

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of Jesse Hatch

TIRC Claim No. 2011.026- H

(Relates to Cook County Circuit

Court Case(s) 80 C 5534)

CASE DISPOSITION

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Admin Code 3500.385(b), the Illinois Torture Inquiry and Relief Commission (hereinafter, "TIRC") concludes by a preponderance of the evidence that, there is sufficient evidence of torture to merit judicial review of Jesse Hatch's claim of torture. The decision is based upon the Findings of Fact, Analysis, and Conclusions set forth below, as well as the supporting record attached hereto.

I. EXECUTIVE SUMMARY

Jesse Hatch was convicted of the August 4, 1980 murder and armed robbery of Robert Magoon and subsequently sentenced to a natural life sentence.¹ Although Hatch did not give a full confession to the murder, incriminating statements that Assistant State's Attorney Patrick Calihan testified Hatch repeated to him were relied upon to obtain Hatch's conviction.

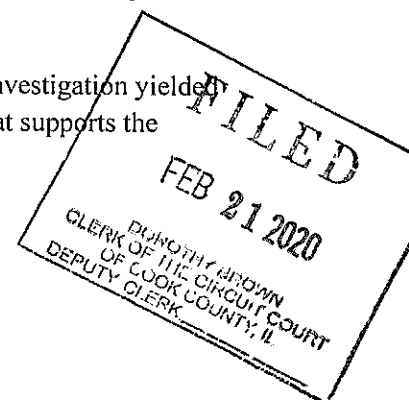
Claimant Jesse Hatch submitted a claim form to TIRC on June 8, 2011, where he alleged:

- Detective Gerald Corless kicked him in the groin so hard that it caused severe damage to his groin.
- He was beaten with Investigating Officers' fists while handcuffed in an Area 2 interrogation room.
- He was slapped in the head with a telephone book by Investigating Officer Dignan.
- Officer Dignan conducted a mock execution where he aimed a gun at Hatch's head.
- Both Officer Dignan and Officer Corless kicked and punched Hatch about the head and body.
- Officer Dignan allowed him to be kicked and beaten by victim's son, Steve MaGoon, while handcuffed.

Hatch has repeated these claims of torture to various degrees on numerous occasions. Mr. Hatch initially lodged his claims of torture in a motion to suppress submitted on Mr. Hatch's behalf by Public Defenders, Robert Lee and Ronald Babb. These claims were repeated in Mr. Hatch's late Post Conviction filings, throughout trial, in his complaints to IPRA, and now as presented before TIRC. Mr. Hatch's filings are numerous, largely consistent, and often repetitive.

TIRC Staff conducted a formal investigation into Jesse Hatch's claims. The investigation yielded significant objective evidence bolstering Jesse Hatch's claims. Evidence unearthed that supports the

¹ *People of the State of Illinois v. Jesse Hatch*, No. 80- C- 5534, (March 31, 2003).



viability of Mr. Hatch's claims includes (1) the decision by Hatch's trial attorneys to withdraw Hatch's Motion for Examination, (2) investigating Officer Dignan's parallel complaint record, (3) the description of Hatch's behavior during his confession by ASA Calihan, (4) Hatch's medical records confirming a groin area injury, (5) Hatch's appellate attorney's recollection of Hatch making claims of police mistreatment, (5) a commutation offer given to Hatch by the Cook County State's Attorney's Office, (6) Mr. Hatch's consistency and (7) Marilyn Green's 1981 statement, her affidavit, and recent interview with TIRC Staff in support of Mr. Hatch's claims.

To the contrary, Hatch's silence, on the record, regarding his alleged torture from 1984 to around 2002 was deafening. Additionally, the supervisor to Mr. Hatch's, now deceased, trial attorney Ronald Babb reflected that Hatch "did not make a statement to police". Furthermore, the court's repeated denial of Mr. Hatch's torture allegations in the pre-trial, appellate, and post-conviction stages weigh against the credibility of Mr. Hatch's torture allegations. Additionally, Hatch's failure to name Officer Dignan until his Second Successive Post Conviction Petition weighs against the credibility of Hatch's claim where Hatch had the opportunity to identify Officer Dignan as a result of Officer Dignan's testimony at Hatch's Motion to Suppress hearing. While the factors weighing against the credibility of Hatch's claim are persuasive, they do not offer a plausible explanation of why Mr. Hatch's claims should be considered false. According to the Illinois Appellate Court, "it is arbitrary, and manifestly wrong, to reject those core allegations without some plausible explanation of how the evidence unearthed by the TIRC is not what it appears to be."²

II. FINDINGS OF FACT

a. The Crime and Investigation

Jesse Hatch is currently serving a natural life sentence for the August 4th, 1980 murder of Robert Magoon. On August 4th, 1980 Officers Martin Morrison and Peter Spelcharo received a radio dispatch notification that shots had been fired at 121 West 112th Place at 10:45pm.³ Officer Martin testified at trial he arrived at 121 W. 112th Place two minutes after dispatch and heard moaning sounds coming from inside the garage.⁴ Officer Morrison testified he found the victim, Robert Magoon, in the trunk of an abandoned car, wounded and crying for help.⁵

While at the scene of the crime, investigating officers spoke to witnesses: Jesse Hall and Johnny Everson. Hall told officers he'd come home from work and heard three to four gun shots ring out. Mr. Everson also confirmed he'd heard three gun shots. Officers also spoke with Jesse Hatch's brother, Robert Hatch, who informed officers that Jesse had not been around their home but had been using their garage to repair vehicles.⁶

Once Mr. Magoon was transported to Roseland Hospital and had calmed down some; Officer Corless asked Mr. Magoon who'd shot him.⁷ According to Officer Corless, the victim explained: (1) a

² *People v. James Gibson*, 2019 IL App. (1st) 182040-U.

³ Record of Proceedings- Hatch at TIRC Page Number 0495, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jan. 5, 1983).

⁴ *Id.* At TIRC Page Number 0496

⁵ *Id.* At TIRC Page Number 0496

⁶ Chicago Police Department, Area Investigative File, Aug. 5, 1980, RD #B-294956, available at Exhibit A 1.

⁷ *Id.*

person named Jeff shot him ; (2) Jeff lived around the 9600 block of Avalon in a red house; and (3) Jeff took \$300 from Mr. Magoon, which then resulted in the shooting. Mr. Magoon died shortly after providing his statement to Officer Morrison.⁸

Officers Jeffrey Johnson and Ronald Johnson arrested Hatch on August 5, 1980 at a local Currency Exchange after Victim's son informed officers that a person was attempting to cash a check on August 5, 1980 at the Stony Island Currency Exchange located at 1611 E. 75th street.⁹ Currency Exchange Clerk, Bernice Gottlieb, confirmed Mr. Hatch had attempted to cash a check from an account connected to the decedent.¹⁰ Sergeant Gerald Corless dispatched arresting officers to arrest Hatch and subsequently met officers at the scene of Hatch's arrest. Sgt. Corless saw Hatch arrested near the Currency Exchange around 5pm. Sgt. Gerald Corless wrote in his report of the arrest that Hatch was "walking with a female negro" at the time of the arrest.¹¹ This woman is presumed to have been Marilyn Green.¹² Upon witnessing the arrest, Sergeant Corless approached Officer Johnson's squad car and talked to the two officers seated in the front seat; Sgt. Corless explained Hatch was suspected of murdering Robert Magoon. Hatch's transaction at the Currency Exchange and Sergeant Corless' information from Mr. Magoon's dying declaration, alerted officers to Hatch's possible involvement in Mr. Magoon's murder.

