propose a resolution to the criminal case and she noted that the attorney explained that "the special prosecutor offered to resolve this matter on the following terms: 1. Vacate the conviction, 2. Enter a guilty plea on the first-degree murder charge 3. Release Mr. Hatch for time served, 4. Withdrawal the pending claim before 'this' commission (TIRC). Jenkins stated that Hatch rejected the agreement based on the grounds that the Special Prosecutor wouldn't agree to vacate the conviction without entering a guilty plea and Hatch insisted that he was tortured into confessing to the crime. Jenkins also reiterated Hatch's need to file a *pro se* Amended Motion to Suppress and how uncommon it was to have to file such a motion *pro se*. Jenkins reiterated findings presented at the December 2019 meeting and recommended that the commission refer the claim to court.

Chair Pantle stated that Commissioners had many concerns regarding the commutation offer and the

matter had been tabled for further investigation at the December 2019 meeting. She informed Commissioners that a copy of the letter from Hatch's attorney to Hatch was in the exhibits. Commissioners reviewed the exhibit. Chair Pantle stated that in summary, the offer was a time-served sentence in exchange for a plea of guilty and dropping his TIRC claim. Commissioner Loeb made commentary regarding "credit time served" stated in the letter.

Commissioner Baldwin's call dropped and was immediately dialed back in so she could continue participation in the matter.

Commissioner Steve Miller expressed the need for Commissioners to confirm the offer directly from the Special Prosecutors office. Olmstead, who had rejoined the meeting, informed Commissioners that before he was named a defendant in Hatch's lawsuit, he did confirm in a conversation with special prosecutors that an offer for a reduced sentence in exchange for a guilty plea had been made. Commissioners continued discussion. Chair Pantle asked whether Commissioners had any more questions or comments. There were none.

Chair Pantle invited victim family members to address Commissioners. Terry Magoon urged the Commission not to refer the claim to court. Commissioner Loeb asked whether the family had been notified regarding the plea offer. Magoon stated they were not. Chair Pantle thanked him for his comments. Steven Magoon addressed commissioners and expressed memories of his father and his father's accomplishments in business before being murdered. Robert Magoon Jr., son of the victim, also addressed Commissioners and urged the commission not to refer the claim to court. Carolyn Mullins, the daughter of the victim, addressed Commissioners and read a statement about her memories of her father. She gave her thoughts regarding the torture claim of Hatch. Chair Pantle thanked them for their comments.

Chair Pantle invited family members of Hatch to address the Commission. Dr. Nicole Lofton, the daughter of Jesse Hatch, made comments about the commutation letter for clarity purposes and urged the Commission to refer his claim to court. Chair Pantle thanked her for her comments. Hausey Coleman, the nephew of Jesse Hatch, addressed Commissioners. He noted that he had served in the U.S. Army the past 30 years and he knew his uncle very well. He urged Commissioners to recommend the claim for judicial review. Chair Pantle thanked him for his comments.

Chair Pantle invited Jeanette Samuels, the attorney representing Hatch in his TIRC claim, to address Commissioners. She declined.

Chair Pantle called for a vote. Commissioners voted unanimously to refer the claim for judicial review. Commissioner Barry Miller abstained from voting due to his recusal.

1) Griffin, Geoffrey (2013.144-G)

Commissioner Barry Miller made a motion to include drafted language to the recommendation of Griffin on page 19. Commissioner B. Miller read the proposed new language to insert into the draft to Commissioners. Chair Pantle asked if there was any discussion on inserting the drafted language to the TIRC final opinion in the Griffin case. There was none. Loeb seconded the motion. Commissioners unanimously voted to include the newly drafted language to the Griffin opinion.

Commissioner Baldwin left the meeting via telephone.

III. Executive Director's Report

Executive Director Olmstead reported that several cases the Commission had referred to court had recent judicial developments. He reported that a December 10, 2019 appellate court opinion in the Jackie Wilson matter (referred by TIRC in 2015) further laid out procedures and evidentiary standards for the courts to employ once the commission refers a claim. He informed Commissioners that the opinion concluded that a judge hearing a TIRC-referred case may indeed suppress a statement and grant a new trial in a matter. The Appellate Court did so in ruling that the circuit court judge in the Wilson matter, Judge Hooks, had not exceeded his authority when he did so.

