



**STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION REGULAR MEETING
Wednesday, May 17, 2017, 3:00 p.m.**

James R. Thompson Center
100 W. Randolph Street, Meeting Room 9-040
Chicago, Illinois 60601

MINUTES

PRESENT:

Commissioners

Chairwoman Cheryl Starks
Commissioner Marilyn Baldwin
Commissioner Steven Miller
Commissioner James Mullenix
Commissioner Marcie Thorp
Commissioner Robert Loeb
Alternate Commissioner Stephen Thurston

Staff on dais

Rob Olmstead (Executive Director)
Michelle Jenkins (Staff Attorney)
Dr. Ewa Ewa (Chief Financial Officer)

I. Call to Order/Members Present

On May 17, 2017, at approximately 3:00 p.m., Chairwoman Cheryl Starks called to order the meeting of the Illinois Torture Inquiry and Relief Commission (TIRC or Commission). Present were Commissioners Thorp, Baldwin, Starks, Miller, Mullenix, and Loeb and Alternate Commissioner Thurston, constituting a quorum. Also present were Dr. Ewa Ewa, Chief Financial Officer; Rob Olmstead, Executive Director; and Michelle Jenkins, Staff Attorney

II. Approval of Minutes

Chairwoman Starks called for a motion to approve the draft minutes of March 29, 2017, regular

meeting. Commissioner Thurston moved to approve the minutes, and Commissioner Miller seconded the motion. The minutes for the March meeting were unanimously approved.

III. Executive Director's Report

Executive Director Robert Olmstead recalled for Commissioners his experience in Springfield before the Senate budgetary committee and progress made on the Commission's selection of a new Private Secretary.

IV. Chief Financial Officer's Report

Dr. Ewa Ewa reported gave a brief report. Dr. Ewa reported that the Commission has an appropriation for the rest of the fiscal year. The same budget, minus a five percent reduction, is likely for FY 2018, depending upon what the legislature does.

V. Claims

1) Bryant, Michael (2013.184-B) and Elam, Donald (2011.052 – E)

Nick Rosinia and Lisa Noller of the law firm of Foley and Lardner presented the recommendation on the Michael Bryant and Donald Elam claims together. They recalled the facts of the murder case. Elam and Bryant were co-defendants, convicted of the February 7, 1986, murder of Mrs. Imogene Cavanaugh and the attempted murder of her husband, Mr. Lee Cavanaugh. Attorney Rosinia noted that on February 13, 1986, Mr. Elam was arrested on an unrelated armed robbery for which he was held in custody while awaiting trial. After securing inculpatory evidence implicating Mr. Elam in the murder of Mrs. Cavanaugh, officers obtained a court order granting them permission to interrogate Mr. Elam. On March 19, 1986, around 10:45 a.m. officers retrieved Elam from the Cook County Jail and interrogated him in the Area 2 police station. Attorney Rosinia noted that on March 19, 1986, Mr. Elam gave a court-reported confession and subsequently implicated Mr. Bryant as a co-participant in the crime. At about 1:30 p.m. on the same day, officers located and interrogated Mr. Bryant. By about 4:15 p.m. Mr. Bryant had also given a court-reported confession to the crime in question. After their confessions, Mr. Elam and Mr. Bryant were taken to Little Company of Mary Hospital where they were tentatively identified by Mr. Cavanaugh.

Mr. Elam alleged to TIRC that he was hit with a telephone book during his interrogation. Mr. Bryant made a similar allegation that he'd been hit with a duct-taped stack of papers.

Mr. Rosinia recommended dismissal of both claims. In support of this recommendation, Attorney Rosinia noted that Mr. Elam had never made abuse claims prior to his pursuit of a claim of torture before this Commission. Additionally, Mr. Elam specifically testified during his motion to suppress that he was not hit by detectives during his interrogation. Finally, Mr. Elam testified at trial that he was treated well by police during his interrogation. Mr. Bryant's claims are similarly discredited by his failure to lodge his claim of torture in pre-trial motions, at trial, or after trial until his submission to the Commission.

In favor of the claimants, Attorney Rosinia noted, two members of the family of the victims did initially note to TIRC staff their disbelief in Elam or Bryant's guilt, but that their

concern was based off of suspicion rather than concrete facts. Also in the claimants' favor is the fact that several of the detectives involved in the case have lengthy complaint histories against them.