Officer Johnson explained, he took Hatch from the Currency Exchange to the District 4, lock-up, interview room, and after 45 minutes, transported Hatch from District 4 to Area 2 headquarters; leaving Mr. Hatch at Area 2 for questioning. Detective Frank Glynn received Mr. Hatch at Area 2 and left Mr. Hatch in the Area 2 Robbery Interview room. Det. Glynn testified that he'd handcuffed Hatch to the wall and told him he was there to be questioned regarding the aggravated robbery of Robert Magoon.

According to Officer Corless' Supplemental Police Report, Hatch was advised of his rights and interviewed for the first time at Area 2. Hatch told interviewing officers that "he had met the victim Robert a couple of weeks ago on the west side. He had been introduced to the victim by Westry he indicated that the victim and Mr. Westry were long time friends. The reason for this meeting was to make arrangements for a stolen car to be purchased by the victim from Hatch. When they were introduced by Westry, Hatch was referred to as Jeff and not as Jesse. Arrangements were made between Hatch and the victim to meet at Westry's house, their money would be exchanged for the purchase of the auto. Present during this meeting was Marilyn Green."¹³ Hatch explained in this initial interview that the victim came to his home and Hatch became fearful. Hatch told officers he thought something was wrong and he told the victim that the car the victim wanted could be located at 121 W. 112th place in a garage. That the victim gave Hatch a \$250 check and that was the last time Hatch saw the victim. Hatch told officers the victim drove off alone in his pickup truck; that Hatch also then drove away in his Chevrolet and did not return to Westry's home.¹⁴ Hatch told officers that on August 5, 1980, he received a call from Marilyn Green where she conveyed that officers were looking for him regarding a robbery. Marilyn told him not to come around the house and Hatch did not. Hatch contended he'd spent the evening of August 4th, 1980, at his father's home drinking for the duration of the evening. Finally, Hatch told investigating officers that

⁸ *Id.*

⁹ Chicago Police Department, Area Investigative File, Aug. 6, 1980, RD #B-294956, available at Exhibit A 2

¹⁰ Chicago Police Department, Area Investigative File, Aug. 5, 1980, RD #B-294956, available at Exhibit A 3

¹¹ *Id.*

¹² *Id.*

¹³ Chicago Police Department, Area Investigative File, Aug. 6, 1980, RD #B-294956, available at Exhibit A 2

¹⁴ *Id.*

at about noon on August 5, 1980, Hatch called Marilyn and told her that his father would be by to pick her up. He told Marilyn to bring some clothing with her. Hatch's father picked up Marilyn, and all three of them (Hatch, Hatch's Father, and Marilyn) went to Richardson's house and dropped off Hatch's clothes. Later, Hatch and Marilyn left the house and went to the currency exchange where they tried to cash the victim's check.¹⁵

According to Supplemental Reports, Hatch was asked several follow-up questions regarding this statement. Hatch, apparently, did not give an answer to these questions.¹⁶

Marilyn Green, her father Constantine Westry¹⁷, her uncle Clifton Williams, and her sister Debra Westry were also interviewed by investigating officers in during the Jesse Hatch investigation. Collectively, these witnesses told officers that Jesse Hatch told Marilyn he'd been set up by Constantine Westry. Hatch told Green that he had to shoot Robert Magoon because Robert Magoon pulled a gun on Jesse Hatch. Jesse told Marilyn he had to kill Magoon and put him in a trunk. Marilyn told officers Jesse had carried a large gun under his shirt on several different occasions; that Hatch took both hand guns from Debra Westry's home. Constantine told officers that he was present at his home when Robert Magoon met with Jesse. That he'd known Robert for many years and had set up the meeting between Magoon and Hatch. Constantine confirmed the purpose of the meeting was for Magoon to purchase a stolen car from Hatch. Constantine told officers Robert Magoon had met Jesse at his home on August 4, 1980 and the two had left together. Clifton Williams told officers he'd observed weapons in the house at 64 Fountainhead Drive; the home of his wife, the daughter of Debra Westry. Constantine confirmed that Jesse Hatch was staying at this location. Clifton explained that when Jesse Hatch left the home, the weapons were also missing and no one else had been in the house.¹⁸ The statements provided by Debra Westry and Clifton Williams were only used to substantiate the State's Attorney's decision to charge Mr. Hatch with Mr. Magoon's Murder. However, the State did not use Debra Westry or Clifton Williams' statements to convict Mr. Hatch. Ms. Marilyn Green gave a subsequent, conflicting, affidavit which was used to support Hatch's Motion to Suppress, Motion for New Trial and Post Conviction claims. Ms. Marilyn Green's notarized affidavit was admitted as an offer of proof during Mr. Hatch's Motion to Suppress.¹⁹

The statements used to charge Hatch of the murder of Robert Magoon were collected by Assistant States Attorney Patrick J. Calihan in the presence of Det. Corless. ASA Calihan initially approved an aggravated battery charge; that charge was re-classified as a homicide/ murder charge after the death of Mr. Robert Magoon on August 6, 1980.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ (*See* Record of Proceedings- Hatch at TIRC Page Number 0179, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Sep. 10, 1982) where Public Defender Robert Lee notes that Constantine Westry is also referred to as Lewis Westry. Specifically, Mr. Lee states: "*I was unable to find Marilyn, but the State has indicated to me they will update their Answer because they have found Louis Westry or Constantine Westry who is the father of Barry Lynn Gray and they will be able to give me his address, so I might be able to contact him, I think more importantly contact his son who lives with them and still has contact with Marilyn Green.*")

¹⁸ *See supra* note 13.

¹⁹ Hatch's Petition for Post-Conviction Relief, Affidavit of Marilyn A. Green, Sep. 21, 1981, No. 80-5534, available at Exhibit J. *See Also* Record of Proceedings- Hatch at TIRC Page Number 0195-0215, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Oct. 14, 1982).

b. Jesse Hatch's Statement

Assistant State's Attorney Patrick J. Calihan testified during Hatch's bench trial as to Hatch's statement to officers.²⁰ According to Calihan, Hatch confessed that on August 4, 1980 he was at Louis Westry's house to meet Robert Magoon concerning a stolen car that Hatch was going to sell to Magoon. According to Calihan's recollection of Hatch's statement, Hatch and Magoon planned to drive the stolen car to Wisconsin and Magoon planned to trail Hatch in his own car. Hatch told ASA Calihan he never completed the planned trip to Wisconsin. Hatch told Calihan he'd gotten scared and decided to merely direct Mr. Magoon as to where he could find the stolen car. Hatch told Calihan that instead of making a trip to Wisconsin, he'd received a check from Magoon for \$250 and spent the rest of the evening at his father's home. Hatch claimed he'd directed Mr. Magoon to a garage near 112th place. Hatch explained that the last time he'd seen Mr. Magoon was the evening of August 4, 1980, when the victim left Constantine Westry's house in his pickup truck after receiving instructions to the garage on 112th place. After receiving Hatch's alibi, ASA Calihan confronted Hatch with the two blood-soaked fifty dollar bills that Investigator Corless had found in Hatch's possession. When Hatch was asked where he had gotten the blood-stained bills from, Hatch hesitated. Hatch looked at ASA Calihan, then looked at the bills, and then faced down and shook his head and just said, no, over and over again and he was shaking visibly.²¹ ASA Calihan then confronted Mr. Hatch with Mr. Magoon's key ring which was also found in Mr. Hatch's possession by Investigator Corless. In response, Mr. Hatch looked at ASA Calihan, looked back down, and shook his head repeating 'no' over and over again. According to Calihan, Hatch was sweating at that time and his body was visibly shaking. Finally, ASA Calihan asked Mr. Hatch about the items found in Investigator Corless' squad car, where Hatch had been placed shortly after his arrest. Hatch would not tell ASA Calihan where the items came from. Hatch continued to look at the floor and remain silent. At that time, ASA Calihan discontinued all questioning concerning the incident.²²

c. Procedural History (Trial, Appeal, Post- Conviction)

The Pre-Trial Proceedings

Hatch's torture claims are included in his pro-se amended motion to suppress statements, filed August 24, 1982, one day prior to oral arguments there concerning the same. Hatch's written amendment to his motion to suppress alleged Hatch was "questioned and beaten by plain clothes investigators" August 5th, 1980, while in custody as a suspect in Robert Magoon's murder at Chicago's Area 2 police station. Specifically, the amended motion to suppress, considered in the consolidated hearing of Hatch's Motion to Suppress, alleges Hatch was: handcuffed to a wall, kicked in the groin, and hit in the face. Hatch claimed he'd tried to drop to the floor and use his free hand to cover himself as much as possible during the abuse. The motion also alleged officers repeatedly asked during the beating, "wasn't it Westry who did it..."; that when Hatch did not answer the officers' questions in the affirmative, they would hit Hatch "over the head with a phone book and start all over again by hitting him and kicking him where

²⁰ Record of Proceedings- Hatch at TIRC Page Number 0555-0566, People V. Hatch, No. PC- 80- C- 5534 (4th Dist. Jan. 5, 1983).