Olmstead noted that media reports indicated that the courts had granted James Gibson a certificate of Innocence on February 11, 2020. Gibson was referred to the courts by the Commission in 2015.

Olmstead reported that a week prior to this meeting, Judge Thomas Hennelly reinstated the conviction of Gerald Reed, a TIRC claimant referred to court by a previous TIRC Administration in 2012. He stated that Reed's confession had been suppressed by Judge Thomas Gainer in October of 2019, but Hennelly ruled that Gainer's ruling about the unreliability of Reed's confession applied only to Reed's oral statement, which was not used in trial to obtain his conviction.

Olmstead opined that the significance of all these cases is that the Commission is doing what it was designed to do – ensure due process in claims of torture. That was clearly happening, Olmstead said, given the attention both the trial and appellate courts had recently given TIRC cases.

Olmstead informed Commissioners that he attended a state training session on strategic planning and planned to use what he learned to lay out an updated strategic plan in the near future. He hopes that the plan will also aid in the upcoming legislative budget processes. Olmstead will keep Commissioners updated as the strategic plan develops.

Olmstead reported that a number of organizations including the Illinois Attorney General's office filed a friend-of-the-court brief in the Illinois Supreme Court case City of Chicago v. Fraternal Order of Police Lodge No. Seven. He stated that the case concerns the possible destruction of police misconduct investigation files. He reported that the Attorney General filed a brief advocating for retention of such records and noted that their destruction would severely hamper their office's work on the consent decree as well as TIRC's efforts in investigating torture claims.

Olmstead asked if there were any questions. There were none.

V. Chief Financial Officer's Report

Due to Dr. Ewa's absence, the agenda item was stricken.

VI. Proposed Administrative Rule Revisions

Executive Director Olmstead directed Commissioners to look at proposed administrative rule changes that he, Chair Pantle, and Staff Attorney Jenkins recommend the Commission adopt. He noted that the draft had been altered and changes were highlighted in red text in the binders. Commissioners reviewed the changes.

Olmstead noted that the proposed addition of Rule 3500.325 is an attempt to proactively formalize

Commissioners' recusing themselves whenever any conflict of interest may arise. Olmstead noted that rules were drafted based on past experiences and considering the legislature's decision to form the commission out of several distinct types of professionals already intimately involved with the justice system. Olmstead stated that the decision by the legislature clearly envisions not a system of recusals based upon one's perspective within the justice system, but rather recusals only when commissioners had personal involvement in the case, or a genuine conflict of interest. While this proposed rule cannot necessarily anticipate every issue that might arise, Olmstead, Pantle and Jenkins believe it is better to have a written guide in place that Commissioners can refer to when contemplating potential conflicts.

Olmstead stated that the second proposed amendment (to rule 3500.350) is geared toward trying to increase the rate of retention of attorneys appointed for claimants. As has been discussed before in TIRC meetings, TIRC has had difficulty recruiting volunteer attorneys to advise claimants on the waivers that are required by statute before TIRC can begin investigating the claim. Pantle, Olmstead and Jenkins believe that by offering a nominal fee to represent a claimant, we will ensure a more reliable stream of attorneys to appoint to claimants. He stated that the amount had not been decided but he had conducted some research on other agencies who have similar procedures. Olmstead stated that it would be most time and cost efficient to have counsel appointed for a limited, distinct purpose of advising on the waivers and for being present during the claimant waiver and interview session, which is the minimum required by the statute. However, current administrative rules call for an appointment of the attorney for the duration of the TIRC investigation -- a broader requirement than what the statute requires. Omlstead stated that staff thought it would be difficult to attract competent counsel for a limited fee for an extended period of what can be, in some instances, a year. He suggested that narrowing the rules to provide for finite attorney engagements would allow more rapid appointment of attorneys to claimants.

Olmstead encouraged Commissioners to discuss the proposed amendments. Commissioners briefly discussed the proposals and decided to defer a vote to further review them.

VIII. Public Comment

The chair called for public comments.

Mark Clements made comments about plea bargains and the processes of TIRC referrals. Clements hopes to get cases investigated quicker. Clements also commented that there is a need for more funding. Pantle thanked him for his comment and expressed that TIRC shared some of his same concerns.

VIII. Adjournment

Commissioner Thurston moved to adjourn; Commissioner Mullenix seconded. The commission voted unanimously to adjourn.