

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

In re:  
Claim of Corey Hodges

TIRC Claim No. 2015.262-H  
(Relates to Cook County Circuit Court  
Case No. 02-CR-03010/02)

### **CASE DISPOSITION**

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Adm. Code 3500.385(b), the Commission concludes that, by a preponderance of the evidence, there is sufficient evidence of torture to merit judicial review for appropriate relief. The Commission refers this claim to the Chief Judge of the Circuit Court of Cook County and requests assignment to a trial judge for consideration. This decision is based on the Findings of Fact, Analysis, and Conclusion set forth below, as well as the supporting record attached hereto.

### **EXECUTIVE SUMMARY**

Claimant Corey Hodges (“Hodges”) was convicted of murdering Cornelius Buchanan (“Buchanan”) and sentenced to 23 years of imprisonment in the Illinois Department of Corrections. Hodges alleges that he was physically and mentally tortured into confessing to his crime during the time he was detained and interrogated by Detective Halloran (“Halloran”) and Detective O’Brien (“O’Brien”) from January 7, 2002 to January 9, 2002.

Factors Supporting the Claim of Torture:

- Hodges’ originally raised allegations of torture were substantially consistent from early 2004 through present day, including in testimony, sworn statements, motions, and correspondences with the Commission.
- There is a large body of evidence that Halloran and O’Brien had a history of allegations of abuse towards detainees.
- The duration of Hodges’ time in custody before the videotaped confession January 9, 2002, was over 33 hours, a lengthy period of time that could well be considered coercive.
- Hodges’ relatively early outcry via his motion to suppress his statement, which alleged abuse relatively consistent with the abuse he is currently alleging.
- Hodges claims that Halloran physically assaulted him multiple times during the interrogations, which supports an inference that Halloran was trying to coerce a confession.

- Hodges claims he was handcuffed during the interrogations so that he was unable to avoid Halloran's physical assaults and was forced to urinate on himself, which could well be considered coercive.
- Hodges claims he was unable to use the restroom during the time he was in police custody, which could well be considered coercive.

Factors Detracting from the Claim of Torture:

- Hodges' credibility has problems, as some aspects of his claims over the years have changed. For example, Hodges alleged for the first time in May 2021 that Halloran beat him with a flashlight, which allegedly included a strike to Hodges' head that caused a cut that bled. There is no video or visual evidence supporting the existence of a gash on Hodges' head.
- Hodges changed his allegations of the specific officers involved in the alleged physical abuse over time. In his Motion to Suppress dated May 18, 2005, Hodges alleged that only O'Brien physically assaulted him. In his initial claim form dated October 17, 2016, Hodges seems to allege that both detectives "took turns" physically assaulting him. In his interview in May 2021, Hodges alleged that only Halloran conducted the physical abuse and that O'Brien served in the role of "good cop" instead. Also in May 2021, Hodges stated that he could distinguish between the two detectives.

The Commission finds that the fact patterns present in Hodge's case are sufficient evidence of torture to warrant judicial review. While Hodges' allegations have not been entirely consistent over the years, some inconsistencies which are present could be the result of lapse of time and the effects that these types of circumstances can have on an individual's recollection and are balanced by other factors. Those factors include, without limitation, the general consistency of the original aspects of Hodge's allegations over the past seventeen years, the history of allegations of abuse against Halloran and O'Brien, and the duration of the interrogation.

## **FINDINGS OF FACT**

### *The Crime*

Hodges, along with co-defendants Byron Nelson ("Nelson"), Jerome Weathers (Weathers"), Iran Thomas ("Thomas"), and Lawrence Bradley ("Bradley"), were accused of the murder of Buchanan, an alleged member of a rival gang, who was shot multiple times in his car in front of his mother's house at 6:46 p.m. on January 7, 2002. After Buchanan was shot, the shooters ran away and discarded their guns. Shortly after the shooting, the police apprehended Hodges, who had been observed running near the area and wearing clothes matching the description of one of the suspects. Hodges was indicted for multiple counts of first degree murder; the indictments were filed on February 6, 2002. Hodges was age 18 when he was indicted.<sup>1</sup>

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<sup>1</sup> EXHIBIT 01, Indictment, *People v. Hodges*, No. 02-CR-3010-02 (CLR).