²¹ *Id.*

²² *Id.*

ever they could.” The written motion contended, “any statements made by [Hatch] during this time were coerced and taken involuntary[ily].”²³

During the oral arguments over Hatch’s motion to suppress and subsequent amended motion, the trial court consolidated its consideration of: (1) all filings relevant to Hatch’s Motion to Suppress, including the Motion to Suppress filed by Assistant Public Defenders Robert Lee and Ronald Babb, Hatch’s affidavit submitted to the court, and Hatch’s Pro-Se Amendment to his Motion to Suppress and (2) Hatch’s Motion in limine to exclude dying declarations from Robert Magoon at trial.²⁴

The consolidated hearing, in pertinent part, featured testimony from Officer Jeffrey Johnson, Det. Frank Glynn, Det. Peter Dignan, Sergeant Gerald Corless, and Assistant State’s Attorney Patrick J. Calihan. The testimonies given during the consolidated hearing collectively produced:

- A description of the investigative area where Hatch was interrogated. A further description of how far law enforcements and witnesses were to Hatch’s interrogation
- Recollection of Hatch’s whereabouts during the interrogation and a timeline of the duration of time Hatch spent with each officer
- Recollection of the conversations Hatch had with various officers throughout his interrogation
- Denials of any physical or mental abuse at the hands of officers

Significant attempts were made to include Marilyn Green as a witness in Mr. Hatch’s motion to suppress hearing. Public Defender Robert Lee detailed his efforts to locate Ms. Green to the court noting, “I looked through the welfare rolls, subpoenaed them, talked to the agents and checked the latest Chicago Police Department rolls, as well as the Post Office in the area where they [Marilyn Green and her family] have moved. I was unable to find Marilyn, but the State has indicated to me they will update their Answer because they have found Louis Westry or Constantine Westry who is the father of Barry Lynn Gray and they will be able to give me his address, so I might be able to contact him, I think more importantly contact his son who lives with them and still has contact with Marilyn Green.”²⁵ After failed attempts to locate Ms. Marilyn Green, including a bench warrant, the affidavit of Marilyn Green was allowed to be admitted as an offer of proof.²⁶

Ultimately, the court denied all of Hatch’s pre-trial motions except one. The court did not deny Hatch his motion to be examined; Hatch’s counsel withdrew the motion. According to Assistant Public Defender Lee the motion “was to substantiate injuries. The [motion to suppress] hearing here, having

²³Amended Motion to Suppress Statements- Defendant at 1-2, *People v. Jesse Hatch*, 80-C-5534 (Aug. 24, 1982), available at Exhibit B 2.

²⁴ Record of Proceedings- Hatch at TIRC Page Number 0028-0029, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Aug. 25, 1982).

²⁵ Record of Proceedings- Hatch at TIRC Page Number 0179, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Sep. 10, 1982) *See also*, Record of Proceedings- Hatch at TIRC Page Number 0646-0661, *People v. Hatch*, No. PC- 80-C – 5534 (4th Dist. Jun. 23, 1983) (where, a material witness bench warrant is issued for Marilyn Green.)

²⁶ *See*, Record of Proceedings- Hatch at TIRC Page Number 0179, *People v. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jun. 23, 1983) where Attorney Dennis Doherty, counsel for Jesse Hatch, explained he’d subpoenaed Marilyn Green for her to appear as a witness for Mr. Hatch’s Motion for New Trial. Mr. Doherty further explained Ms. Green did not comply with the subpoena. *See Also*, Record of Proceedings- Hatch at TIRC Page Number 0729-0745, *People v. Hatch*, No. PC- 80- C- 5534 (4th Dist. Oct. 29, 1993) where Jesse Hatch told the court during his defense against the State’s motion to dismiss Hatch’s motion for post conviction relief that Judge Petrarca had issued a bench warrant for Ms. Marilyn Green.

been ruled on I am not sure of the timeliness of the Motion.” After which, the motion was withdrawn.²⁷ The court ruled Hatch’s Motion in Limine demanded a premature ruling on hearsay evidence and therefore denied the motion. Additionally, the court ruled against suppressing a bullet casing found in the squad car Hatch was transported in despite defense counsel’s attempt to show Hatch lacked control over the back seat of the squad car. Finally, Hatch’s Motion to Suppress his statement was denied where the court ruled:

- Hatch was given appropriate Miranda warnings,
- The defendant understood Miranda warnings,
- No evidence of brutality either physical or mental
- Hatch’s statement was voluntary and therefore admissible
- Therefore, Hatch’s statements to officers were admitted and allowed²⁸

The Bench Trial Proceeding

A five-count indictment was issued against Jesse Hatch on August 7, 1980. The indictment alleged that on August 4, 1980, Hatch intentionally and knowingly shot Robert Magoon with a gun; murdered Magoon; committed armed robbery; and armed violence.²⁹ The prosecution elected not to prosecute the armed violence charge.³⁰ The trial was heard as to the remaining four counts. On January 3rd, 1983, after lengthy discovery and pre-trial proceedings were completed, opening statements over the matter were heard.

Hatch waived his right to a jury for his hearing, sentencing, and death penalty determination proceedings.³¹ Notably, however, a jury panel was selected before Mr. Hatch elected to waive his right to a jury trial.³² Mr. Hatch explained, “I don’t believe that I could have a fair jury trial out of the prospective venire in the courtroom now based upon the one prospective juror’s testimony – Or what he said in the courtroom.”³³ Hatch felt a juror who expressed some feelings of bias was incapable of providing a fair review of Hatch’s case. After admonishments regarding Hatch’s waiver of his right to a jury trial, Assistant Public Defender Ronald Babb delivered an opening statement on Hatch’s behalf.³⁴ The opening statement laid out the theory that although Hatch did make a statement to officers, he was framed for the murder of Mr. Magoon, and ultimately suggesting that Hatch had denied committing Mr. Magoon’s

²⁷ Record of Proceedings- Hatch at TIRC Page Number 0274-0275, *People v. Hatch*, No. PC-80-C-5534 (4th Dist. Oct. 14, 1982).

²⁸ *Id* at TIRC Page Number 0220-0276.

²⁹ Record of Proceedings- Hatch at TIRC Page Number 0332-0333, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jan. 3, 1983)..

³⁰ *Id* at TIRC Page Number 0339-0340.

³¹ Record of Proceedings- Hatch at TIRC Page Number 0332-0339, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jan. 3, 1983).

³² Record of Proceedings- Hatch at TIRC Page Number 0378-0391, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jan. 3, 1983)

³³ *Id*.

