

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

In re:  
Claim of DeShawn Gardner

TIRC No. 2018.580-G  
(Relates to Cook County  
Circuit No. 96-CR-19080)

**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, DeShawn Gardner, was convicted of the 1994 murder of Steven Green.<sup>1</sup>
2. On or about May 25, 2018, Mr. Gardner filed a claim form with the Commission alleging that three state witnesses (Sheila Crosby, Lance Roberson and Timothy McCoy) who testified against him were tortured or coerced by police into giving that testimony against him. Further, Mr. Gardner noted on his claim form “I never confess to this crime,” and “I didn’t make a statement.”<sup>2</sup>
3. On July 10, 2018, Commission staff wrote to Mr. Gardner to inform him that the circumstances of his claim likely fell outside the Commission’s jurisdiction because he alleged only that witnesses against him were tortured, not that he was tortured into giving a statement against himself. Commission staff informed Mr. Gardner of their intent to recommend to the Commission that his claim be dismissed, and encouraged Mr. Gardner to write to them with further details if his claim had been misunderstood.<sup>3</sup> No response was received.
4. Mr. Gardner has made similar claims of witness coercion in a post-conviction petition. In 2013, the Illinois Appellate Court overturned the trial court’s dismissal of his second stage petition and ordered that third-stage post-conviction evidentiary hearings be conducted in regards to the claims of witness coercion.<sup>4</sup>

**ANALYSIS**

The Illinois Torture Inquiry and Relief Act empowers the Commission to investigate Claims of Torture, which the Act defines as:

<sup>1</sup> See *People v. Gardner*, 2013 IL App (1<sup>st</sup>) 110341-U. See also, *In re Claim of Charles Stewart*, TIRC Claim No. 2014.244-S, involving a co-defendant of Gardner’s, decided May 16, 2018, available at: <https://www2.illinois.gov/sites/tirc/Documents/2018.5.17%20Determination-STAMPED%20B-W.pdf>.

<sup>2</sup> See TIRC Claim Form of DeShawn Gardner.

<sup>3</sup> See July 10, 2018 Letter from DeAndrea Brown, TIRC Administrative Assistant, to DeShawn Gardner.

<sup>4</sup> See *People v. Gardner*, 2013 IL App (1<sup>st</sup>) 110341-U.

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DEANDREA BROWN  
TIRC ADMINISTRATIVE ASSISTANT

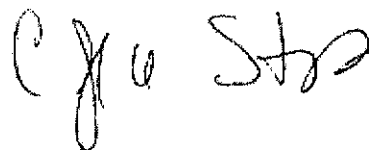
\* \* \* a claim on behalf of a living person convicted of a felony in Illinois asserting that *he was tortured into confessing* to the crime for which the person was convicted and the tortured confession was used to obtain the conviction and for which there is some credible evidence related to allegations 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. Gardner’s own claim form, as well as parallel claims in his post-conviction case, indicate that he does not claim that he personally was tortured into giving a statement that was used to convict him. Rather, he claims witnesses were so tortured.

While the Commission does not condone police misconduct of any kind, particularly the torture of witnesses, 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 that statement was used to obtain his conviction.<sup>5</sup>

The Commission summarily dismisses Mr. Gardner’s claim and instructs the Executive Director to notify Mr. Gardner of the dismissal and his right to judicial review under the Illinois 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).<sup>6</sup>



Dated: December 18, 2018

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Cheryl Starks  
Chair  
Illinois Torture Inquiry and Relief Commission

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<sup>5</sup> See *In re: Claim of James Sardin*, TIRC No. 2011.247-S, dismissed by the Commission on June 18, 2014, because Mr. Sardin claimed only a witness, and not himself, was tortured into giving a statement that was used to convict Mr. Sardin. Available at: <https://www2.illinois.gov/sites/tirc/Documents/2014.6.18.SARDIN.dismissal.FILED.pdf>

<sup>6</sup> 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.