

**BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION**

In re:  
Claim of Marcus Wiggins

TIRC No. 2017.487-W  
(Relates to Cook County  
(Circuit No. 98-CR-1249-01))

**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 Marcus Wiggins was convicted of the February 27, 1998 murder of Theopolis Teague.<sup>1</sup>
2. On or about March 13, 2017, Mr. Wiggins filed with the Commission his claim form in the matter of the Teague murder conviction. Mr. Wiggins had previously filed a different, first claim form regarding a separate criminal case on or about October 26, 2016. In that first claim form, Mr. Wiggins alleged that he was electroshocked and beaten into giving a confession that was used against him during his juvenile trial for a 1991 murder.<sup>2</sup> However, the claim regarding the 1991 murder was summarily dismissed because Mr. Wiggins was acquitted by the jury of that murder.<sup>3</sup> In the instant, second claim form, Mr. Wiggins alleges:
  - a. He was reminded during the investigation of the 1998 murder of the torture he suffered from the same detectives during the interrogation preceding his 1991 murder trial. He was told: “Go sit in a corner and suck your thumb because we are going to stick your ass with this one (meaning the 1998 murder case).” And he was “tortured all over again with this bogus 1998 murder case ... [and] suffered psychological [sic], physically, and emotionally....”<sup>4</sup>
3. Mr. Wiggins also submitted affidavits from witnesses who later recanted their identification of Mr. Wiggins as the shooter in the 1998 murder.
  - a. In an affidavit by the victim’s brother, Segdrick Farley, Mr. Farley admits to falsely identifying Mr. Wiggins after he was pressured by the police for 16 hours.<sup>5</sup>
  - b. In an affidavit by the State’s witness, Kelly Stokes, Ms. Stokes admits to falsely identifying Mr. Wiggins after being pressured by the police and the State’s

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<sup>1</sup> See *United States ex rel. Wiggins v. Lambert*, 2007 WL 2351260 (N.D. Ill. 2007).

<sup>2</sup> See TIRC Claim Form of Marcus Wiggins (Oct. 26, 2016).

<sup>3</sup> *In re: Marcus Wiggins* (Nov. 16, 2016).

<sup>4</sup> See TIRC Claim Form of Marcus Wiggins (Mar. 13, 2017). Although it is questionable whether this would meet the Commission’s definition of “torture,” this determination does not decide that question and the claim is not being dismissed on these grounds.

<sup>5</sup> *Id.* (attached materials).

Attorney's Office.<sup>6</sup> This affidavit was also attached to Mr. Wiggins' post-conviction petition.<sup>7</sup>

4. Mr. Wiggins stated on his claim form and a supplementary letter accompanying it that the prosecution claimed he made statements to the police about the 1998 murder that, had they been investigated, would have exonerated him of the crime.<sup>8</sup> However, he also included with his claim form a March 25, 2008 affidavit that stated "I never gave a written or oral statement to any homicide detectives" investigating the 1998 murder.<sup>9</sup>
5. Mr. Wiggins further indicated on his claim form that the prosecution did not introduce any of his statements at his trial for the 1998 Teague murder.<sup>10</sup>
6. On July 13, 2020, Commission staff wrote to Mr. Wiggins to inform him that the circumstances of his claim likely fell outside the Commission's jurisdiction because none of the statements that he made were ultimately used against him to obtain his conviction.<sup>11</sup> Mr. Wiggins was further informed that the Commission's enabling statute does not cover claims where witnesses or co-defendants were tortured into giving statements against the claimant.<sup>12</sup> Moreover, the Commission's letter told Mr. Wiggins that it did not appear his 1991 torture motivated his exculpatory statements in 1998 to police which were made to give Mr. Wiggins an alibi—not as the product of torture.<sup>13</sup> The letter invited Mr. Wiggins to respond if he thought there were additional circumstances that gave the Commission jurisdiction over his claim. 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 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. Wiggins' March 13, 2017 claim form confirms that no statements he may or may not have made were then used by the prosecution to convict him. Indeed, his exculpatory statements

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<sup>6</sup> *Id.* (attached materials).

<sup>7</sup> *Id.* (letter from Assistant Appellate Defender to Winston & Strawn).

<sup>8</sup> *Id.* ("Retaliation" attachment).

<sup>9</sup> See March 25, 2008 Marcus Wiggins "Affidavit of Deposition."

<sup>10</sup> *Id.*

<sup>11</sup> See July 13, 2020, Letter from Rob Olmstead, TIRC Executive Director, to Marcus Wiggins. The letter was received at Lincoln Correctional Center on July 17, 2020. See August 4, 2020 USPS Tracking Report.

<sup>12</sup> See July 13, 2020, Letter from Rob Olmstead, TIRC Executive Director, to Marcus Wiggins.

<sup>13</sup> *Id.*

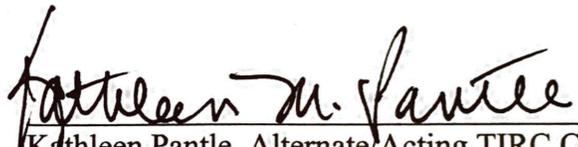
were not used at trial. Rather, he claims other witnesses were pressured into giving a statement against him.

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 *his own* statement was subsequently used to obtain his conviction.<sup>14</sup> Because no tortured statement by Mr. Wiggins was used to obtain his conviction, the Commission is without jurisdiction in this matter.

#### CONCLUSION

The Commission summarily dismisses Mr. Wiggins' claim and instructs the Executive Director to notify Mr. Wiggins 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>15</sup>

Dated: August 19, 2020

  
Kathleen Pantle, Alternate/Acting TIRC Chair

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<sup>14</sup> See *In re Daniel W. Makiel* (Dec. 17, 2019) (summary dismissal because Mr. Makiel claimed that other witnesses were tortured into giving statements and testifying against him); *In re: Bobby Cooks* (Aug. 21, 2019) (summary dismissal because Mr. Cooks, though tortured, did not make any statement in response to torture); See *In re: Claim of James Sardin* (June 17, 2014) (summary dismissal because Mr. Sardin claimed only a witness, and not himself, was tortured into giving a statement that was used to convict Mr. Sardin).

<sup>15</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.