### The Investigation

Hodges was taken into custody at approximately 6:46 p.m. on January 7, 2002. He was detained at Area One Violent Crimes Headquarters (“Area One”) for over 33 hours before giving a videotaped statement to ASA Lisette Mojica (“Mojica”) on January 9, 2002 at 4:25 a.m.<sup>2</sup>

At approximately 11:00 p.m. on January 7, 2002, Hodges first spoke with Halloran and O’Brien. He provided an exculpatory statement to the detectives during a 20-30 minute interview.<sup>3</sup>

At approximately 9:00 p.m. on January 8, 2002, Hodges again spoke with Halloran and O’Brien. Hodges made an inculpatory statement to the detectives during an approximately one hour long interview.<sup>4</sup>

At approximately 12:00 a.m. on January 9, 2002, Hodges spoke with Mojica and Halloran. Hodges provided an inculpatory statement to Mojica and Halloran during an approximately one hour interview.<sup>5</sup>

At approximately 4:25 a.m. on January 9, 2002, Hodges gave a videotaped confession to Mojica, admitting to participation in the shooting of Buchanan and implicating co-defendants Weathers, Thomas, Bradley, and Nelson.<sup>6</sup> During this confession, Hodges and Mojica both noted that he was wearing a gown, which Hodges acknowledged that he had been given in order for the detectives to conduct evidence testing.<sup>7</sup>

### Pre-Trial Abuse Allegations

On January 4, 2004, Hodges filed a Motion to Suppress Statements, which claimed that he was (i) handcuffed to a wall at Area One during and between interactions with Halloran and O’Brien, (ii) denied food and bathroom usage, (iii) told by O’Brien that he had better “get his story straight” before the Assistant State’s Attorney arrived, (iv) choked by O’Brien, (v) told by O’Brien “Tell me what I want to know and I’ll let you go home;” and (v) told by O’Brien “You are going to let these other guys ruin your life.” Hodges further argued that the statements he made to Mojica in his videotaped confession were “obtained as a result of physical coercion illegally directed against the defendant and that such statements were, therefore, involuntary in violation of the 5th & 14th Amendments to the United States Constitution.”<sup>8</sup>

On May 18, 2005, Judge Wadas heard the Motion to Suppress Statements. During this hearing, both O’Brien and Mojica testified on the Motion to Suppress Statements and Hodges’ pre-trial abuse allegations, while Hodges did not. Halloran’s testimony was not related to the

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<sup>2</sup> TIRC-Compiled Record of Proceedings (hereinafter TCROP) at 252.

<sup>3</sup> TCROP at 267.

<sup>4</sup> TCROP at 105-107.

<sup>5</sup> TCROP at 278-284.

<sup>6</sup> TCROP at 288-312.

<sup>7</sup> *Id.*, TCROP at 310.

<sup>8</sup> EXHIBIT 2, Corey Hodges’ Motion to Suppress, at 2.

Motion to Suppress Statements or Hodges' pre-trial abuse allegations. Also during the hearing, Hodge's attorney, assistant public defender Robert Strunck ("Strunck"), reiterated that Hodges was (i) strangled or choked by O'Brien, (ii) handcuffed during and between interactions with the police at Area One, (iii) denied food and bathroom use, and (iv) threatened and falsely promised by O'Brien.<sup>9</sup>

During the Motion to Suppress Statements hearing, O'Brien testified and denied all of Hodges' allegations that O'Brien and/or Halloran gave Hodges false promises, physically abused Hodges, and denied Hodges food and bathroom usage while at Area One.<sup>10</sup> O'Brien testified that (i) Hodges was let out of handcuffs once he was in the interview room, (ii) he and Halloran asked Hodges if he needed to use the restroom or if he was hungry, and (iii) they brought Hodges White Castle burgers at approximately 2:00 a.m. on the first day he was detained and some sort of beef sandwiches on the evening of the second day he was detained.<sup>11</sup> Mojica testified that she spent time alone with Hodges before the videotaped confession, during which he was not handcuffed, and in response to her question as to whether he had been treated poorly by Halloran or O'Brien, Hodges said he was treated fine. She also testified that Hodges never complained to her about (1) not being fed, (2) not being allowed to use the restroom, (3) being threatened, or (4) being choked.<sup>12</sup> Additionally, Hodges' video-statement given to Mojica was played in court. This video included a statement from Hodges that he was provided food and drinks and that he was not otherwise denied bathroom usage.<sup>13</sup>

Judge Wadas ruled against Hodges, noting that he "was in no way, shape, or form physically or mentally abused by the Detectives or the Assistant State's Attorney."<sup>14</sup>

#### Post-Conviction Abuse Allegations

On September 26, 2005, Hodges pleaded guilty to one count of first degree murder and was sentenced to 23 years in Illinois Department of Corrections ("IDOC") custody with credit for 1,359 days served.<sup>15</sup>

On November 2, 2005, Hodges filed a motion to withdraw his guilty plea, claiming actual innocence and that he was coerced into taking the plea by his appointed counsel, Strunck. His motion to withdraw did not make reference to any allegations of torture or coercion by Halloran and O'Brien.<sup>16</sup>

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<sup>9</sup> TCROP at 0256-0317.

<sup>10</sup> TCROP at 0260-0278.

<sup>11</sup> TCROP at 0260-0261, 0270-0271.

<sup>12</sup> TCROP at 0278-0317.

<sup>13</sup> TCROP at 0314.

<sup>14</sup> TCROP at 0322.

<sup>15</sup> TCROP at 0351-0352.