³⁴ *Id* at TIRC Page Number 0393-0398.

murder to police. The opening statement did not purport to prove Hatch suffered any mental or physical abuse at the hands of officers.³⁵

Witnesses called to testify at Hatch's trial largely confirmed Mr. Hatch's recollection of the events leading to his arrest and transport from Area 4 to Area 2. Though TIRC Staff did consult the complaint register record for arresting officers, Officer J. Johnson explained at trial that he and his partner were not heavily involved in the investigation of Mr. Magoon's armed robbery and subsequent murder; to the contrary, arresting officers did not know Mr. Hatch was suspected of an armed robbery until they'd talked to the investigating officers at the Currency Exchange.³⁶ Of the officers who testified at trial Officer Peter Dignan was the first to provide testimony recalling any witness statements provided during the interrogation and investigation. Specifically, Officer Dignan recalled the victim's dying declarations.³⁷ Assistant State's Attorney Patrick Calihan is the only witness who testified as to Hatch's statements made during his interrogation. Mr. Hatch's objection to the use of his statement in accordance with his Motion to Suppress argument is maintained. However, trial counsel does not rely on a police misconduct allegation in his argument on behalf of Mr. Hatch.

The court ruled, "the State ... sustained its burden of proof beyond a reasonable doubt, both as to the offenses of murder and armed robbery."³⁸ The trial judge did not make any statements regarding Mr. Hatch's credibility in the rendering of his ruling.

The Appeal and Post Conviction Proceedings

On June 23, 1983, the court heard arguments on Hatch's Motion for New Trial. Hatch alleged physical and psychological brutality at the hands of interrogating Officer Jeff Johnson, Detective Glynn, Sergeant Gerald Corless and Detective Peter Dignan; similar to his Motion to Suppress, Hatch challenged the voluntariness of the statement used to convict him. Hatch's motion for new trial was denied.³⁹

After sentencing, Hatch filed a direct appeal. In Hatch's appellate brief, filed July 18, 1983, he alleged that Officer R. Johnson, an arresting officer material to establishing the validity of Hatch's arrest and the subsequent coercion he'd alleged in his Motion to Suppress and Motion for New Trial, was not made available to disprove coercion allegations he'd lodged at trial. Additionally, the appellate brief alleged Hatch's statements "[we]re not admissions to murder. [Hatch] did not become excited until told by an Assistant State's Attorney that money in his possession was stained with blood. [And Hatch's] reaction there [wa]s equally consistent with an innocent man acting in panic."⁴⁰

³⁵ *Id* at TIRC Page Number 0393-0398.

³⁶ Record of Proceedings- Hatch at TIRC Page Number 0449-0464, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jan. 4, 1983).

³⁷ Record of Proceedings- Hatch at TIRC Page Number 0484-0492, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jan. 4, 1983).

³⁸ Record of Proceedings- Hatch at TIRC Page Number 0616, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jan. 5, 1983).

³⁹ Record of Proceedings- Hatch at TIRC Page Number 0661, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jun. 23, 1983)..

⁴⁰ Brief of Petitioner-Appellant at 42, *People v. Hatch*, No. 83-370, 83-1738 Consolidated (1st Dist. IL App. Jul. 18, 1983), available at Exhibit D.

Hatch also filed a Habeas Corpus Petition on or around June 23rd, 1983. In Hatch's Petition for Habeas Corpus, Hatch alleged in pertinent part that his sentencing was incorrect because he had not been afforded a jury at his sentencing hearing. Hatch alleged that because he had not been found to be heinous and brutal; he was entitled to release. Hatch did not address his torture allegations in his Petition for Habeas Corpus.⁴¹ Hatch's Habeas Corpus Petition marked Hatch's departure from his torture-related claims and the beginning of Hatch's pursuit of an *Apprendi v. New Jersey*, 120 U.S. 2348, related defense. The court ruled on Hatch's Habeas Corpus claim on November 30, 2000; finding that Hatch's affirmative jury waivers made Hatch's argument a moot issue. Given the inapplicability of the court's reasoning in *Apprendi v. New Jersey*, Hatch's Habeas Corpus Petition was denied.

Hatch filed a post-conviction petition for relief on September 25, 1991.⁴² Hatch contended he'd located new evidence which would entitle him to a new trial; namely, the whereabouts of material witness, Marilyn Green.⁴³ Hatch also, in large part, argued ineffective assistance of counsel noting trial counsel's failure to adequately take a number of investigative steps to locate various witnesses at trial. Notably, Hatch argued he was not informed that he had the right to testify at trial.⁴⁴ The petition was denied on May 15, 1992.

Hatch filed an Amended Post Conviction Petition June 22, 1992. The main issue raised was whether Hatch received effective assistance of Trial Counsel. Hatch was granted a motion to proceed pro se on December 29, 1992. Subsequently, on October 29, 1993, Hatch represented himself in a second-stage post-conviction hearing for his Amended Post Conviction Petition. Hatch vehemently argued the Sheriff's Office and the trial court had failed to enforce a material witness bench warrant for Marilyn Green.⁴⁵ Hatch's mother provided an affidavit in support of Hatch's claim; explaining that she'd had access to Ms. Marilyn Green since 1983 and had verbal confirmation that Ms. Marilyn Green would testify on Hatch's behalf.⁴⁶ On November 24, 1993, the State's Motion to dismiss Hatch's Amended Post-Conviction Petition was granted on the grounds that no new issues had been raised and all matters included in the petition had been previously considered by the Appellate Court.

On January 11, 2001 Mr. Hatch filed a motion for reconsideration of his Habeas Corpus Petition which was denied on November 30, 2000. On February 2, 2001, the motion to reconsider was partially granted as it related to Mr. Hatch's claim that his sentencing for his armed robbery conviction was incorrect. The court reasoned, "the Petitioner correctly argu[ed] a natural life sentence cannot apply to armed robbery."⁴⁷ The circuit court, in its consideration of Hatch's Motion to Reconsider, observed that: *from a review of the sentencing transcript, that Judge Patrarca did not specifically state on what counts*

⁴¹Petition of Petitioner- Petitioner at 4, *Jesse Hatch v. Donald Snyder, et. al.*, No. 80-C-5534 (Circuit Court of Cook County, June 23, 1983) available at Exhibit E

⁴²Amended Post Conviction Petition for Relief- Petitioner at 1, *Jesse Hatch v. People of the State Of Illinois*, Post Conviction No. 3999 (Circuit Court of Cook County filed Sep. 25, 1991) available at Exhibit F. (where, Hatch lodges his first Post Conviction Petition.)

⁴³ *Id* at 3.

⁴⁴ *Id* at 45.

⁴⁵ Record of Proceedings- Hatch at TIRC Page Number 0729-0745, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Oct. 29, 1993)

⁴⁶Affidavit of Ruth Hatch-Slater at 1- 3, *People of the State of Illinois v. Hatch*, No. PC - 80- C- 5534 (Circuit Court of Cook County filed Sep. 25, 1991) available at Exhibit F 1.

⁴⁷ Record of Proceedings- Hatch at TIRC Page Number 0763-0768, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Feb. 2, 2001).

he was imposing the natural life sentence, and another Judge, Judge Ronald Crane actually signed the mittimus for Judge Petrarca. When the Illinois Appellate Court First District affirmed the conviction and sentence in 1-83-370 and 1-83-1738 consolidated, they affirmed the sentence of, quote, "natural life imprisonment" for the murder and did not discuss the sentence imposed for armed robbery. The Summary Order affirming the dismissal of a Post-Conviction Petition 1-94-492 similarly did not discuss a breakdown of the two offenses the Petitioner was convicted of and sentenced to."⁴⁸. The circuit court also denied his motion in part where they declined to adjust Hatch's natural life sentence for murder.

