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BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of Virgil Robinson

TIRC No. 2011.0158-R

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 May 24, 2011, Mr. Virgil Robinson submitted a Claim form to the Commission alleging that on September 25, 1977, he was beaten with flashlights and a police helmet and had a gun shoved in his mouth by Area 2 police detectives¹ in an effort to elicit a confession. His claim does not allege that any statements resulted from these actions or that a confession was used to convict him.
2. Section 5(1) of the TIRC Act defines “Claim 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...”
3. On approximately June 7, 2011, Commission staff wrote Mr. Robinson to clarify whether Mr. Robinson confessed and whether the tortured confession was used to convict him.
4. On approximately June 21, 2011, Mr. Robinson wrote staff, saying “I refused to confess to the murder about which I was tortured.”
5. In a letter dated July 6, 2011, Commission staff informed Mr. Robinson of its intention to recommend to the Commission the dismissal of Mr. Robinson’s Claim, which prompted Mr. Robinson to write several letters arguing against dismissal, including a letter dated July 12, 2011, to Commission staff and a September 12, 2011, letter to a Commissioner.
6. In his letters, Mr. Robinson argues that the statute covers those cases in which the “intended result” of torture was to elicit a confession, and in the letter to the Commissioner, Mr. Robinson points to the synopsis of Senate Bill 48 as introduced to the 96th General Assembly, which says that the bill “[p]rovides that the Commission shall conduct inquiries into claims of torture... .” Mr. Robinson argues this “shall conduct”

¹ Mr. Robinson’s claim does not specify which detectives performed which actions, but generally names Detectives John Yucaitis, Peter Dignan and Dennis McGuire. At the time of the interrogation, Jon Burge was assigned to Area 2’s Robbery Division.

language gives the Commission no discretion to summarily dismiss or fail to investigate the torture alleged in his Claim.

7. On October 31, 2011, the Commission, a quasi-judicial body, met in executive session to consider the evidence and the written recommendation of Commission Staff that Mr. Robinson's Claim be dismissed. Its members reached a consensus that Mr. Robinson's Claim should be dismissed.
8. The Commission inadvertently failed to take a formal vote in open session on that consensus.²

A "[c]laim of torture" is defined in Section 5(1) of the TIRC Act as:

"Claim of torture" means a claim on behalf of a living person convicted of a felony in Illinois 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.

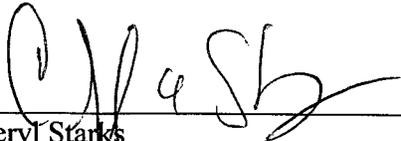
The Commission finds that the circumstances described by Mr. Robinson in his Claim form and correspondence do not include a confession, as required by Section 5(1) of the TIRC Act, and that the Commission is therefore regrettably without jurisdiction to consider his Claim.³

² The Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*) has been interpreted as requiring that final action be taken by vote in open session. A closed session, quasi-judicial deliberation that is not followed by a public vote may not constitute a valid administrative decision. *See Howe v. Retirement Board*, 2013 IL App (1st) 122446, ¶¶26-35.

³ The Commission notes that the "shall conduct" language in the synopsis of the TIRC Act bill to which Mr. Robinson refers is not part of the actual legislation and therefore carries no legal force. *See Lieber v. Bd. of Trustees of S. Illinois U.*, 176 Ill.2d 401, 413-14 (1997), citing *Triple A Services, Inc. v. Rice*, 131 Ill.2d 217, 227 (1989) and *Monarch Gas Co. v. Illinois Commerce Comm'n*, 261 Ill.App.3d 94, 99 (1994). Mr. Robinson's contention that the synopsis leaves the Commission without discretion to decline to conduct a formal inquiry is contravened by Section 35, which charges the Commission with the duty to "establish the criteria and screening process to be used to determine which cases shall be accepted for review." [Emphasis added.] (*See also*, Section 40(a), allowing the Commission to "informally screen and dismiss a case summarily at its discretion.") Additionally, the statute itself does not contain the words "intended result" of torture. To heed Mr. Robinson's interpretation would contravene the plain language of section 5(1) which confers jurisdiction on the Commission only if a tortured confession was used to convict the Claimant.

The Commission summarily dismisses Mr. Robinson's Claim and instructs its Executive Director to notify Mr. Robinson of the dismissal and his right to judicial review under the Illinois Administrative Review Law.

Dated: 6/18/14



Cheryl Starks
Chair
Illinois Torture Inquiry and Relief Commission