



**STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION REGULAR MEETING
November 14, 2018, 2:00 p.m.**

James R. Thompson Center
100 W. Randolph Street, Meeting Room 9-031
Chicago, Illinois 60601

MINUTES

PRESENT:

Commissioners Present

Chairwoman Cheryl Starks (via speakerphone)
Commissioner Robert Loeb
Commissioner Marilyn Baldwin
Commissioner Tim Touhy
Commissioner James Mullenix
Commissioner Marcie Thorp
Alternate Commissioner Craig Futterman

Staff on dais

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

Staff in Audience:

DeAndrea Brown (Administrative Assistant)

I. Call to Order/Members Present

On November 14, 2018, at 2:00 p.m., Commissioner Thorp opened the meeting with an announcement to Commissioners that Chairwoman Starks could not be present for the meeting due to illness, but was able to attend via speakerphone. Commissioner Thorp called for a motion to allow Chairwoman Starks to attend the meeting via telephone. Commissioner Mullenix so motioned; Commissioner Baldwin seconded. The motion was approved by unanimous voice vote. The meeting of the Illinois Torture Inquiry and Relief Commission (TIRC or Commission) was called to order. A quorum was established consisting of the

following: Commissioners: Starks, Loeb, Baldwin, Mullenix, Thorp, and Touhy. Alternate Commissioner Futterman was also present. Executive Director Olmstead formally introduced Commissioner Tim Touhy who was appointed October 31, 2018 as one of the three primary Public-Member Commissioners.

II. Approval of Minutes

Commissioner Thorp called for a motion to approve the draft minutes of the September 11, 2018, regular meeting. A motion was made by Commissioner Mullenix and seconded by Commissioner Baldwin to approve the minutes as written. The minutes were unanimously approved on voice vote.

III. Chief Financial Officer's Report

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

IV. Executive Director's Report

The report was delayed to later in the meeting to first address claims due to time constraints.

V. Claims

1) Pittman, Marcellous (2014.209-P)

Executive Director Rob Olmstead introduced Attorneys Nusra Ismael and Rebecca Dandy from the law firm Vedder Price, which investigated and analyzed this case. Vedder Partner Ryan Hedges oversaw the Vedder team in this case, although he was not present. Olmstead noted that victim notifications were sent.

Ismael provided the Commissioners with a summary of Pittman's claim. Pittman was convicted of shooting a police officer, Patrick Doyle, whose life was saved by a bullet-resistant vest. Pittman alleged that his confession was the result of being tortured by detective James O'Brien and Detective John Halloran. Specifically, Pittman alleged that he was repeatedly punched, slapped, beaten, and placed in a chokehold by the detectives. Pittman's confession was the central piece of evidence used by prosecutors to obtain his conviction.

Ismael informed Commissioners that Pittman filed a motion to suppress his confession prior to his trial. Pittman alleged that he was not read his rights, that his statements "were obtained as a result of physical coercion illegally directed against the defendant," and "were obtained as a result of psychological and mental coercion." She stated that the motion to suppress was continued several times and Pittman was assigned three different public defenders while the motion was pending. Ultimately, the motion was withdrawn without explanation and there was no hearing on the motion. The public defender who withdrew the motion was interviewed by Commission staff, but could not remember why it was withdrawn.

Ismael stated that one factor weighing against Pittman was the fact that when he wrote to his appellate defender Steven Becker, he alleged that he was verbally threatened by detectives, but made no mention whatsoever of physical abuse. Ismael noted that Pittman claimed that he omitted the mention of physical abuse during interrogation by detectives because he was being careful about what he put in writing.

Ismael informed Commissioners that during Pittman's interview with the Commission in November 2017, he recounted allegations about being stripped of his clothes and being beaten, punched, and choked. She stated that Pittman's account to TIRC was generally consistent with his Post-Conviction petition allegations and TIRC claim form.