<sup>16</sup> EXHIBIT 3, Motion to Withdraw Guilty Plea, Indictment No. 02-CR-0301002 (Nov 2, 2005), People v. Hodges, No. 02-CR-3010-02 (Cook County, Ill.), Supplemental Record – Appellate Court # 09-0111 (Doc. No. 133017914).

On December 15, 2008, Judge Wadas heard Hodges' Motion to Withdraw Guilty Plea. Hodges' testimony was focused primarily on his ineffective assistance of counsel claim, but at one point during the hearing, Hodges referenced telling his trial attorney that he had been coerced into giving his statement and claimed actual innocence.<sup>17</sup> The prosecutor effectively impeached some aspects of Hodges' testimony, including an initial statement that Strunck had only talked to him about abuse allegations the day of the suppression hearing. After being confronted with the suppression motion, filed several months before the hearing, Hodges conceded Strunck had consulted with him about abuse allegations well before the hearing.<sup>18</sup>

#### Claimant's TIRC Allegations

In his TIRC claim form dated October 17, 2016, Hodges alleges that he (i) was forced to urinate in the investigation room, (ii) was denied food and water, (iii) was stripped of his clothing and given only a gown to wear, and (iv) was put in a cold room for hours. Further, Hodges claimed that Halloran handcuffed him to a bench and repeatedly beat and choked him and seems to allege that Halloran and O'Brien took turns engaging in abuse "for hours." Hodges also claimed that Halloran and O'Brien informed him he would spend the rest of his life in prison if he did not confess.<sup>19</sup>

#### TIRC Investigation

On May 7, 2021, attorneys Christopher Shalvoy ("Shalvoy") and Zachary Fine from McGuireWoods, LLP ("MW"), along with TIRC Executive Director, Robert Olmstead and TIRC Pro Bono Liaison, Aryn Evans, interviewed Hodges for approximately two hours. Hodges' statements were generally consistent with his January 4, 2004, Motion to Suppress and statements made subsequent in which he alleged that O'Brien and Halloran tortured him into confessing to murder.<sup>20</sup> Hodges stated that he only read co-defendant Weathers' case in preparation for his interview, and that at no point had he reviewed any materials on his case or claims, nor did he read any other cases implicating O'Brien or Halloran.<sup>21</sup>

Hodges stated that on January 7, 2002, when he was eighteen years old, he was arrested and taken to Area One Violent Crimes. Hodges said when he arrived he was stripped of his clothes and given only a hospital gown to wear.<sup>22</sup> He explained that he was placed in a room and his left hand was handcuffed to a wall where he remained for at least one day, although he did also note that it was difficult for him to tell exactly how much time had elapsed.<sup>23</sup> Hodges claimed that after some time spent alone in the room, Halloran came to see him and Hodges asked to use the restroom and for warmer clothes than the gown he had been made to wear. Hodges stated that Halloran

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<sup>17</sup> TCROP at 0433.

<sup>18</sup> TCROP at 433-435.

<sup>19</sup> EXHIBIT 4, TIRC Claim Form, 10/17/16, Doc. No. 132532887

<sup>20</sup> EXHIBIT 5, Audio Recording of Interview with Corey Hodges, Illinois Torture Inquiry and Relief Commission (May 7, 2021).

<sup>21</sup> *Id.* at 29:00.

<sup>22</sup> *Id.* at 31:17.

<sup>23</sup> *Id.* at 31:47.

denied his requests and he was forced to urinate on himself because he was handcuffed to the wall.<sup>24</sup> Hodges described a pattern of abuse in which Halloran became increasingly violent interspersed with visits from O'Brien, who would ask Hodges to provide information for their investigation.<sup>25</sup> Hodges stated that O'Brien would say things such as "his partner is not normally like that" and "just tell us what we wanna know."<sup>26</sup>

Hodges stated that the first assault took place after he said to Halloran that he was cold, following which Halloran struck him with a flashlight on his left temple twice.<sup>27</sup> Hodges stated that Halloran later also choked him.<sup>28</sup> Hodges said he was unable to move during these assaults because his left hand remained handcuffed to the wall.<sup>29</sup> Hodges stated that he suffered a gash on his left temple from the assault.<sup>30</sup> He noted that he did not recall whether any medical professionals took notice of any marks on his body or the gash during in-processing at the jail following booking.<sup>31</sup> Medical evaluation forms from Hodges in-processing were not available for review likely due to time elapsed.

Hodges stated that after the assaults took place, he asked O'Brien not to let Halloran back into the room because he hoped that O'Brien would protect him from Halloran's assaults. Hodges said that O'Brien continued to let Halloran in the room and pressed him for information after each assault. Hodges stated that he was denied food and restroom use for the duration of his being detained and interrogated.