On February 2, 2001, Mr. Hatch filed a Motion for Modification of Sentence and Post-Judgment Relief, and a Notice of Appeal from the Circuit Court's February 2, 2001 order. Additionally, on October 15, 2001, Hatch filed a Verified Motion for Release of Judgment. These motions and appeal notice were derivative of issues regarding the Circuit Court's adjudication of Hatch's Habeas Corpus Petition. Summarily, Hatch re-argued his Habeas Corpus claims within these motions. On July 19, 2002, the Circuit Court acknowledged the motions Hatch filed February 2, 2001 and ultimately reasoned the Appellate Court was the appropriate venue for Hatch to seek review of the Circuit Court's decisions regarding his Habeas Corpus Petition. As such, in response to Hatch's Motion for Modification of Sentence, the Circuit Court entered an order vacating the February 2, 2001 order and reinstating the Circuit Court's November 20, 2000 order in its entirety.⁴⁹ Hatch appealed and argued, in pertinent part, that the Circuit Court should reinstate the February 2, 2001 order as it related to the 30 year sentence for armed robbery. On September 26, 2003 the appellate court affirmed the Circuit Court's July 19, 2002 ruling.

On November 13, 2003, Hatch filed a second Verified Motion for Relief of Judgment. Therein, Hatch challenged the constitutionality of the sentencing statutes establishing natural life as a consequence for a murder conviction. On December 5, 2003, Hatch's motion was denied and his petition, filed November 13, 2003, was also denied. Notably, however, the Illinois Appellate Court did correct Hatch's mittimus, eliminating any sentence for Hatch's armed robbery.⁵⁰ Hatch filed a motion for the court to reconsider this ruling as it pertained to his murder conviction; that motion was also denied.⁵¹

On October 23, 2007 Hatch filed an Emergency Petition for Habeas Corpus relief. The Circuit Court considered the petition on January 25, 2008. Therein, Hatch challenged his natural life sentence for the murder of Robert Magoon. The court dismissed Hatch's petition. Hatch motioned the Circuit Court to either vacate or re-hear his Emergency Habeas Corpus Petition. On February 25, 2008 the Circuit Court denied Hatch's motions.

Hatch then filed a Motion for Leave to File a Successive Petition for Post Conviction Relief. Therein, Hatch sought relief as a result of newly discovered evidence of systemic Police Torture in Chicago's Area 2 Police Department. Hatch re-emphasized the arguments he'd made in his Motion to Suppress Statements. The court reasoned that Hatch's torture claims were noticeably absent from the

⁴⁸*Id.* at TIRC Page Number 0765-0766

⁴⁹Record of Proceedings- Hatch at TIRC Page Number 0772-0779, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Jul. 19, 2002).

⁵⁰ Record of Proceedings- Hatch at TIRC Page Number 0783-0788, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Dec. 5, 2003).

⁵¹ Record of Proceedings- Hatch at TIRC Page Number 0789-0794, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Mar. 25, 2004)

majority of his appeal and post conviction claims prior to this filing. The court took “substantial” issue with “just how new [Hatch’s] alleged newly discovered evidence” was.⁵² Additionally, Hatch raised an actual innocence claim for the first time in this filing. Though the Circuit Court did not review the merits of Mr. Hatch’s Motion for Leave to File a Successive Petition for Post Conviction Relief, the court ruled on August 21, 2009 that sufficient evidence had been presented at trial to establish the defendant’s guilt beyond a reasonable doubt. This was the first time since Hatch’s conviction the Circuit Court addressed the credibility of Hatch’s torture claim(s). Ultimately the Motion for Leave to File a Successive Post Conviction Petition was denied. Hatch then filed a motion for reconsideration and vacatur on the matter. In that motion, Hatch also requested the Court reconsider the denial of leave to file a successive post conviction petition or in the alternative referral of his claim to the Illinois Torture Inquiry and Relief Commission. On October 30, 2009, the court denied Mr. Hatch’s Motion for Reconsideration and noted in its ruling that Mr. Hatch was free to refer his own claim to TIRC.⁵³ On March 15, 2013 the court also denied Mr. Hatch’s Motion for Leave to File a Successive Post Conviction Petition. Additionally, on April 4, 2013, Hatch’s Motion to Reconsider relating to the Circuit Court’s order denying Mr. Hatch leave to reinstate his Successive Petition for Post Conviction Relief was denied.

Hatch motioned for reconsideration of the April 4, 2013 ruling. The motion for reconsideration was also denied on April 30th of 2013.⁵⁴ Hatch Appealed. In its 2015 decision, the 1st District Appellate Court held, “the circuit court erred in denying the petitioner’s Motion for Leave to File his Successive Post Conviction Petition. Pursuant to *People v. Wrice*, 2012 IL 111860, the petitioner established both cause and prejudice, wherein his allegedly physically coerced statements to police were used as substantive evidence of his guilt at trial.”⁵⁵

As a result of the Appellate Court’s reversal of the Circuit Court’s April 4, 2013 decision, Hatch filed an Amended Successive Petition for Post-Conviction Relief on or around March 2017.⁵⁶ Circuit Court Judge Timothy Joyce considered Hatch’s Amended Successive Petition for Post Conviction Relief as well as the State’s Motion to Dismiss Hatch’s third Petition for Post Conviction Relief. The Circuit Court concluded on June 28, 2018, that Hatch’s claims were too coincidental in that Mr. Hatch neglected to argue his torture claims to the specificity of alleging what particular detectives had tortured him until after the issuance of the Goldston Report and the report of the Special State’s Attorney.⁵⁷ As such, Judge Joyce ruled Hatch’s “allegations [were] not of such conclusive nature that the result on retrial would probably be different.” Judge Joyce granted the State’s Motion to Dismiss Hatch’s Amended Successive Petition for Post Conviction Relief.

Complaint to IPRA

⁵²Record of Proceedings- Hatch at TIRC Page Number 0789-0794, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Aug. 21, 2009) available at Exhibit G

⁵³Record of Proceedings- Hatch at TIRC Page Number 0805-0808, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Oct. 30, 2009).

⁵⁴Record of Proceedings- Hatch at TIRC Page Number 0837-0840, *People V. Hatch*, No. PC- 80- C- 5534 (4th Dist. Apr. 30, 2013).

⁵⁵ Rule 23 Order, *People of the State of Illinois v. Jesse Hatch*, (1st Dist. IL App., Aug. 27, 2015) (No. 1-13-1467) available at Exhibit H.

⁵⁶ *Id.*

⁵⁷ *Id.*

On May 6, 2009, Hatch lodged a complaint with the Illinois Police Review Authority. The complaint named Officers Peter Dignan, Gerald Corless, Francis Glynn, and Jeffrey Johnson as offending officers. The IPRA complaint alleged the same complaints as were alleged in Hatch's TIRC Claim Form. IPRA ruled Hatch's complaint was not sustainable where the subsequent investigation yielded "insufficient evidence to substantiate or refute the allegations made by Jesse Hatch. The accounts provided by Jesse Hatch were in contradiction to that of the related Department Reports... Based on the contradictory accounts as well as the lack of evidence, physical or otherwise, these allegations must be Not Sustained."⁵⁸

TIRC Investigation

Claimant Jesse Hatch submitted a claim form to TIRC on June 8, 2011, alleging he was:

- kicked him in the groin so hard by Detective Gerald Corless that it caused severe damage to his groin.
- Beaten with Investigating Officers' fists while handcuffed in an Area 2 interrogation room.
- Slapped in the head with a telephone book by Investigating Officer Dignan.
- Mock executed by Officer Dignan who aimed a gun at his head.
- Kicked and punched about the head and body by both Officer Dignan and Corless.
- kicked and beaten by victim's son, Steve MaGoon, while handcuffed; Hatch specifically alleged Officer Dignan allowed the beating

On July 24, 2013 former TIRC Executive Director, David Thomas conducted an interview of Jesse Hatch. This was the first of what would be two interviews of Mr. Hatch. In his interview with former Director Thomas, Hatch alleged Peter Dignan hit him over the head with a phonebook, that officer Corless kicked him in the groin, that officers Dignan and Corless continuously kicked and punched him, that Officer Dignan conducted a mock execution and allowed Steve Magoon to beat him, and that Officer Corless also beat Hatch while they were alone. During this 2013 interview, Mr. Hatch was asked to rectify discrepancies between the torture claims he'd made to TIRC and the torture claims he'd made in his Motion to Suppress:

DT: All right, at the MTS you identified the police who you say coerced you you identified them only by description and now in your claim and later claims you identify them by name. But I don't have a clear understanding of who did what. Can you tell me who did what?

