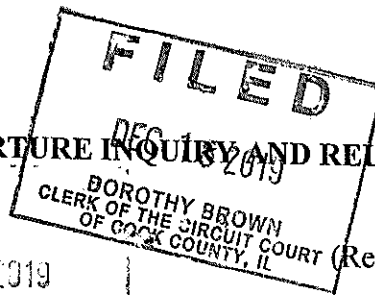
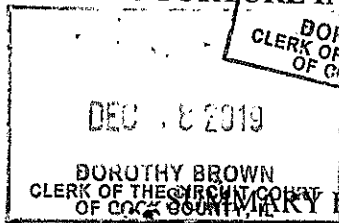


BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
of Daniel W. Makiel



TIRC No. 2019.664-M
(Relates to Cook County Circuit
Court No. 89-CR-7496)

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 Dan Makiel was convicted of the October 19, 1988, robbery and murder of Katherine Hoch, an attendant at a Calumet City gas station.¹
2. On or about August 9, 2019, Mr. Makiel filed a claim form naming Todd Hlinko as the person claiming to have been tortured, and himself as the person signing the claim form. He accused an Illinois State Police officer and a Calumet City investigator of hitting Hlinko in the head each time Hlinko denied involvement in the murder of Hoch, thereby securing a confession from Hlinko, and subsequently coercing Hlinko to testify against Makiel.²
3. On August 16, 2019, Commission staff wrote to Makiel to clarify whether he was filing the claim on his own behalf, on Hlinko’s behalf, or on both men’s behalf. Staff also inquired whether Makiel was claiming that he had also been tortured by police.³ On August 22, 2019, Makiel wrote that he was filing the claim on behalf of both men, but that “I [Makiel] was not tortured or abused by police.”⁴
4. On November 20, 2019, Commission staff wrote to Mr. Makiel to inform him that the circumstances of his claim likely fell outside the Commission’s jurisdiction. Commission staff informed Mr. Makiel of its intent to recommend to the Commission that his claim be dismissed, and encouraged Mr. Makiel to provide further details if his claim had been misunderstood or if Mr. Makiel himself had been tortured to induce a statement.⁵ No response was received.

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*

¹ See, *People v. Makiel*, 623 Ill.App.3d 54 (1st Dist., May 24, 1994).

² See Dan Makiel Claim Form.

³ See August 16, 2019 letter from Rob Olmstead, TIRC Executive Director, to Dan Makiel.

⁴ See August 22, 2019 letter from Dan Makiel, received August 30, 2019, to Rob Olmstead, TIRC Executive Director.

⁵ See November 20, 2019, letter from Rob Olmstead, TIRC Executive Director, to Dan Makiel.

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).

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

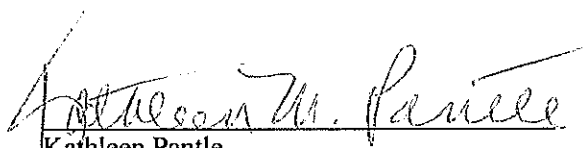
Mr. Makiel’s August 22, 2019, letter confirms that he does not claim that he was personally tortured into giving a statement that was then used to convict him. Rather, he claims that a witness was tortured and forced to testify against him.

While the Commission does not condone police misconduct of any kind, the plain language of the TIRC Act limits this Commission’s jurisdiction to those instances in which a defendant claims that he was tortured into giving a statement against himself and that the statement then was used to obtain his conviction.⁶

CONCLUSION

The Commission is without jurisdiction to consider Mr. Makiel’s claim because he was not tortured. The Commission summarily dismisses Mr. Makiel’s claim and instructs the Executive Director to notify Mr. Makiel 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).⁷

Dated: December 17, 2019


Kathleen Pantle
Acting Chair
Illinois Torture Inquiry and Relief Commission

⁶ See *In re: Claim of James Sardin*, TIRC No. 2011.247-S, dismissed by the Commission on June 18, 2014, because Mr. Sardin claimed only a witness, and not himself, was tortured into giving a statement that was used to convict Mr. Sardin. Available at: <https://www2.illinois.gov/sites/tirc/Documents/2014.6.18.SARDIN.dismissal.FILE.pdf>

⁷ 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.