Hodges stated that Mojica later arrived at Area One and he was asked to do a video confession. He agreed to do so thinking he would be let out of his handcuff from the wall, go home, get clothes, and use the restroom.<sup>32</sup> He said he did not remember anything from his conversation with Mojica, including whether he spoke with her alone without either of the Detectives present.<sup>33</sup>

Hodges said that in recent years he began receiving therapy from Dr. Steinbach and mental health counseling from Dr. Dickson at IDOC.<sup>34</sup> He stated that he was diagnosed with Post Traumatic Stress Disorder ("PTSD") and Schizophrenia.<sup>35</sup> On February 7, 2020, Hodges relayed during a mental health appointment that he had been beaten and tortured by police for a duration of three days.<sup>36</sup> On March 2, 2020, Hodges again discussed this event at a mental health appointment. The medical records show that he told IDOC doctors that he was taken into custody

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<sup>24</sup> *Id.* at 36:00.

<sup>25</sup> *Id.* at 40:30 and 45:05.

<sup>26</sup> *Id.* at 45:02 and 45:30.

<sup>27</sup> *Id.* at 39:00, 41:40, 43:10, and 48:30.

<sup>28</sup> *Id.* at 42:53.

<sup>29</sup> *Id.* at 43:40 and 43:53.

<sup>30</sup> *Id.* at 41:00.

<sup>31</sup> *Id.* at 54:34.

<sup>32</sup> *Id.* at 49:40.

<sup>33</sup> *Id.* at 50:00,

<sup>34</sup> *Id.* at 24:00 and 55:30.

<sup>35</sup> *Id.* at 23:05.

<sup>36</sup> EXHIBIT 6, Illinois Department of Corrections, Mental Health Evaluation, Feb. 7, 2020.

by Chicago police when as a late teenager and that while in custody he was confined to a room for three days and badly beaten.<sup>37</sup>

Hodges said he told Dawn Projansky (“Projansky”), his court-appointed attorney for the Motion to Withdraw Guilty Plea about the allegations, but that Projansky responded by telling him that she could only focus on the matters directly related to the motion she was assisting on.<sup>38</sup> In the Motion to Withdraw Guilty Plea, Hodges claimed that (1) he was actually innocent, (2) he plead guilty because of ineffective counsel, Strunck, and (3) Strunck forced and coerced him to plead guilty. Hodges explained that Strunck had said the case was “nonsense,” so he didn’t want to “spend time” on it, that he “didn’t have time to give 100%,” and that he was not confident about representing Hodges.<sup>39</sup>

On May 14, 2021, Shalvoy from MW spoke with Projansky, Hodges’ court-appointed attorney for the Motion to Withdraw Guilty Plea in which Hodges claimed Strunck had forced him to plead guilty. Projansky said she no longer has any files related to this matter as she typically purges files after 7-10 years, and her memory on the interactions between her and Hodges was not crystal clear. As to Hodges’ specific claim that he told her about the alleged torture, she said “he could have said that, but I have no independent recollection of it”.

*Co-Defendant Jerome Weathers’ allegations of abuse:*

On January 26, 2005, Weathers filed a Motion to Suppress Statements claiming that his confession was obtained through physical coercion. In his motion, he alleged that one of the detectives, described as possibly O’Brien, “shoved, grabbed and otherwise made violent contact with [Weathers]” and “jabbed at him with an object believed to be a flashlight, he was given no food during the time he was detained, he was handcuffed to a wall, and he was only given a gown to wear after he had to remove his clothes while being in a cold room.”<sup>40</sup>

On April 5, 2013, Weathers filed a Motion for Leave to File Successive Post-Conviction Petition claiming ineffectiveness of counsel. In his motion, he alleged that O’Brien and Halloran coerced him into giving a videotaped confession and also engaged in a pattern of coercive tactics against numerous defendants at Area One.<sup>41</sup>

On April 3, 2017, Weathers filed a Verified Amended Successive Petition for Post-Conviction Relief. He claimed he was physically coerced by O’Brien and Halloran into giving his videotaped confession and asked to be granted a new trial with his coerced confession barred from

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<sup>37</sup> *Id* at 14.

<sup>38</sup> EXHIBIT 5 at 01:17:45.

<sup>39</sup> EXHIBIT 3, Motion to Withdraw Guilty Plea, Indictment No. 02-CR-0301002 (Nov 2, 2005), People v. Hodges, No. 02-CR-3010-02 (Cook County, Ill.), Supplemental Record – Appellate Court # 09-0111 (Doc. No. 133017914).

<sup>40</sup> EXHIBIT 7, Motion to Suppress Statements, Indictment No. 02-CR-0301001 (January 26, 2005), 1-2, People v. Jerome Weathers, No. 02 CR 3010 (Cook County, Ill.)

