

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

In re:

Claim of Harvey Allen

TIRC No.: 2011.017

CASE DISPOSITION

FILED  
13 MAY 29 PM 2:06  
CLERK OF THE CIRCUIT COURT  
CRIMINAL DEPT.  
DOROTHY BROWN

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 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 December 7, 1985, Claimant Harvey Allen (“HA”) was arrested and taken to Area 1 of the Chicago Police Department and later to Area 3. HA was interrogated at these locations by detectives for a period of at least 45 hours. During that time HA was dragged up and down the steps of the station while his hands were cuffed behind his back, he was punched and kneed in the groin, and a sharp, pointed object was placed against his throat. HA was also denied food, sleep, and access to the bathroom. This abuse was for the purpose of forcing HA to confess, and it did result in an oral confession to a case involving murder and arson.
2. HA was subsequently indicted for murder and arson in case no. 85 CR 901 in the Circuit Court of Cook County.
3. Prior to trial HA filed a motion to suppress his statements, a copy of which motion is attached as Exhibit A, and which contains a very detailed statement of his abuse claim which is consistent with his TIRC Claim. HA’s attorney also sought to suppress the confession through a motion to quash his arrest based upon lack of probable cause. At the consolidated hearing on the motions, HA’s attorney chose to question

- HA only on the motion to quash the arrest<sup>1</sup>, and did not question him at all regarding the abuse. Consequently the motion to suppress the statements was denied.
4. Since the motion to suppress statements was heard, the following evidence has emerged:
    - a. In 1990 the Office of Professional Standards of the Chicago Police Department concluded after an internal investigation that there had been systemic abuse at Area 2 for over 10 years. The Report was not released publicly until 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.
    - c. In 2002 Cook County Criminal Court Chief 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 [ ] cases which lead us to believe that the claimants were abused". (Report of Special State's Attorney at 16)
  5. At trial there were no eyewitnesses, nor was there any scientific evidence, to prove that HA started the fire. In addition, HA's jacket, which he was supposedly wearing at the time he allegedly started the fire, tested negative for any petroleum chemical component, even though the arson investigator testified that the arsonist splashed gas all over the apartment door and the stairs. Thus, the coerced confession played a significant role in HA's conviction. HA was sentenced to life in prison on the murder convictions and to 7 years on the arson conviction.

### Conclusions

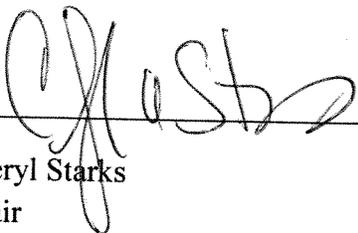
1. The written pretrial motion to suppress statements demonstrates that HA has maintained from the outset that he was abused in a manner which is consistent with his TIRC Claim.

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<sup>1</sup> HA prevailed on the probable cause issue on direct appeal from the conviction, but the appellate court ruled that the confession was sufficiently attenuated from the unlawful arrest so that suppression was not required. People v. Allen, 249 Ill.App.3d 1001, 1013-15 (1Dist. 1993)

2. The failure of HA to testify to the facts in the motion to suppress was a strategic decision by his lawyer, who was intent on pursuing suppression through the motion to quash the arrest.
3. The prosecution case against HA without the confession was not strong, creating an incentive to coerce a statement.
4. For all the reasons set forth above and in the Findings of Fact, this Claim is credible based upon a preponderance of the evidence and merits referral for judicial review.

DATED: May 20, 2013



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Cheryl Starks  
Chair  
Illinois Torture Inquiry and  
Relief Commission

EXHIBIT A:

Motion to Suppress Statement in People v. Allen, 86 CR 93



6. At approximately noon on Saturday, December 7, 1985, the Chicago Police took Mr. Allen to the Chicago Police Station at 11th and State. Mr. Allen was interrogated at 11th and State by the Chicago Police and given a polygraph test.

7. Mr. Allen was then taken by the Chicago Police back to 51st & Wentworth. The interrogation of Mr. Allen by the Chicago Police continued.

8. During the evening of Saturday, December 7, 1985, the Chicago Police took Mr. Allen back to his apartment. During this time Mr. Allen was interrogated by the Chicago Police. Mr. Allen was physically abused by the Chicago Police during this interrogation. The Chicago Police twisted Mr. Allen's arms and dragged him up and down the stairs of his home for the purpose of inducing Mr. Allen to confess.

9. On Saturday night Mr. Allen was brought back to 51st & Wentworth. The Chicago Police put Mr. Allen in an interrogation room and left him there the entire night. Mr. Allen was given no food by the Chicago Police.

10. On Sunday, December 8, 1985, Mr. Allen was kept in an interrogation room without food.

11. In the late afternoon on Sunday, December 8th a homicide detective came into the interrogation room and gave Mr. Allen a hamburger. This detective told Mr. Allen that he would get the death penalty if he didn't confess. He told Mr. Allen that Mr. Allen should confess to the fire and say that he did not mean to kill anyone. Mr. Allen told this detective that he wanted a lawyer. The detective kicked Mr. Allen. Mr. Allen was then transported to another interrogation room. The questioning of Mr. Allen continued despite Mr. Allen's request for a lawyer.

12. Mr. Allen was kept in an interrogation room all Sunday night. He was not allowed to go to the washroom.

13. On Monday, December 9, 1985, at approximately 3:00 a.m. Chicago Police detectives entered the interrogation room of Mr. Allen. Mr. Allen again told these detectives that he wanted a lawyer. The detectives interrogated Mr. Allen despite his request for a lawyer. These police officers then left the room.

14. One police officer then entered the room. This officer physically abused and threatened Mr. Allen to coerce Mr. Allen to talk. The physical abuse included kneeling Mr. Allen in the groin and holding a sharp object to Mr. Allen's throat.

15. Later in the morning on Monday, December 9, 1985, a man who identified himself as an Assistant State's Attorney came to speak to Mr. Allen in the interrogation room. This man told Mr. Allen that if he confessed to the fire, he would not get the death penalty. This man told Mr. Allen that if he confessed, the State would make a deal with him for six years in the penitentiary instead of capital punishment. Mr. Allen requested a lawyer and interrogation continued despite this request.

16. Any alleged statement taken from Mr. Allen on or after Sunday, December 8, 1985, was taken in violation of his articulated request for an attorney.

17. Any alleged statement taken from Mr. Allen after the polygraph session on Saturday, December 7, 1985, was involuntary because of the conduct of law enforcement officials set forth in paragraphs 8, 9, 10, 11, 12, 13 and 14 of this motion.

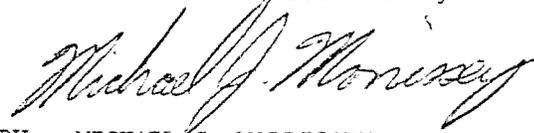
WHEREFORE, Mr. Allen requests that this Court:

1. Conduct a pre-trial evidentiary hearing concerning the matters alleged in this motion.

2. Suppress as evidence in this case any and all oral & written statements of Mr. Allen to law enforcement officials which were either involuntarily taken or taken in violation of Mr. Allen's right to counsel.

Respectfully submitted,

JAMES J. DOHERTY,  
Public Defender of Cook County

A handwritten signature in cursive script, reading "Michael J. Morrissey". The signature is written in dark ink and is positioned above the typed name of the signatory.

BY: MICHAEL J. MORRISSEY,  
Assistant Public Defender  
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