JH: Once we had the MTS at trial I had the chance to see those officers for the first time since I was abused at the police station. Then I knew their names because they had to say their names. ... those were the three that I knew were in the room and had beat me. (10:30)... Corless is the one who kicked me in the groin.⁵⁹

⁵⁸ Chicago Police Department, Summary Report Digest, Log No. 1026128 (Sep. 22, 2011), *available at* Exhibit K.

⁵⁹ Interview by David Thomas with Rosa Martinez and Marissa Leevy, TIRC Executive Director, (July 24, 2013) at 15:35

DT: The first oral statement that they say that you made. They claim that Bascille was a witness to that statement. ...I'm asking you if Bascillie was involved in coercing you in any way?

JH: Well, you gotta remember when I made the Pro Se [Amended] Motion [to Suppress] I described 5 officers being in the room. I didn't know their names because these were plain clothes detectives who didn't wear name plates or anything. We didn't find out till later on who was at the police station at that time. And I didn't find out until the actual suppression hearing when Dignan and Corless and Frank Glynn testified that they were there and they named the other officers who were in the actual room. That was the way Bascille's name came in. Kushner was another one whose name came up.

DT: In your Motion To Suppress this mock execution was never mentioned ... can you tell me why?

JH: I never testified at the Motion to Suppress hearing.

DT: But it's not in the written Motion To Suppress

JH: (Long Pause) Well, you gotta remember, I was writing this in response to a Motion written for me because they [Public Defenders Ronald Babb and partner Robert Lee] kept saying 'they're not going to believe you'. ... I did the best that I could. This was like an overnight motion that I did when I found out I was going to have my suppression hearing.⁶⁰

DT: You also didn't mention being beaten by S. Magoon either

JH: You gotta remember my lawyers wouldn't do anything. I put enough in just because.... My lawyers finally made a motion. But the motion was... it didn't do anything. It didn't give anything; no facts whatsoever, no nothing. So what I did was ... and even the state commented on this motion that my lawyers had filed that they need more detail.... So I hastily put this together ... Now, I didn't put S. Magoon's name in there because they wouldn't believe me anyway. But when I filed a complaint with the Independent Police Review that's when the investigator asked me about S. Magoon and I told him he was one of the ones that beat me. And he said well why didn't you tell anybody? And I said no, that I'd been told no one would believe me. And the investigator told me, from now on, tell everyone.

DT: Why didn't you testify at the Suppression Hearing?⁶¹

JH: The cards were stacked against me. When I saw the climate of the court room and I had to describe the officers myself, which I was fortunate to be able to do pro se, there was no way I was going to take the stand because my lawyers weren't working for me.

On June 18, 2019, TIRC Staff Attorney, Michelle Jenkins, interviewed Claimant Jesse Hatch a second time.⁶² Hatch maintained notable consistency between the two interviews and his written re-counts

⁶⁰ Interview by David Thomas with Rosa Martinez and Marissa Leevy, TIRC Executive Director, (July 24, 2013) at 23:00.

⁶¹ *Id* at 24:30.

⁶² Interview by Michelle Jenkins with TIRC Alternate Chair Kathleen Pantle, TIRC Staff Attorney (June 18, 2019).

of the torture he alleges he'd suffered. Hatch recounted his experience with officers Dignan and Corless. Mr. Hatch did elaborate some of the details while describing his encounters with officers. Specifically, Mr. Hatch added he'd been called racial slurs while he was repeatedly fed details to the storyline he alleged he was instructed by interrogating officers to use in his confession. Mr. Hatch claimed officers told him "You're going to fry n[expletive]!" and repeatedly told him his name was "Jeff". Hatch claimed these things were shouted at him while he endured the physical abuse he'd originally alleged. Additionally, Hatch gave TIRC Staff more detail and context as it regarded:

Hatch's mental state during his interrogation: Hatch explained to TIRC staff that he was deeply afraid during his interrogation. Hatch recalled, "I was scared. I was scared when he pulled the trigger, but what are you going to do?"⁶³ Mr. Hatch went on to note that he had been beaten by officers before, but this experience was surprisingly different for Hatch.

Hatch's relationship(s) with his attorneys: The record clearly reflects Mr. Hatch's displeasure with his attorneys. Mr. Hatch filed numerous complaints against various attorneys and frequently disagreed with their trial strategies. However, Mr. Hatch spoke highly of his appellate attorney, Mr. Doherty. Mr. Hatch noted that Mr. Doherty was the only attorney he felt took his torture claims seriously.

Hatch's ability to contact Marilyn Green: TIRC staff asked Mr. Hatch about the inability of his legal team to contact Marilyn Green. Mr. Hatch noted that he could easily retrieve Marilyn Green's contact information for TIRC Staff. TIRC Staff subsequently contacted Marilyn Green for an interview. On November 14, 2019 Private Investigator David Hodapp conducted a telephonic interview with Ms. Green. Ms. Green confirmed that whatever information she provided at the time was what she remembered. Though Ms. Green was somewhat annoyed by TIRC's inquiry and expressed that she didn't understand why TIRC would need her input, she did tell Investigator Hodapp, "they [police] kicked his [Hatch's] ass" and "they [police] beat the shit of him [Hatch]."⁶⁴

Hatch's rejection of the Special Prosecutor's offer to award Hatch time-served & release Hatch from custody: Finally, Hatch explained he was offered a plea deal in 2013. TIRC Staff subsequently retained a copy of correspondence between Jesse Hatch and his court-appointed attorneys from Duane Morris, LLP. In Attorney Murarova's May 31, 2016 letter to Hatch, the offer Mr. Hatch referred to in his TIRC interview is summarized and discussed in detail.⁶⁵ According to the letter, the Special Prosecutor called Hatch's attorney on May 2, 2016 to propose a resolution to Mr. Hatch's ongoing criminal case. Hatch's attorney explained:

*"The Special Prosecutor offered to resolve this matter on the following terms: (i) vacate the conviction; (ii) enter a guilty plea on the first-degree murder charge; (iii) release [Mr. Hatch] for credit time-served; and (iv) withdraw the pending claim before TIRC."*⁶⁶

⁶³ *Id.* at 30:00 mins

⁶⁴ Private Investigator David Hodapp, Marilyn Green Interview Notes (Nov. 14, 2019) available at Exhibit M.

⁶⁵ Letter from Attorney Murarova, Court Appointed Attorney for Jesse Hatch, (May. 3, 2016; May. 31, 2016) available at Exhibit P. See also Phone Call Notes by Executive Director Rob Olmstead with Attorney Murarova (May 16, 2016) Available at Exhibit Q.

⁶⁶ *Id.*

Hatch rejected the plea agreement because the Special Prosecutor would not agree to vacate the conviction without entering any guilty plea; Hatch insisted he was tortured into confessing to the crime.

In addition to interviewing Mr. Hatch, on July 15, 2019, TIRC Staff also interviewed attorney Ronald Babb. Mr. Babb was one of Mr. Hatch's trial attorneys. Mr. Babb confirmed his trial partner, Mr. Robert Lee was the primary or lead attorney during the trial. Unfortunately Mr. Robert Lee passed away six years prior to the TIRC-related interview. Mr. Babb was able to find a 3x5 index card which explained the defendant did not make a statement to the police.⁶⁷ Mr. Babb explained that had there been any indication of Burge-related mistreatment he would have included such information.

