

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of George Ellis Anderson

TIRC Claim No. 2011.016-A

CASE DISPOSITION

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Adm. Code 3500.385(b), it is the decision of the Commission that, by a preponderance of the evidence, there is sufficient evidence of torture to conclude that the Claim is credible and merits judicial review for appropriate relief. This decision is based upon the Findings of Fact and Conclusions set forth below, as well as the supporting record attached hereto.

Findings of Fact

1. On August 21, 1991, Claimant George Ellis Anderson (“GA”) was arrested and later taken to Area 3 of the Chicago Police Department.

2. At the time of GA’s arrest Jon Burge was the Commander of the Detective Division at Area 3, and the Detectives named herein were working at Area 3 under his supervision.

3. At Area 3 GA was initially questioned regarding a homicide by Detectives Kill, Kenneth Boudreau, and John Halloran. During the course of this questioning GA was beaten repeatedly, including being kicked on the wrists while he was handcuffed to the wall. He was threatened with further beatings if he didn’t sign a confession handwritten by an Assistant State’s Attorney, which GA did.

4. Thereafter GA was taken to another room in Area 3 where he was handcuffed with his arms over his head. While in this position Detective James O’Brien held an open telephone book over GA’s left side, while Detective Joseph Stehlik struck GA with a black rubber hose multiple times. As a result GA agreed to sign a confession, also handwritten by an Assistant State’s Attorney, relating to a second homicide case.

5. GA was later indicted for the two homicides in the Circuit Court of Cook County, case nos. 91 CR 22152 and 91 CR 22460.

6. GA made a motion to suppress both confessions, and testified on January 24, 1994 to the facts set forth in paragraphs 2 and 3 above, as set forth in Exhibit A attached hereto.

7. The partial motion-to-suppress transcripts available to the Commission indicate that the following evidence was not introduced at the hearing on the motion:

a. In 1990 the Office of Professional Standards of the Chicago Police Department concluded after an internal investigation that there had been systematic abuse at Area 2 under Jon Burge for over ten years. The Report was released in 1992.

b. On November 12, 1991, Jon Burge was suspended, and on February 11, 1993, the Police Board of the City of Chicago separated him from his position as a Commander with the Department of Police after finding him guilty of abusing Andrew Wilson at Area 2 in 1982.

8. Since the motion to suppress was heard, the following evidence has emerged:

a. In 2002 Chief Cook County Criminal Court Judge Paul Biebel appointed a Special State's Attorney to investigate allegations of torture by police officers under the command of Burge at Areas 2 and 3 to determine if any criminal prosecutions were warranted. Although the 2006 Report concluded that the statute of limitations barred any criminal prosecutions, the Report found that "[t]here are many other cases which lead us to believe or suspect that the claimants were abused." (Report of the Special State's Attorney at 16) On the occasion of the Report's release, the Special State's Attorney stated that he believed the abuse was an "ongoing" practice, and had occurred in approximately half of the 148 cases which were investigated. (Remarks by Special State's Attorney on July 19, 2006, as reported in the Chicago Tribune on July 20, 2006, attached as Exhibit C).

b. TIRC records, attached as Exhibit D, indicate that O'Brien has been accused by over 30 individuals of physical abuse and coercion. In one of those cases, it is alleged by Ivan Smith that in 1991 O'Brien and Stehlik beat Smith with a nightstick on an open phonebook held over Smith's chest. This is strikingly similar to GA's claim. GA's cases are totally unrelated to Smith's, and there is no evidence that GA and Smith knew each other or have ever talked to each other.

c. TIRC records, attached as Exhibit E, indicate that Boudreau has been accused of abuse and coercion by over 35 individuals. Boudreau has obtained confessions in cases where the individual was in jail at the time of the offense to which he confessed (Peter Williams), cases which were later undermined by DNA evidence (Derrick Flewellen), and several cases involving

mentally retarded juveniles (Alfonzia Neal, Fred Ewing, and Darnel Stokes).

d. TIRC records, attached as Exhibit F, indicate that Kill has been accused of physical abuse and coercion by over 20 individuals. Kill was involved in the cases of Ronald Kitchen and Gerald Reed, who alleges he had a steel rod in his leg broken while he was interrogated by Kill and others at Area 3 in 1990.

e. TIRC records, attached as Exhibit G, indicate that Halloran has been accused of abuse and coercion by over 35 individuals. He was involved in the Williams case (with Boudreau), and the Flewellen case (with Boudreau).

e. Detectives O'Brien has pled the 5th Amendment protection against self-incrimination when questioned about physically abusing detainees; it has been reported that Detective Kill has as well.

9. After his motion to suppress was denied, GA was convicted on November 30, 1994 in a bench trial in case no. 91 CR 22460, at which his confession was introduced against him. Although GA was eligible for the death penalty, the judge imposed a sentence of natural life. On May 24, 1994, GA entered a guilty plea in case no. 91 CR 22152, pursuant to an agreement that he would not be sentenced to death, and he received a concurrent life term. His confession was used at the time of the guilty plea as part of the prosecution's factual basis to support the plea.

Conclusions

1. GA's Claim qualifies for summary referral pursuant to 2 Ill. Adm. Code 3500.370 in that:

a. GA has consistently claimed since his motion to suppress to have been tortured in the manner alleged in his TIRC Claim;

b. His Claim is strikingly similar to other claims of torture contained in the Reports of the Chicago Police Department's Office of Professional Standards, and the Report of the Special State's Attorney, regarding their investigations of Jon Burge and police officers under his command;

c. The officers accused are identified in other cases alleging torture; and

d. The Claim is consistent with the Office of Professional Standards' findings of systematic and methodical torture at Area 2 under Jon Burge.

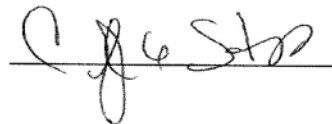
2. In addition, the other available evidence set forth above indicates that the Claim is credible and merits judicial review.

3. While the complaints of physical abuse and coercion against the accused officers are allegations and not judicial findings, they are nevertheless relevant in deciding whether abuse occurred in a specific case. People v. Patterson, 192 Ill.2d 93, 114-15,735 N.E.2d 616 (Ill.Sup. Ct. 2000); People v. Cannon, 293 Ill. App.3d 634, 640, 688 N.E.2d 693 (1 Dist. 1997); People v. Cortez Brown, 90 CR 23997 (Transcript of Proceedings dated May 22, 2009 at 8, Ruling by Judge Crane) (evidence against Burge subordinates¹ of abuse in cases other than Brown's was "staggering" and "damning"), attached as Exhibit I.

4. While invocation of the 5th Amendment is not an admission of guilt, in a civil proceeding such as this a negative inference can be drawn from that fact. 2 Ill. Adm. Code 3500.375 (g).

Dated: June 13, 2012

Amended March 24, 2014



Cheryl Starks
Chair
Illinois Torture Inquiry and
Relief Commission

¹ O'Brien was one of the detectives involved in the Cortez Brown case, and evidence of abuse in other cases was introduced which related to him. When called to testify at the hearing he refused, pleading the 5th Amendment privilege against self-incrimination. See Exhibit H attached hereto.