

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of Gerson Carnalla-Ruiz

TIRC No. 2014.216-G

SUMMARY DISMISSAL

Pursuant to section 40(a) of the Illinois Torture Inquiry and Relief Act (TIRC Act), 775 ILCS 40/40(a)), the Commission hereby summarily dismisses this Claim for the reasons that follow.

1. On approximately March 26, 2014, Mr. Gerson Carnalla-Ruiz submitted a claim form to the Commission alleging that on August 29, 2006, he was coerced into confessing to the crime of which he was accused when Des Plaines police officers¹ denied him bathroom access for a short time until he gave a verbal statement, and that an Assistant State's Attorney omitted his coercion claim from the written statement that followed.
2. The claim also alleges that Mr. Carnalla-Ruiz' then-15-year-old son was forcibly removed from their home and held without food until he gave a statement, and that he was later beaten and intimidated by police into leaving the state before Mr. Carnalla-Ruiz' trial. Mr. Carnalla-Ruiz did not allege he was aware of his son's mistreatment at the time he made his statements to police.
3. In a letter dated April 9, 2014, Commission staff informed Mr. Carnalla-Ruiz that being denied bathroom access for less than one hour would likely not qualify as torture, and that since the alleged abuse of his son did not lead Mr. Carnalla-Ruiz to confess, it also did not appear to qualify as a "[c]laim of torture" as defined by Torture Inquiry and Relief Commission Act, 775 ILCS 40/1, *et seq.* Commission staff invited Mr. Carnalla-Ruiz to submit further information if he believed his allegations were being misunderstood.
4. Mr. Carnalla-Ruiz has replied to the Commission, including on April 25, 2014, submitting additional details of his arrest, including a copy of grand jury testimony in his case, and a copy of a social worker's interview of the crime victim involved in the case. The additional details include that he claimed that police arrested him in a dark area at Mr. Carnalla-Ruiz' workplace near where a homicide had recently occurred; that detectives took away his shoes, back support and other items; that detectives refused his

¹ Although the Commission is not dismissing this case because a lack of relation to former Chicago Police Commander Jon Burge and officers under his supervision, Mr. Carnalla-Ruiz provided no facts indicating this case has any relationship to Burge or officers under his supervision, and no relationship is apparent.

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requests for an attorney or contact with others; and that detectives rushed their investigation and interrogation of him.

5. Section 5(1) of the TIRC Act defines “[c]laim of torture” as a claim by a convicted person “asserting that *he* was tortured into confessing to the crime for which the person was convicted and the tortured confession was used to obtain the conviction and for which there is some credible evidence related to allegations of torture committed by Commander Jon Burge or any officer under the supervision of Jon Burge.” [*Emphasis added.*]
6. “Torture” is defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from that person a confession to a crime.” 20 Ill. Adm. Code 2000.10

The Commission finds that the acts alleged do not constitute a “[c]laim of torture” as defined by TIRC Rules and Section 5(1) of the TIRC Act. The Commission is thus without jurisdiction to consider this claim.

The Commission summarily dismisses Mr. Carnalla-Ruiz’ Claim and instructs its Executive Director to notify Mr. Carnalla-Ruiz of the dismissal and his right to judicial review under the Illinois Administrative Review Law.

Dated: _____

6/18/14

Cheryl Starks
Chairman

Illinois Torture Inquiry and Relief Commission