On August 1, 2019, TIRC Staff interviewed Attorney Doherty, one of Jesse Hatch's appellate lawyers. Mr. Doherty recalled, without prompting, that Mr. Hatch had told him "someone put a gun in his mouth." Mr. Doherty told staff he'd interviewed Assistant State's Attorney Patrick Calihan. Mr. Doherty noted that Mr. Calihan did not tell him anything useful. Doherty repeatedly confirmed Hatch had alleged he was mistreated at the hands of police officers. Doherty explained that he believed Hatch because he'd brought some of the first cases against Sergeant Jon Burge and because Officer Dignan was popularly accused of misconduct among Doherty's clients.

TIRC staff also attempted to follow up with Mr. Hatch's claims by subpoenaing Cermak medical records, and subpoenaing any photos from Mr. Hatch's case from the Chicago Police Department. Each of these efforts were unsuccessful due to a loss of records. Specifically, TIRC Staff sought, but were not able to locate, a black and white polaroid photo of Mr. Hatch "allegedly taken at the time of his police custody... showing an injury to [Hatch's] left eye."⁶⁸ TIRC Staff additionally sought to locate a medical record from Stateville Correctional Center from October 25, 2011, which Mr. Hatch claimed in his 2013 interview with Director Thomas would reflect injury to his groin.⁶⁹ Mr. Hatch, however, provided TIRC staff with a copy of a select portion of his recent medical records. Hatch's medical records indicate that Mr. Hatch was examined in August of 2013 for groin area pain; examiners reported that there were signs that Mr. Hatch's left testicle was tender, that there had been trauma to Hatch's groin, and that there was no swelling to Hatch's groin area.⁷⁰

Pattern and Practice Evidence

Officer Peter Dignan – Officer Peter Dignan's complaint registers most notably include a complaint from Darrell Cannon, where Mr. Cannon alleges that Officer Dignan performed the same sort of mock execution as Jesse Hatch alleges in the instant torture claim. Mr. Cannon alleged that on November 2, 1983, while being arrested as a suspect for murder, CPD officers: dragged him from a closet; threatened to "blow his brains out"; drove him around while looking for an additional suspect; played Russian roulette with him with a shotgun; tried to hand him backwards by his handcuffs; and used a cattle prod on his testicles and mouth, causing him to confess. Initially, the Office of Professional Standards ruled this claim unsustainable. However, the Office of Professional Standards re-opened the

⁶⁷ Letter from Mr. Ronald Babb, Former Public Defender for Jesse Hatch, (July 15, 2019)(available at Exhibit I)

⁶⁸ Rule 23 Order, People of the State of Illinois v. Jesse Hatch, (1st Dist. IL App., Aug. 27, 2015) (No. 1-13-1467) at Footnote 1, *available at* Exhibit H.

⁶⁹ Interview by David Thomas with Rosa Martinez and Marissa Leevy, TIRC Executive Director, (July 24, 2013)

⁷⁰ Illinois Department of Corrections, Offender Outpatient Progress Notes (Aug. 21, 2013 – Oct. 10, 2013) available at Exhibit L.

investigation in 1993. All of the officers were re-interviewed and Mr. Cannon's brother, Claude Cannon, was also interviewed. Claude Cannon told investigators when he saw D. Cannon on 03 November 1983, he was limping; could barely walk; and his face was swollen. Cannon's sister, Fay Buckner, was also interviewed, and she stated that she went with La Cour to retain counsel for Cannon. When Buckner went to see Cannon, his attorney told her that the police had "roughed [him] up pretty good" and had used a cattle prod on him, and that she observed Cannon to be limping, and his face swollen. Carla La Cour was re-interviewed, and stated that Cannon's attorney told her that the police had "roughed [him] up pretty good," had used a cattle prod on him, and had driven him around to different places. She further stated that he was in healthy condition when he left her apartment. Darrell Cannon was also re-interviewed, and gave the same account as in 1983. Investigators found evidence to sustain Cannon's claims that Det. Dignan: placed a shotgun in Cannon's mouth, and pulled the trigger three times, though it was not loaded; verbally abused him with racial slurs; and witnessed the use of the cattle prod on Cannon and lifting Cannon by his handcuffs and did nothing to stop it.

Additionally, complainant Jack Craft alleged that Dignan struck him on the left eye with a flashlight. Mr. Craft's allegation was not sustained. However, Dignan's complaint history included 27 complaints of police misconduct of varying degrees. Mr. Cannon's complaint however is notable and unfortunately parallel to Jesse Hatch's claim that Officer Dignan placed a gun to Hatch's head and pulled the trigger.

Officer Francis Glynn – Only one complaint register exists for Officer Francis Glynn. The complaint alleges Officer Glynn executed a search without a warrant and damaged the home he searched.

Officer Gerald Coreless – Additionally, only one complaint exists against Officer Gerald Corless. The complaint alleges Coreless arrested the complainant without probable cause. The complaint was not sustained.

III. STANDARD OF PROOF

Section 40(d) of the Illinois Torture Inquiry and Relief Act permits the Commission to conduct inquiries into claims of torture. 775 ILCS 40/40(d). "Claim of torture' means 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.⁷¹ If five or more Commissioners conclude by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the case shall be referred to the Chief Judge of the Circuit Court of Cook County. If fewer than five Commissioners conclude by a

⁷¹ 775 ILCS 40/5.

preponderance of evidence that there is sufficient evidence of torture to merit judicial review, the Commission shall conclude there is insufficient evidence of torture to merit judicial review.⁷²

The Commission is not tasked by the General Assembly to conduct full, adversarial, evidentiary hearings concerning the likelihood of torture, or even to make a final finding of fact that torture likely occurred. That remains the role of the courts. Instead, the Commission has interpreted Section 45(c), through its administrative rules, as not requiring that it be more likely than not that any particular fact occurred, but rather that there is sufficient evidence of torture to merit judicial review.⁷³

Under the Illinois Torture Inquiry and Relief Act, “ ‘claim of torture’ means 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 3,000,000 or more inhabitants.”⁷⁴

Under the Commission’s Administrative Rules a “tortured confession includes any incriminating statement, vocalization or gesture alleged by police or prosecutors to have been made by a convicted person that the convicted person alleges were a result of (or, if the convicted person denies making the statements, occurred shortly after) interrogation that the convicted person claims included torture.”⁷⁵

IV. ANALYSIS

Jurisdiction

Assistant State’s Attorney Patrick Calihan recalled during his trial testimony Hatch’s statements made during interrogation. Attorney Calihan’s testimony brought Hatch’s claim squarely within TIRC’s jurisdiction. Specifically, Hatch’s statements were used in closing arguments as proof of Hatch’s involvement in the crime at issue and were relied upon in obtaining Hatch’s conviction. Although the Illinois Appellate Court identified Mr. Hatch’s statement to officers as exculpatory, the statement satisfies

⁷² Although this claim involves a former Burge supervisee (McDermott), in 2016, the legislature expanded the Commission’s jurisdiction to all Cook County convictions and beyond only those cases connected to Burge. *See* P.A. 99-688.

⁷³ In general, the approach the Commission has taken is akin to the concept of “probable cause;” that is, there must be enough evidence that the claim should get a hearing in court. *See* FAQ No. 8, <https://www.illinois.gov/tirc/Pages/FAQs.aspx/>. The Illinois Appellate Court has noted that “the Commission is asked to determine whether there is enough evidence of torture to merit judicial review, the circuit court is asked to determine whether defendant has been tortured. These are two different issues determined by two different entities.” *See People v. Christian*, 2016 IL App (1st) 140030, ¶95. The court compared the Commission to a court deciding whether a postconviction petition can advance to the third stage. *Id.* at ¶99.