Ismael stated that the investigation of Pittman's claim of torture was significantly hampered by the unavailability of the Public Defender's file, which could not be located. She noted that although the contours of the alleged abuse were not spelled out in the motion to suppress, the appellate court noted that Pittman has consistently claimed that his confession was the product of coercion. Ismael and Dandy recommended that, on balance, there was sufficient evidence of torture to merit judicial review of Pittman's claim.

Commissioner Thorp opened the floor for discussion. Commissioner Futterman asked counsel how old was Pittman at the time when Pittman committed crime. Ismael stated that Pittman was 18 years old. Commissioner Futterman asked counsel to clarify the Appellate court record where the court overturned the denial of the Pittman's motion for post-conviction relief. Dandy clarified that that post-conviction petition was on based on actual innocence and other allegations. She noted that in that same Appellate case, the court did acknowledge the fact that the motion to suppress had gone unheard and his allegations of torture were 'strikingly similar' to other CPD allegations of torture. Olmstead noted that the appellate opinion advanced the case to the second stage of post-conviction proceedings, which does not guarantee a hearing; it just requires a response from the state and argument.

Commissioner Mullenix asked counsel to clarify their statement of being at a disadvantage due to the lack of having the Public Defender file. Ismael clarified that the Public Defender file produced to TIRC only had a few pages included, but nothing in regards to Pittman's motion to suppress or allegations of torture. Dandy stated that the specific information the team had hoped to review from the PD file was the notes from the Defenders who represented Pittman. Olmstead stated that because this was not a homicide case, the perpetual retention of these files was not required. Commissioner Mullenix stated that the retention requirement for homicide cases files is perpetuity, but he did not know the requirement for attempted murders but knew it was for a substantial amount of time. He acknowledged that TIRC has had some issues receiving files from the public defender's office but thought it was strange to receive some information but not the bulk of the file. Olmstead stated that the documents received were document accumulated since Pittman's post-conviction proceeding began. Dandy noted that Lauren Bauser, the previous attorney for Pittman reached out to the public defender's office and Pittman's trial attorney, and received no response. Commissioner Thorp commented that she thought it was strange that out of three the public defenders, none described the torture in writing and the last public defender intentionally withdrew the motion. Commissioner Futterman remarked that it was not unusual for public defenders to not initially specify details in motions to suppress but to fill them in through

testimony later.

Olmstead stated that notifications to the victims of the case were sent out but that those victims were not present. The grandmother of Pittman addressed the Commission, stating that she was the one who took Pittman to the station. Commissioner Baldwin asked Pittman's grandmother when the first time he mentioned torture. She stated he told her right after he was taken into custody. Commissioner Thorp thanked Pittman's grandmother for her comments.

Julia Rickert, Pittman's attorney, argued that she believes that there is enough credible evidence of torture to refer the claim to the court for judicial review. Commissioner Thorp thanked her for her time.

Commissioner Thorp called for a vote. Commissioners unanimously voted to refer the claim for further judicial review.

- 2) **Mitchell, John (2013.156-)**
- 3) **Lee, Raymond (2013.167-L)**

Due to time constraints, the Mitchell and Lee cases were stricken from the agenda.

- 4) **Lenoir, James (2013.145-L)**

Executive Director Rob Olmstead introduced Commission intern Beth Daviess, who presented the claim. Olmstead stated that Beth was a student at the University of Chicago, and had been interning for the Commission on a volunteer basis.

Daviess gave a brief history of the case of Lenoir. Lenoir is serving a thirty-year first degree murder sentence and a concurrent eighteen-year attempted murder sentence for the September 16, 2003 death of Deonte Wright and shooting and wounding of Jose Perez. Olmstead noted that two victims or crime-victims' relatives in this case were identified and notifications were sent to multiple addresses. He mentioned that if any were present, they would have the opportunity to address the commission before Commissioners voted.

Daviess reported that Lenoir filed a claim with the Commission in 2013, alleging that Area 4 detectives threatened him with physical harm, cut off his circulation with handcuffs, removed his clothing leaving him naked for long periods, beat him with a phonebook and newspaper, and deprived him of food and use of a bathroom.

