

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
Claim of Michael A. Johnson

TIRC No. 2019.673-J
(Relates to Cook County
Circuit No. 85-C-10603)

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 Michael Johnson was convicted of the kidnapping and murder of James Terry that occurred on or about August 21, 1985.¹
2. On or about November 8, 2011, Mr. Johnson’s mother submitted a number of documents to the Commission concerning that conviction and an unrelated murder conviction in Livingston County. No formal claim form was submitted at that time, nor was there any formal adjudication related to those documents.
3. On or about June 27, 2019, Mr. Johnson filed a formal claim form relating only to the 1985 Cook County conviction.² In that claim form, Johnson alleged he was previously beaten in June, 1982 during an unrelated interrogation by Chicago Police Lt. Jon Burge and detectives under his command. In response to a question on the claim form, Mr. Johnson indicated that there was no claim by the prosecution that he had made an incriminating statement in the 1985 case, nor had any such statement been introduced at trial.³
4. Mr. Johnson’s indication that he had made no incriminating statements to police in the 1985 case were corroborated by a review of the court file and trial transcripts in that case. No motion to suppress was filed, and although co-defendants and other witnesses testified to incriminating statements made by Mr. Johnson, no police or prosecutors testified he had made any incriminating statements to them. A transcript of proceedings on September 25, 1986 shows that, in the midst of litigating a motion to quash arrest, the judge sought to

¹ See, *People v. Johnson*, 1-86-3297 (Ill. App. Ct. August 3, 1989).

² Although Mr. Johnson did not file a claim relating to the Livingston County conviction, this Commission has no authority to investigate convictions from courts other than Cook County. See *In re: Claim of Ernest Hubbard*, Claim No. 2014.242-H, decided Sept. 21, 2016.

³ See June 27, 2019, Claim Form of Michael Johnson.

clarify with Johnson’s attorney, Casandra Watson, what evidence she was seeking to suppress. The following exchange took place.

Judge Thomas R. Fitzgerald: Did the defendant make any statements?
Ms. Watson: No, Judge.⁴

5. On July 20, 2020, Commission staff informed Mr. Johnson the Commission likely had no jurisdiction over his claim because he had made no statement to police, and that it would recommend summary dismissal of his claim. Staff invited Mr. Johnson to write back if it had misunderstood his claim or he had further information to provide.⁵

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).

“Tortured Confession” is defined as

any incriminating statement, vocalization or gesture alleged by police or prosecutors to have been made by a convicted person that the convicted person alleges were a result of (or, if the convicted person denies making the statements, occurred shortly after) interrogation that the convicted person claims included torture. 20 Ill. Admin 2000.10.

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

Mr. Johnson’s own claim form and transcripts of his trial indicate that he made no incriminating statements against himself to the state, nor were any such statements used to obtain his conviction.⁶

⁴ See *People v. Johnson*, ROP of Sept. 25, 1986, p. 198.

⁵ See July 20, 2020 Letter from Rob Olmstead to Michael Johnson.

⁶ Although Mr. Johnson did not, in his claim form, allege that non-state witnesses were tortured to give testimony against him in this case, his attorney during pre-trial proceedings did make such allegations on the record, although they were never fully litigated. However, even if Mr. Johnson had alleged such facts, this Commission has no jurisdiction over such a scenario either. 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.

Because Mr. Johnson gave no confession to police, nor was any alleged confession used to obtain his conviction, this Commission has no jurisdiction over his claim.⁷

The Commission summarily dismisses Mr. Johnson's claim and instructs the Executive Director to notify Mr. Johnson 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).⁸

Dated: August 19, 2020



Kathleen Pantle
Acting Chair
Illinois Torture Inquiry and Relief Commission

⁷ See *In re: Claim of Bobby Cooks*, TIRC No. 2019.619-C, dismissed by the Commission on August 21, 2019, because although Mr. Cooks alleged he was tortured, he did not contend that he had made any statement, nor was any statement used to convict him.

⁸ 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.