<sup>41</sup> EXHIBIT 8, Motion for Leave to File Successive Post-Conviction Petition, April 5, 2013, 1-2, People v. Jerome Weathers, No. 02 CR 3010 (Cook County, Ill.) (Doc. No. 147659025).

evidence.<sup>42</sup> Weathers alleged that in the evening of January 7, 2002, he was arrested and taken into custody by Chicago Police Officer Aaron Cunningham (“Cunningham”) a few blocks from where the shooting of Buchanan took place.<sup>43</sup> He stated that Cunningham handcuffed Weathers’ hands behind his back and placed him in a squad car where he was left alone.<sup>44</sup> Weathers stated that his handcuffs were extremely tight so he attempted to get the attention of O’Brien through the car window.<sup>45</sup> Weathers stated that O’Brien responded by striking him on his right side with a flash light while saying “shut the f\*\*\* up” and then tightened the handcuffs while saying “is that tight enough for you?”<sup>46</sup>

In the Verified Amended Successive Petition for Post-Conviction Relief, Weathers stated that he was then taken to Area One where he was stripped of all his clothes except for his socks, shoes, and underwear and given a hospital gown to wear.<sup>47</sup> Weathers claimed he was not Mirandized before being interrogated or at any point during the interrogations.<sup>48</sup> Weathers further claimed that during his interrogations with O’Brien and Halloran, he maintained his innocence and that in response they handcuffed him to a table leg, forcing him to sit on floor. Weathers stated that on first day of interrogation, he asked the detectives to let him use the restroom, and he was denied this request. He stated that he was left handcuffed to the leg of the table all night, without food, warm clothing, or restroom breaks.<sup>49</sup>

In the Verified Amended Successive Petition for Post-Conviction Relief, Weathers further claimed that he was moved to a different interrogation room on January 8, 2002, where he was handcuffed to a wall above a bench and continued to be denied food and restroom access.<sup>50</sup> Weathers stated O’Brien and Halloran interrogated him that night, and after continuing to maintain his innocence, O’Brien grabbed Weathers and slammed him against a wall while accusing him of lying.<sup>51</sup> Weathers stated that Halloran watched but did not attack Weathers physically.<sup>52</sup> Weathers stated that O’Brien grabbed his neck, pushed him against the wall, and choked him.<sup>53</sup> Weathers stated that O’Brien promised more abuse would come unless he confessed.<sup>54</sup> Weathers stated that when they returned about 45 minutes later, he agreed to confess only if he would not be charged with murder, although it is unclear what O’Brien and Halloran said in response.<sup>55</sup> Weathers stated

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<sup>42</sup> EXHIBIT 9, Verified Amended Successive Petition for Post-Conviction Relief, April 3, 2017, 1-35, People v. Jerome Weathers, No. 02 CR 3010 (Cook County, Ill.) (Doc. No. 133017722).

<sup>43</sup> *Id.* at 8.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 9.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 10.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 10-11.

<sup>53</sup> *Id.* at 10.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 11.

he was given a statement to memorize and was finally allowed to eat and use the restroom after 34 hours of interrogation.<sup>56</sup>

### Pattern & Practice

O'Brien and Halloran have a history of being accused by suspects of both physical and mental abuse occurring during criminal investigations. O'Brien has been accused by 53 people of such conduct, and two suspects that were later exonerated.<sup>57</sup> Halloran has been accused by 60 people, and four suspects who were later exonerated.<sup>58</sup> The nature of the allegations varied, but generally consisted of both physical and verbal abuse, including some allegations of physical strikes from flashlights, with some allegations of denial of food and other verbal threats. See Exhibits 10 and 11 for more detailed summaries.<sup>59</sup>

### **STANDARD OF PROOF**

Section 40(d) of the Illinois Torture Inquiry and Relief Act permits the Commission to conduct inquiries into claims of torture. 775 ILCS 40/40(d). “‘Claim of torture’ means 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 (emphasis added).

If five or more Commissioners conclude by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the case shall be referred to the Chief Judge of the Circuit Court of Cook County. If fewer than five Commissioners conclude by a preponderance of evidence that there is sufficient evidence of torture to merit judicial review, the Commission shall conclude there is insufficient evidence of torture to merit judicial review.<sup>60</sup>

The Commission is not tasked by the General Assembly to conduct full, adversarial evidentiary hearings concerning the likelihood of torture, or even to make a final finding of fact that torture likely occurred. That remains the role of the courts. Instead, the Commission has interpreted Section 45(c), through its administrative rules, as not requiring that it be more likely than not that any particular fact occurred, but rather that there is sufficient evidence of torture to merit judicial review.<sup>61</sup>

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<sup>56</sup> *Id.*

<sup>57</sup> EXHIBIT 10, Summary of Complaints Against O'Brien.

<sup>58</sup> EXHIBIT 11, Summary of Complaints Against Halloran.

<sup>59</sup> *Id.*

<sup>60</sup> See 775 ILCS 40/45(c). To dismiss a claim, a minimum of four votes to dismiss are required. See 2 Ill. Adm. Code 3500.385(e).