Although Section 55(a) of the TIRC Act (775 ILCS 40/55(a)) makes Commission decisions subject to the Administrative Review Law, Commission decisions do not concern “contested cases” as defined in the Illinois Administrative Procedure Act (5 ILCS 100/1-30) because TIRC proceedings do not require an opportunity for a hearing. *See* 775 ILCS 40/45(a): “The determination as to whether to conduct hearings is solely in the discretion of the Commission.”

⁷⁴ 775ILCS 40/5(1).

⁷⁵ 20 Ill. Adm. 2000.10

TIRC jurisdiction requirements where Mr. Hatch's statements were used to obtain Mr. Hatch's conviction. In addition, Hatch has alleged that he has suffered both mental suffering from a mock execution and severe physical harm to his groin as a result of officers' pursuit of said statement. As such, Mr. Hatch has adequately alleged torture as defined by 20 Ill. Adm. 2000.10.

Weighing the Evidence

Factors Supporting Hatch's Torture Allegations

1. Hatch's torture claims are made both early and often. Mr. Hatch makes his claims of torture as early as his motion to suppress hearing. Although Hatch's trial counsel cannot recall Mr. Hatch's torture-related claims, Mr. Hatch changed counsel frequently, counsel who drafted the motion to suppress is now deceased, and Mr. Hatch's torture allegations are clearly articulated in the voluminous court record. Traditionally, TIRC has used early and frequent outcries regarding torture claims to bolster the claimants' credibility.
2. Detective Dignan's pattern of misconduct is significantly concerning. Detective Dignan's extensively similar history of abuse, as sustained by the Office of Professional Standards bolsters Hatch's claim. Notably, though Hatch displayed a clear knowledge of systematic torture at the hands of John Burge, Mr. Hatch never mentions the claim of Mr. Darrell Cannon. It is unlikely that Mr. Hatch is opportunistically lodging his torture claims. Ironically, if Mr. Hatch's claims are true, Mr. Darrell Cannon and Mr. Hatch would have endured the abuse they've claimed within three years of each other.
3. The with-drawal of Mr. Hatch's motion for examination bolsters the credibility of Mr. Hatch's claim that he suffered severe injury to his groin as a result of physical abuse he endured at the hands of Officer Dignan. The submission of the motion and Mr. Hatch's willingness to submit to a physical exam indicates that this claim has credibility. TIRC staff attempted to subpoena Cermak Medical Records on Mr. Hatch's behalf but were unsuccessful. In lieu, Mr. Hatch disclosed medical records to TIRC which confirm a groin injury in line with the groin injury Mr. Hatch described in his TIRC claim.
4. In addition to Mr. Hatch's claims being consistent throughout the years, Ms. Green's statements have been consistent throughout the years. In 1981 she gave a court reported statement to Mr. Hatch's trial counsel supporting Mr. Hatch's claim of torture. Marilyn Green's Affidavit taken by Attorney Sam Adams and notarized on August 23rd, 1991, further supports Mr. Hatch's claim of torture. In the affidavit Ms. Green claims she heard Mr. Hatch screaming that he had been "set up"; that she could tell Mr. Hatch was being beaten because she could hear furniture being shoved around. TIRC Private Investigator, David Hodapp, interviewed Ms. Green again on November 14, 2019. During the interview, Ms. Green was combative, but candid. She stated that "they [police] kicked his [Hatch's] ass" and that "they [police] beat the shit out of him [Hatch]". Green stated that the police also called her a "bitch" because she was half white. Ms. Green confirmed the information she'd provided about Hatch's treatment, blanketly stating that "whatever information she provided at the time was what she remembered" and that "she did not have any additional information to provide."⁷⁶

⁷⁶ Private Investigator David Hodapp, Marilyn Green Interview Notes (Nov. 14, 2019) available at Exhibit M.

5. TIRC Staff interviewed Hatch's appellate counsel, Attorney Doherty, who confirmed that Mr. Hatch had communicated he'd been tortured at the hands of Chicago Police. Attorney Doherty noted, without prompting, "I think he said someone put a gun in his mouth." The consistent repetition of these allegations cannot go unnoticed.
6. Mr. Hatch's rejection of a commutation offer made by the Cook County State's Attorney's Office in 2013 further bolsters the credibility of Mr. Hatch's claim. Mr. Hatch strongly asserts he was tortured.
7. As Judge Davy points out in his ruling on Mr. Hatch's motion for leave to file a successive petition for post conviction relief, Mr. Hatch was noticeably silent about his torture allegations for a number of years after his conviction. Judge Davy's analysis is a bit harsh. Mr. Hatch appealed after his conviction and raised issues related to the denial of his Motion to Suppress. After the Illinois Supreme Court denied his petition for leave to appeal he filed a Post-Conviction Petition, wherein, he alleged that his constitutional rights were violated because the Sheriff did not execute the bench warrant the Trial Judge had issued for Marilyn Green. Though not directly raising a claim of torture, the issues related to the failure to execute the warrant directly touch upon the issues related to torture raised in the Motion to Suppress. Many of the claims made by Mr. Hatch after 2000 were based on a frequently-cited case of *Apprendi v. New Jersey*, 530 U.S. 466 (2000). The *Apprendi* case involves sentencing and was a landmark decision. It was therefore not a surprise that Mr. Hatch, like so many other inmates, filed various motions directed solely at the legality of his sentence.

Factors Weighing Against Hatch's Torture Allegations

1. Additionally, some of Mr. Hatch's claims made in his interview with TIRC were thought to be unbelievable. For example, Mr. Hatch claimed he'd fallen to the floor while being beaten while simultaneously being handcuffed to the wall. TIRC does have some concern that Mr. Hatch may have, like many claimants, over-embellished for the sake of being compelling. However, in Green's court reported statement to Mr. Hatch's trial counsel she did state that she noticed injuries to his wrist after the arrest.
2. The Circuit and Appellate Court's repeated denial of Mr. Hatch's claims also weighs against Mr. Hatch's claim. TIRC is not, nor does it purport to be a court of law appropriate for reviewing the decisions of the Circuit Court. As such, it is persuasive that the Circuit Court repeatedly dismissed many of the claims Mr. Hatch has presented herein.
3. Most notably, Hatch failed to name the officers he alleges participated in torturing him until his Second Successive Post Conviction Petition. However, Hatch filed a Pro-Se Amended Motion To Suppress Statements in 1982 in which he admits that he could not identify any of the plain-clothes officers by name because they weren't wearing "nameplates", but he does give a physical description of the officers in his pro-se Amended Motion to Suppress Statements. When asked by TIRC to clarify why he'd omitted the names of officers for so long, Hatch told TIRC Staff he'd been unaware of the officers' names because they were plain clothes officers who were not required to wear name plates. Hatch claimed he'd learned the names of the officers involved in his torture at his suppression hearing.

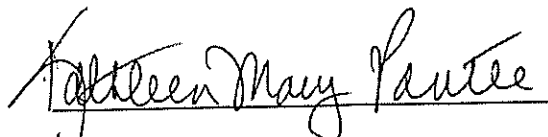
The objective evidence resulting from TIRC's investigation supports the credibility of Mr. Hatch's claims of physical and mental abuse. There is enough evidence of misconduct on the part of Officers,

lapses in judgement on the part of trial counsel, and identical patterns of police misconduct by an involved officer to warrant further review of Mr. Hatch's torture allegations by a court.

V. CONCLUSION

The Illinois Torture Inquiry and Relief Commission therefore finds that there is sufficient credible evidence of torture to merit judicial review. Accordingly, the Commission refers Mr. Hatch's claim to the Circuit Court of Cook County. This determination shall be considered a final decision of an administrative agency for purposes of administrative review under the Administrative Review Law (735 ILCS 5/3-101).

Dated: February 19, 2020


Kathleen Mary Pantle, Chair