Commissioner Loeb expressed concern about the role Mr. Elam's literacy and reading comprehension played in his acquiescence to confess. The investigating attorney clarified that he had perceived some comprehension issues on the part of Mr. Bryant but not enough to skew his recommendation.

Mrs. Cavanaugh's sisters, Arlene Cheers and Nette Bradley, individually addressed the Commission. Both recalled the grief the family experienced and asked that the Commission dismiss the claims.

Counsel for Mr. Bryant, Derek Linkous, addressed the commission. Linkous suggested that Mr. Bryant's claim should have been presented separately; Attorney Linkous' statement heavily focused on the lack of physical evidence against Mr. Bryant. Several commissioners asked various questions of Mr. Linkous.

Mr. Bryant's brother, Ronald Bryant, also addressed the Commission, attesting to the good character of Mr. Bryant and asking for referral to court.

Mr. Elam's attorney Candace Gorman addressed the Commission, focusing on the indicia of innocence and abuse and emphasizing the relevance of that evidence. Attorney Gorman also emphasized Mr. Elam's low IQ, and contended that led to him not raising abuse claims earlier. Various commissioners asked questions of Ms. Gorman.

Mr. Elam's older brother, Abdul Rahim Kalihl, also spoke on behalf of his brother and urged the Commission to refer his claim to court.

Mr. Rosinia and Ms. Noller returned to the microphone to address some of the points raised by counsel and family before the chair called on Commissioners to vote first on Mr. Bryant's claim and then on Mr. Elam's claim. Commissioners unanimously voted not to refer both claims because of insufficient evidence of torture.

2) Murray, Kevin (2012.108-M)

Director Olmstead, with the assistance of Law Student Interns Allison Giest and Zac Henderson presented the clam of Mr. Murray. Director Olmstead recalled for the Commission that it had previously referred Mr. Murray's claim to court, where it was dismissed because it was unrelated to Commander Jon Burge. He noted that the recent passage of Public Act 99-688, and subsequent administrative rule amendments, revived the claim before the Commission.

Director Olmstead, Henderson and Geist recommended the claim again be referred for judicial review. In support, Henderson and Geist recounted several facts supporting referral, including the trial testimony of a lawyer for Murray who viewed him the night of his interrogation and observed a large boot print on his sweater. In addition, the two detectives involved had lengthy complaint histories, including, for one detective, a subsequent felony

conviction for sexual assault of women. In addition, the suppression hearing was presided over by Judge Maloney, who was subsequently convicted of taking bribes to fix trials over which he presided. Appellate rulings have found some credence in the idea that in non-bribe cases, such as Murray's, Maloney may have been biased toward the state to disguise his corruption in other cases.

They also noted that there are some credibility issues with Mr. Murray as well as with his initial attorney, who had a misdemeanor tax conviction, but was cross-examined upon that topic at trial.

Percy Brown, Mr. Murray's cousin, spoke on behalf of the Claimant, saying he'd hoped the Commission would again refer Mr. Murray's claim for judicial review.

Commissioners unanimously voted to refer the claim for further judicial review.

3) Hampton, Willie (2013.141-H)

Director Olmstead presented a recommendation that the Commission summarily dismiss the claim because no statement made by Mr. Hampton was used to obtain his conviction as required by the TIRC Act. Olmstead noted the case had been brought before the Commission previously and Commissioners had, at that time, asked for additional research of transcripts to confirm that fact. That research had been performed and confirmed that fact, Director Olmstead noted. Commissioner Loeb moved to summarily dismiss the claim and Commissioner Mullenix seconded. Commissioners unanimously voted in favor of summarily dismissing the claim.

VI. Draft Determination Language Approval

1) Johnson, Willie (2014.196-J)

Commissioners had voted to refer Mr. Johnson's Claim at the March 29, 2017, meeting. Director Olmstead noted the only issue up for a vote at this meeting was the language of the decision reflection that prior vote. Commissioner Miller motioned to adopt the language of the draft decision before them; he was supported by Commissioner Loeb's second. Commissioners unanimously supported the motion and approved the draft.

VII. Public Comment

No public comment was made.

XI. Adjournment

The Commission voted unanimously to adjourn.