<sup>61</sup> See 2 Ill. Adm. Code 3500.385(b)(1). In general, the approach the Commission has taken is akin to the concept of “probable cause;” that is, there must be enough evidence that the claim should get a hearing in court. See FAQ No. 8, <https://www.illinois.gov/tirc/Pages/FAQs.aspx/>. Note that the Commission is free under its rules, where it chooses, to find that any fact occurred, more likely than not. 2 Ill. Adm. Code 3500.385(b)(2). The Illinois Appellate Court has similarly framed the Commission’s duties: “[T]he Commission is asked to determine whether there is

## ANALYSIS

### I. Definition of Torture

The Commission first addresses whether Hodges' allegation rise to the level of torture. “Torture” means 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>62</sup>

The definition of torture and the other TIRC rulings presented in this memorandum indicate that Hodges' claims rise to the level of torture. We believe that Halloran and O'Brien's alleged actions against Hodges would constitute torture if true, including, without limitation, (1) detaining him for over 33 hours, (2) physical assaults against Hodges, (3) handcuffing Hodges in a room for an extended period of time, (4) denying Hodges bathroom access (including allowing him to urinate on himself multiple times), (5) denying Hodges food, (6) stripping Hodges of his clothing and keeping him in a cold room for a prolonged period of time wearing only a gown, and (7) statements made by O'Brien including “Tell me what I want to know and I'll let you go home” and “You are going to let these other guys ruin your life.”

### II. Factors Supporting the Claim of Torture:

- Hodges' original allegations of torture were substantially consistent from early 2004 through present day, including in testimony, sworn statements, motions, and correspondences with the Commission.
- There is a large body of evidence that Halloran and O'Brien had a history of allegations of abuse towards detainees.
- The duration of Hodges' time in custody before the videotaped confession January 9, 2002, was over 33 hours, a lengthy period of time that could well be considered coercive.
- Hodges' relatively early outcry via his motion to suppress his statement, which alleged abuse relatively consistent with the abuse he is currently alleging.
- Hodges claims that Halloran physically assaulted him multiple times during the interrogations, which supports an inference that Halloran was trying to coerce a confession.

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enough evidence of torture to merit judicial review, the circuit court is asked to determine whether defendant has been tortured. These are two different issues determined by two different entities.” See *People v. Christian*, 2016 IL App (1st) 140030, ¶95. The court compared the Commission to a court deciding whether a post-conviction petition can advance to the third stage. *Id.* at ¶98.

<sup>62</sup> See 775 ILCS 40/5(1); 20 Ill. Admin. 2000.10.

- Hodges claims he was handcuffed during the interrogations so that he was unable to avoid Halloran's physical assaults and was forced to urinate on himself, which could well be considered coercive.
- Hodges claims he was unable to use the restroom during the time he was in police custody, which could well be considered coercive.
- Hodges claims Halloran and O'Brien denied him food and water while in custody, which could well be considered coercive.
- Hodges claims that Halloran and O'Brien stripped him of his clothing, gave him only a hospital gown to wear, and put him in a cold room for hours, which could well be considered coercive.
- Hodges claims he was scared by threats Halloran and O'Brien made, for example they told him he would spend the rest of his life in prison if he did not confess, which could well be considered coercive.
- In early 2020, Hodges received therapy from Dr. Steinbach and mental health counseling from Dr. Dickenson at IDOC. The medical reports resulting from these appointments seem to (1) diagnose him with PTSD, Major Depressive Disorder ("MDD"), and MDD with Psychotic Features, and (2) indicate he has Antisocial Personality Disorder traits. Throughout his therapy and mental health appointments, Hodges discussed the torture he endured for three days at the hands of Halloran and O'Brien, which supports an inference of Hodges' accountability.
- Hodges claims he would not have confessed had he not been tortured into doing so because of the "no-snitch" culture he had internalized.

### III. Factors Detracting from the Claim of Torture:

- Hodges' credibility is suspect in many regards, as some significant aspects of his claims over the years have changed. For example, Hodges alleged for the first time in May 2021 that Halloran beat him with a flashlight, which allegedly included a strike to Hodges' head that caused a cut that bled. There is no video or visual evidence supporting the existence of a gash on Hodges' head. Although his booking photographs are somewhat dark, they are substantially better quality than many that this Commission has seen and do not seem to demonstrate any such injury. This is strong evidence that this allegation is inaccurate.
- Hodges changed his allegations of the specific officers involved in alleged physical abuse over time. In his Motion to Suppress dated May 18, 2005, Hodges alleged that only O'Brien physically assaulted him. In his initial claim form dated October 17, 2006, Hodges alleged that both detectives "took turns" physically assaulting him. In his interview in May 2021, Hodges alleged that only Halloran conducted the physical abuse and that O'Brien served in the role of "good cop" instead. Also, later in that same interview, Hodges stated that he could distinguish between the two detectives.

