

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of David Randle

TIRC Claim No. 2011.006-R

AMENDED 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 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 January 4, 1991, Claimant David Randle was taken from his mother's home by detectives from Area 2, including George Basile, for questioning regarding a homicide which had taken place several weeks earlier.¹

2. Det. Basile had previously worked for Jon Burge, when Burge was assigned to Area 2.

3. Randle was later indicted for the homicide in the Circuit Court of Cook County, case no. 91 CR 02172.

4. Randle has consistently alleged that during the course of the questioning at Area 2, Basile squeezed his testicles until he agreed to confess.² The content of Randle's confession, which was written by an Assistant State's Attorney ("ASA"), is attached as Exhibit A. Randle's testimony from his 1992 pre-trial motion to suppress is attached as Exhibit B.³

5. Det. Basile denied any torture in his testimony at the hearing on the motion to suppress, but acknowledged that he was present when Randle made his incriminating statements. (Exhibit C at C7-C10, C14-C16.)

¹ Trial Motions.pdf at 133-134; Testimony MQ.pdf at 1-4. Testimony at Randle's sentencing hearing suggested that he had an IQ of 69, and that he had suffered brain damage after being hit on the head with a baseball bat approximately one year prior to his arrest. Trial Transcripts 2_03_1993.pdf at 157-160. [Citations to items not attached as Exhibits are to materials in the Commission's file.]

² Trial Motions.pdf at 142; Claim form.pdf at 1-2; Application for Leave to file a Successive Petition.pdf at 2-5; Motion for PC Relief.pdf at 18; Petition for Leave.pdf at 10.

³ While the surrounding details of Randle's story have had some variations, the allegation that his testicles were squeezed until he agreed to confess has been consistent.

6. Since the motion to suppress 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 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 D)

7. Exhibit E is a summary of reports of allegations of abuse by other detainees where Det. Basile was one of the officers involved in the investigation. Included are two cases in which the detainees alleged that they were threatened with damage to their "nuts," and one where the detainee alleges he was shocked on his testicles. Basile has asserted the 5th Amendment privilege against self-incrimination when questioned about physically abusing detainees.

8. Randle's conviction at trial was based almost solely upon his confession.⁴ There were no eyewitnesses to the murder, and no physical evidence placing Randle at the crime scene at the time of the murder.⁵

9. There was some question as to whether the confession was consistent with the time of death established by the autopsy and other testimony. The confession states that the murder occurred on December 14, 1990, a Friday. The body was not discovered until December 18, the following Monday. A neighbor of the victim testified that he saw her alive on Saturday,

⁴ The Commission is not finding that Randle is factually innocent of the offense, but only that the weakness of the case against Randle gave added incentive to coerce a confession to bolster that case.

⁵ Trial Transcripts 2_03_1993.pdf at 29-85.

the 15th. (Excerpts of Transcript of Proceedings dated February 2, 1993, attached as Exhibit H, at K89-K95).⁶

10. When Randle was first questioned by police, he denied any knowledge of the murder.⁷ The Assistant State's Attorney testified that when she first questioned Randle, he said that the victim was holding a knife and fell on herself, and that he then left the room by the front door.⁸ The ASA left the room and returned 20-30 minutes later.⁹ She then told Randle that there were several wounds, and the front door was locked.¹⁰ Randle then provided a third story, which became the written confession.¹¹

11. The narrative told in the written confession is unusual. It states that Randle, who was a neighbor of the victim and had done odd jobs for her before, was at her home fixing a toilet while she was having a conversation on the phone. During this conversation the "old lady, about 74 years old," became upset and pulled the receiver out of the wall. Then she, so the confession relates, for no apparent reason, attacked Randle with a knife. Randle, also for no apparent reason, grabbed the knife and stabbed the victim to death. He did not know how many times he stabbed her. On his way out, he took the victim's gun (which was never recovered). Recognizing that criminals often seek to minimize their responsibility for a crime when confessing, the written confession states an improbable chain of events.¹²

12. On direct appeal from his conviction, Randle argued that the trial court erred in finding that his confession was voluntary. The Appellate Court deferred to the trial court's finding that the testimony of the detectives and the ASA was more credible than that of Randle. *People v. Randle*, 277 Ill. App. 3d 788, 801, 661 N.E.2d 370 (1st Dist. 1995).

⁶ Another neighbor admitted that he told the police after the discovery of the body that he had seen the victim alive on Monday the 18th, but at trial he claimed that he had been mistaken and that he last saw her on the 14th. (Exhibit H at K96-K101) (Exhibits F and G are intentionally omitted.)

⁷ Trial Motions.pdf at 138.

⁸ Trial Transcript 2_2_1993.pdf at 48-49.

⁹ *Id* at 49.

¹⁰ *Id* at 50-51.

¹¹ *Id* at 51-54.

¹² Trial Transcript 2_2_1993.pdf at 56-61.

13. In 2003, Randle again raised his coercion claim in a Successive Post-Conviction Petition, but the Petition was dismissed on procedural grounds without reaching the merits of the claim.¹³

14. Randle asserted his claim once more with the Special State's Attorney, but the case was closed for lack of corroborating evidence and for some of the inconsistencies in Randle's story.¹⁴

15. Randle raised his coercion claim again in another post-conviction petition, which was also dismissed.

Conclusions

1. Randle has consistently claimed since his motion to suppress that he was coerced into confessing because Det. Basile squeezed his testicles. While repetition of a claim does not make it true, consistency in asserting a claim from an early stage in the case is an important factor in judging the credibility of a Claim before the TIRC. While there is no medical or physical evidence corroborating Randle's claim, this is not surprising given that this abuse would not be expected to leave marks or show up in a physical examination later.

2. Another significant factor, of which the trial judge was not aware, is the history of similar allegations of abuse in cases where Det. Basile was involved in the investigation. Det. Basile acknowledged that he obtained the first admission from Randle, and was always present when Randle confessed either orally or in writing.

3. There was a strong incentive to coerce a confession in this case due to the pronounced lack of evidence against Randle. His claim is also buttressed by the improbable content of the confession.

4. While the complaints of physical abuse and coercion against Basile 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 (2000); *People v. Cannon*, 293 Ill.App.3d 634, 640, 688 N.E.2d 693 (1st Dist. 1997).

5. 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. *See, e.g., Logan v. City of Chicago*, 891 F. Supp. 2d 897, 903 (N.D. Ill. 2012).

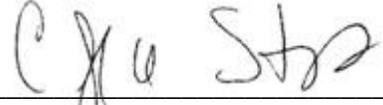
¹³ Petition for leave to Appeal.pdf at 18-19.

¹⁴ That office was investigating the possibility of criminal prosecutions of the detectives, and therefore employed the standard of proof beyond a reasonable doubt. The inconsistencies included variations in Randle's story as to whether he had reported his injuries to medical personnel. OPS closing, 00018788.pdf at 1-5.

6. The Commission therefore concludes that the Claim merits judicial review.

Dated: June 18, 2012

Amended: June 4, 2015



Cheryl Starks
Chair
Illinois Torture Inquiry and
Relief Commission