

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:  
Claim of Derek Montgomery

TIRC No. 2019.656-M  
(Relates to Cook County Circuit  
Court Case No. 13-CR-14552)

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. Claimant Derek Montgomery was convicted of harassment of a witness and violation of an order of protection for sending threatening letters to his ex-girlfriend (whom he had previously stabbed).<sup>1</sup>
2. On or about July 20, 2019, Mr. Montgomery sent a letter to the Commission inquiring about his conviction and the Commission's review process.<sup>2</sup> Staff sent Mr. Montgomery a claim form.
3. On August 9, 2019, Mr. Montgomery completed a claim form and submitted it to prison staff for delivery to the Commission. The claim form alleges that a Chicago detective fabricated a confession, purportedly by Montgomery, admitting to sending the letters in question.<sup>3</sup> Montgomery maintains he actually told authorities that he did not remember sending the letters.
4. On August 16, 2019, Commission staff reviewed Mr. Montgomery's claim form as well as the July 20, 2019 letter, which states, "I was not tortured, but my statement that an officer said I made is false." Commission staff wrote to Mr. Montgomery and informed him that while the Commission does not condone police misconduct of any kind, it is not authorized to investigate complaints that do not involve torture. The letter informed Mr. Montgomery that staff would recommend dismissal of his claim at its October meeting and encouraged him to write with further information if his claim had been misunderstood or involved other conduct that might qualify as torture.<sup>4</sup> No response was received.

<sup>1</sup> *People v. Montgomery*, No. 1-15-1781, 2018 IL App (1<sup>st</sup>) 151791-U (Feb. 27, 2018), ¶¶2, 10-18.

<sup>2</sup> See Letter from Derek Montgomery to Commission dated July 20, 2019 and received July 29, 2019.

<sup>3</sup> See Derek Montgomery Claim Form and accompanying letter dated August 9, 2019.

<sup>4</sup> See Letter to Derek Montgomery from Commission dated August 16, 2019.

## ANALYSIS

The Illinois Torture Inquiry and Relief Act empowers the Commission to investigate Claims of Torture, which the Act defines as:

\* \* \* 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 occurring within a county of more than 3,000,000 inhabitants. 775 ILCS 40/5(1) (Emphasis added).

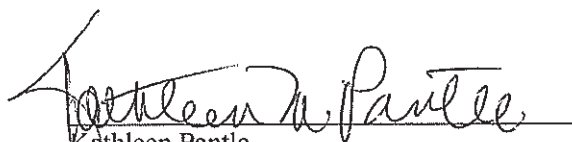
“Torture” is further defined in Commission Rules as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from that person a confession to a crime.”<sup>5</sup>

Section 40(a) of the TIRC Act provides that the “Commission may informally screen and dismiss a case summarily at its discretion.”

The fabrication of a statement from a defendant, while a severe violation of Due Process if true, does not constitute torture<sup>6</sup>, as Mr. Montgomery himself acknowledged in his July 20, 2019, letter.

Because no torture is alleged by Mr. Montgomery, the Commission lacks jurisdiction to investigate his claim. The Commission summarily dismisses Mr. Montgomery’s claim and instructs the Executive Director to notify him of the dismissal and his right to judicial review under the Illinois Administrative Review Law. This determination shall be considered the final decision of an administrative agency for purposes of administrative review under the Administrative Review Law (735 ILCS 4/3-101).<sup>7</sup>

Dated: October 16, 2019

  
Kathleen Pantle  
Acting Chair  
Illinois Torture Inquiry and Relief Commission

<sup>5</sup> 20 Ill. Admin. 2000.10.

<sup>6</sup> See *In re: Claim of Christopher Peoples*, TIRC Claim No. 2014.208-S, decided May 20, 2015, dismissing claim because claimant alleged only that detectives had fabricated a confession, not that he had been tortured.

<sup>7</sup> Although this determination does not concern a “contested case” as defined in Section 1-30 of the Illinois Administrative Procedures Act (5 ILCS 100/1-30) because no opportunity for a hearing is required under the TIRC Act (See 775 ILCS 40/45(a)), the Commission notes that the rules of the Commission do not require any motion or request for reconsideration before appeal under the Administrative Review Law, and notes that the service address of interested parties is listed in the Notice of Filing certificate that accompanies the filing of this determination with the Court.