- Hodges was effectively impeached on some aspects of his plea-withdrawal testimony, including his initial testimony that Strunck never spoke with him about torture allegations before the day of the suppression hearing. The date-stamped suppression motion showed Strunck had conferred with Hodges months before, indicating at a minimum Hodges' unreliable memory, and a propensity for fabrication at worst.
- In May 2021, Hodges claimed he did not recall having a conversation with Mojica without any detectives present before giving his videotaped confession but Mojica is on record in 2005 saying she spoke with Hodges alone prior to Hodges giving his videotaped confession.
- Hodges stated in his videotaped confession on January 9, 2002 that he was fed White Castle burgers and beef sandwiches while in police custody with Halloran and O'Brien.<sup>63</sup> Since his Motion to Suppress from January 4, 2004, however, he has consistently stated that he was not fed while in custody.
- At the time of Hodges' arrest, the police had strong circumstantial evidence against him, which, particularly when taken collectively, might lessen the motive to obtain a confession.

#### IV. Weighing of the Evidence

Hodges' early claims of torture have remained generally consistent for a period of over 17 years, from early 2004 until present-day. The consistency of his allegations is evident in his Motion to Suppress Statements from 2004, at the hearing for his Motion to Withdraw Guilty Plea in 2005, in his initial TIRC claim form from 2016, in his medical records from 2020, and at the interview conducted by MW in 2021.

Hodges has generally remained consistent with his specific allegations on the false promises and other statements made to him by Halloran and O'Brien, the physical abuse says he suffered at the hands of the two detectives, and other aspects of his experience. In 2004, Hodges claimed that O'Brien told him (i) he had better "get his story straight" before Mojica arrived; (ii) "tell me what I want to know and I'll let you go home;" and (iii) "you are going to let these other guys ruin your life." In 2016, Hodges claimed that he was told by the detectives that "he would spend the rest of [his] life in prison if [he] did not confess".<sup>64</sup> During his interview with MW in 2021, Hodges maintained that O'Brien made statements like this, including the particular statement "tell us what we want to know and you can go home".<sup>65</sup> At multiple points over the years, Hodges continued to allege that Halloran and O'Brien kept him in handcuffs in between interviews so that he could not move, and denied him food, water, and access to a bathroom. On a number of occasions, Hodges also claimed that Halloran and O'Brien stripped him of his clothing, gave him only a gown to wear, placed him in a cold room, and forced him to urinate on himself

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<sup>63</sup> TCROP at 311.

<sup>64</sup> See EXHIBIT 4, Corey Hodges' TIRC Claim Form.

<sup>65</sup> EXHIBIT 5 at 40:00, 45:02.

by denying him access to a bathroom. We therefore find this factor weighs in favor of Hodges' original claims, but the Commission is skeptical of later, inconsistent claims.

O'Brien and Halloran have a history of being accused by suspects of both physical and mental abuse occurring during criminal investigations. O'Brien has been accused by 53 people of such conduct, and two suspects that were later exonerated.<sup>66</sup> Halloran has been accused by 60 people, and four suspects who were later exonerated.<sup>67</sup> In the case of each detective, some accusations proceeded as private lawsuits, a portion of which have been found in favor of the plaintiff or settled by the City of Chicago. We therefore find this factor strongly weighs in favor of Hodges.

The allegations that Hodges' co-defendant, Weathers, made against O'Brien and Halloran somewhat supports Hodges' credibility because there are many similarities compared to the allegations made by Hodges.

The duration of Hodges' time in custody before the videotaped confession January 9, 2002, was over 33 hours, a lengthy period of time that could well be considered coercive. There is no dispute to the length of time that Hodges was in custody. We therefore find that this factor significantly weighs in favor of Hodges.

Hodges has consistently claimed that the detectives physically assaulted him multiple times during the interrogations which supports an inference that the detectives were trying to coerce a confession. Although there are some inconsistencies as to which detective Hodges claims engaged in the physical assault as is discussed in further detail below, Hodges has consistently claimed since 2004 that he was beaten and choked during multiple interrogation sessions while he was in custody. We therefore find this factor weighs in favor of Hodges.

Hodges has also consistently claimed since early 2004 that (1) he was handcuffed during the interrogations so that he was unable to avoid Halloran's physical assaults and was forced to urinate on himself, (2) he was unable to use the restroom during the time he was in police custody, which could well be considered coercive, (3) Halloran and O'Brien denied him food and water while in custody, (4) Halloran and O'Brien stripped him of his clothing, gave him only a hospital gown to wear, and put him in a cold room for hours, and (5) he was scared by threats or otherwise influenced by false promises made by Halloran and O'Brien, all of which could well be considered coercive. We therefore find this factor significantly weighs in favor of Hodges.

In early 2020, Hodges received therapy from Dr. Steinbach and mental health counseling from Dr. Dickenson at IDOC. The medical reports resulting from these appointments seem to (1) diagnose him with PTSD, MDD, and MDD with Psychotic Features and (ii) indicate he has Antisocial Personality Disorder traits. It appears that Hodges discussed his allegations against Halloran and O'Brien during these therapy and counseling sessions, which occurred so many years

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<sup>66</sup> EXHIBIT 10, Summary of Complaints Against O'Brien.