Daviess informed Commissioners that Lenoir's claim of torture was supported by his repeated allegations, his initial motion to suppress, his post-convictions petitions and his TIRC claim form. She stated that the undisputed length of his time in custody adds support to his allegations and the pattern and practice history of one of the accused officers, Detective Michael McDermott, who has been found in several proceedings to have abused suspects and committed perjury in order to conceal his actions and the actions of his colleagues.

Daviess stated that Lenoir's claim was weakened by some inconsistencies between his accounts and other evidence TIRC has gathered. She informed Commissioners that Lenoir's written

Motion to Suppress alleged that McDermott handcuffed him to a ring in the wall. However, McDermott was in Waukegan at the time Lenoir was initially handcuffed in an interrogation room, and only returned to speak with Lenoir later. Daviess also stated that Lenoir later claimed that Detective Flaherty cuffed him and explained these differences as an error by his public defender in researching his arresting officers. Other discrepancies included stating during his TIRC interview that he had appeared in one lineup while lineup reports reflected two lineups he appeared in. He also claimed that Detective Flaherty identified Detective Friel as his partner, though this was actually McDermott. However, because none of these inconsistencies severely detracted from Lenoir's credibility, Daviess recommended the Commission find sufficient evidence of torture to refer the claim for judicial review..

Olmstead informed Commissioners that Linda Cosby, the mother of Lenoir, and Lenoir's attorney Robert Breslin were present and wanted to address the Commission. Ms. Cosby informed Commissioners that on the day of Lenoir's arrest, officers sent her to multiple locations before family was able to locate Mr. Lenoir. Commissioners thanked Ms. Cosby for her comments.

Lenoir's attorney, Robert Breslin from Abdullah Law, argued that that Lenoir's claims were overall consistent. He mentioned that Lenoir was an 18 year old boy at the time of his arrest.

Chairwoman Thorp called an individual voice vote. Commissioners unanimously voted to refer the claim for further judicial review.

5) Stinnett, Keith (2016.424-S)

[Director Olmstead recommended that Mr. Stinnett's claim be summarily dismissed because the criminal case that Mr. Stinnett referenced had ceased when prosecutors dropped charges, and the TIRC Act gives the Commission jurisdiction over only convictions. Olmstead made clear that the recommendation should not be interpreted as an endorsement of the alleged use of torture in the case; merely a reflection of the Commission's lack of jurisdiction. Commissioners voted unanimously to summarily dismiss the claim.

IV. Executive Director's Report

Director Olmstead reported that he was scheduled to interview several candidates for the new attorney position in the near future and that after interviews were conducted, he would select a candidate in consultation with the chair. He reported that it was uncertain whether Commissioner appointments to vacancies would be made before the governor's administration changed over (because of the recent election). He noted that the chair would be leaving at the end of the year, so staff had requested, at a minimum, that the governor's office appoint at least an alternate chair to keep the Commission functioning. Olmstead noted that two candidates had been advanced to the governor's office for possible appointment to the State's Attorney position. Although Commissioner Thorp remains eligible to serve in the new year, she is seeking out a replacement for herself.

VI. Public Comment

Mark Clements inquired why and how the Public Defender's Office was losing files (referring to the Pittman claim in which the Commission was unsuccessful in locating the Public Defender's file). He also voiced the opinion that the Commission needed more staff to increase the rate of dispositions.

Olmstead responded that when agencies respond that they cannot find files, the Commission has gotten more aggressive about requesting results in writing and/or starting the process for filing a motion to compel production of records. He clarified, however, that the Public Defender's inability to produce the Pittman file was not necessarily negligent because it was not a homicide file, which the Public Defender's Office is required to keep indefinitely. In regards to hiring, he noted that the new attorney that will be hired will also be responsible for seeking grant funds to hopefully exponentially increase staffing.

Olmstead noted the next meeting was December 18, 2018 at 2 p.m.

VII. Adjournment

Commissioner Mullenix moved to adjourn, and Commissioner Baldwin seconded the motion. The Commission unanimously voted to adjourn.