

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
Claim of Terrence Mack

TIRC No. 2017.474-S
(Relates to Cook County
Circuit No. 88-CR-15413)

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 Terrence Mack was convicted of the September 9, 1988 murder of Abdullah Asad.
2. On or about February 9, 2017, Mr. Mack filed with the Commission his claim form in the matter of the Asad murder conviction.¹ Mr. Mack alleged that he was pushed, shoved, denied food, and held in custody without the ability to contact his legal guardian for over a day.² As a result of the interrogation, Mr. Mack made a statement.³ Mr. Mack further indicated that his co-defendants were tortured into providing statements that inculpated Mr. Mack after the co-defendants had already given statements exculpating Mr. Mack.⁴ Finally, his claim form indicated that his exculpatory statement to police was not used at trial after the state filed a successful motion to preclude its introduction as a prior consistent statement. Mr. Mack included a transcript excerpt confirming that exclusion order.
3. On August 31, 2017, Mr. Mack provided the Commission with a supplementary “statement of jurisdiction.”⁵ Mr. Mack indicated that his co-defendant, Mr. Adrian Hennon, first made a statement exculpating Mr. Mack, and later, made a statement that inculpated Mr. Mack.⁶ Only the statement inculpating Mr. Mack was admitted during trial.⁷ Mr. Mack did not provide any additional information regarding his own statements to the police and prosecutors.⁸
4. On January 22, 2018, Mr. Mack spoke with the Commission’s Executive Director, Rob Olmstead, regarding whether the Commission had jurisdiction over Mr. Mack’s claim. Mr. Mack provided that his statements were exculpatory in nature and relevant to establishing an alibi. Mr. Mack inquired as to whether his co-defendants’ statements, which were alleged to be the product of torture, would be considered by the Commission. Mr. Mack was informed that statements made by co-defendants, even if they are the product of torture, are beyond this Commission’s jurisdiction.

¹ See TIRC Claim Form of Terrence Mack (Feb. 9, 2017) and attachments from Mack.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ See Aug. 31, 2017, Letter from Terrence Mack, to TIRC.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

5. On September 18, 2020, Commission staff wrote to Mr. Mack 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.⁹ Mr. Mack was further informed that the Commission’s enabling statute does not cover claims where co-defendants were tortured into giving statements against the claimant.¹⁰ The letter invited Mr. Mack to respond if he thought there were additional circumstances that gave the Commission jurisdiction over his claim.¹¹
6. TIRC staff reviewed the entire trial transcript of October 10, 1989 through October 14 and confirmed none of Mack’s statements were introduced against him, nor was he impeached with any statements made to police when he testified at trial.¹²

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. Mack’s claim form and supplementary letter confirm that no statements he made were then used by the prosecution at trial to convict him. Rather, he claims that his co-defendants were pressured into giving statements 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.¹³ Because no tortured statement by Mr. Mack was used to obtain his conviction, the Commission is without jurisdiction in this matter.

⁹ See September 18, 2020, Letter from Rob Olmstead, TIRC Executive Director to Terrence Mack.

¹⁰ *Id.*

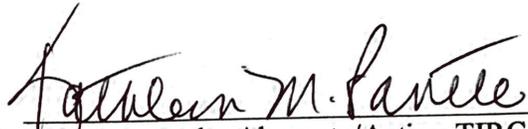
¹¹ *Id.*

¹² See *People v. Mack*, Transcripts of Trial of October 10-14, 1989.

¹³ See *In re Marcus Wiggins* (Aug. 19, 2020) (summary dismissal because Mr. Wiggins claimed that other witnesses were tortured into giving statements against him and though Mr. Wiggins alleged that he himself was tortured and provided a statement to the police, his statements were ultimately exculpatory in nature and were not used against him at his trial); *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).

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).¹³

Dated: October 21, 2020



Kathleen Pantle, Alternate/Acting TIRC Chair

¹³ 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.