<sup>67</sup> EXHIBIT 11, Summary of Complaints Against Halloran.

after his initial claim lodged with the Commission that he might have lost hope that it would be reviewed. We therefore find that this weighs in favor of Hodges.

During the interview with MW in 2021, Hodges claimed he would not have confessed had he not been coerced into doing so because of the “no-snitch” culture he had internalized. He explained that at the time he was interrogated, he believed that he would be ostracized from the community he grew up in if he were to “snitch” on his co-defendants, which were his friends, and otherwise confess to his own involvement in a crime. He essentially claimed that his confession went against this core belief system and is evidence that he was forced into confessing. We therefore find this slightly weighs in favor of Hodges.

Hodges’ credibility is suspect in many regards, as some significant aspects of his claims have changed over the years. First, when interviewed by MW in May 2021, he alleged for the first time that Halloran beat him with a flashlight, which allegedly included a strike to Hodges’ head that caused a cut that bled at or near his hairline. There is no video or visual evidence supporting the existence of a gash on Hodges’ head. However, the footage of Hodges’ videotaped confession is grainy and given the alleged gash’s location, it is not improbable that the gash was not visible. The booking photographs of Hodges are somewhat dark, but of passable quality and also seem to demonstrate no gash, and no blood on his hospital gown. This is strong evidence the flashlight allegation is inaccurate, and we find this factor weighs against Hodges.

Second, over the years, Hodges has changed his allegations of the specific officers involved in the alleged physical abuse. In 2005, Hodges alleged that only O’Brien physically assaulted him. In 2016, Hodges alleged that both detectives “took turns for hours”. In his interview with MW in May 2021, Hodges alleged that only Halloran conducted the physical abuse and that O’Brien served in the role of “good cop” instead. In that same interview, Hodges stated that he could distinguish between the two detectives without issue. That said, it is possible that Hodges was at one point confused as the identity of the detectives. Further, because of the trauma Hodges experienced with both the aftermath of the crime itself as a general matter and the alleged abuse and related circumstances, as well as the time in between statements, it is not completely unlikely that his recollection of these particular details is lacking. Nonetheless, we find this factor weighs against Hodges.

Third, in 2021, Hodges claimed he did not recall having a conversation with Mojica without any detectives present before giving his videotaped confession, but Mojica is on record saying she spoke with Hodges alone prior to Hodges giving his videotaped confession. Given that Hodges prefaced this statement by saying he did not recall and otherwise refrained from being as definitive with his recollection as he was with other details, this seems like an aspect that Hodges reasonably forgot. We therefore find this factor weighs only slightly against Hodges.

Fourth, Hodges stated that Halloran and O’Brien treated him well and fed him to Mojica in both the videotaped confession, and according to Mojica, in her time spent alone with Hodges prior to the videotaped confession. However, it is plausible that Hodges still feared the detectives and/or believed the false promises, so he may have opted not to disclose certain things to Mojica

while along or during the videotaping of the confession in order to ensure his own safety and bring what he hoped to be an end to his ordeal. We therefore find this factor weighs only slightly against Hodges.

Fifth, at the time of Hodges' arrest and subsequent interrogation, the police had strong circumstantial evidence against Hodges, including positive gunshot residue tests, recovered handguns from close proximity to the scene of the crime, and his capture in the area of the shooting almost immediately after it occurred, which, when taken collectively, might lessen the motive of Halloran and O'Brien to obtain a confession.

Based on a totality of the circumstances, we find Hodges to be generally consistent with his originally raised allegations, but do not credit the later-raised allegation regarding a flashlight blow. His original allegations have largely remained consistent over a long period of time and some of the discrepancies in his allegations can largely be explained by lapse of a large amount of time and the effects that traumatic experiences can have on someone's ability to recall things accurately. Although we find Hodges to have credibility issues, the standard of decision at this stage is not a preponderance of evidence that torture occurred, only that a preponderance of evidence shows sufficient evidence of torture meriting judicial review. Given the large number of troubling allegations against Halloran and O'Brien on the other side of the equation, and Hodges' consistency in his early allegations, the Commission finds Hodges' allegations merit further judicial review.

### **CONCLUSION**

Pursuant to 775 ILCS 40/45(c), the Commission concludes by a preponderance of the evidence that there is sufficient credible evidence of torture to merit referral of this claim for further judicial review. This determination shall be considered a final decision of an administrative agency for purposes of administrative review under the Administrative Review Law (735 ILCS 5/3-101).<sup>68</sup>

The Commission instructs its executive director to file its written findings and conclusion with the court and to notify Hodges of its decision to grant referral of his claim to court.



Kathleen Pantle, TIRC Acting Chair

Date: August 18, 2021

<sup>68</sup> See 775 ILCS 40/55(a) of the TIRC Act. 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 (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 persons is listed in the Notice of Filing certificate that accompanies the filing of this determination with the Court.