IN THE CIRCUIT COURT OF COOK COUNTY
CRIMINAL DEPARTMENT, CRIMINAL DIVISION

In re: ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION	)))	Claim of Kevin A. Williams TIRC No. 2018.555-W (relates to *People v. Williams*, Case No. 01-CR-1019)

NOTICE OF FILING

To:

Hon. Timothy C. Evans
Chief Judge
Circuit Court of Cook County
50 W. Washington St., Ste. 2600
Richard J. Daley Center
Chicago, IL 60602

Carol Rogala, ASA
Supervisor, Special Litigation Unit
Cook County State's Attorney's Office
2650 S. California, 11 C 40
Chicago, Illinois 60608

Kevin A. Williams, #R26594
Pontiac Correctional Center
P.O Box 99
Pontiac, IL 61764

2018 MAR 29 PM 4:03
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
CRIMINAL DEPARTMENT

PLEASE TAKE NOTICE that on March 29, 2018, the undersigned caused to be filed with the Clerk of the Circuit Court of Cook County, Criminal Department, 50 W. Washington St., 10th floor, Chicago, IL, pursuant to 775 ILCS 40/40(a) and 45(c), the: "SUMMARY DISMISSAL" and supporting materials in the following Claim:

Claim of Kevin Williams — **TIRC No. 2018.555-W**
(Relates to *People v. Williams*
Criminal Case No. 01-CR-1019)

A copy of the same are attached hereto and served upon Judge Evans, Ms. Rogala, and Mr. Williams.

Illinois Torture Inquiry and Relief Commission
James R. Thompson Center
100 W. Randolph St., Suite 10-300
Chicago, IL 60601 (312) 814-1094

Michelle Jenkins
Staff Attorney

PROOF OF SERVICE

Michelle Jenkins, an attorney, hereby certifies that he caused to be hand-delivered a copy of this Notice, the SUMMARY DISMISSAL, and supporting materials in the **Kevin Williams** claim to the Office of Chief Judge Timothy C. Evans on **March 29, 2018**, at 50 West Washington St., Suite 2600, Chicago Illinois. A copy of the same items were served upon **Carol Rogala of the Cook County State's Attorney's Office** and the **Claimant** by causing them to be placed in the United States Mail before 5:30 p.m. on **March 29, 2018**.

Michelle Jenkins, Staff Attorney

2018 MAR 29 P 4: 03
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
CRIMINAL DEPARTMENT

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
Claim of Kevin A. Williams

TIRC No.: 2018.555-W
(Relates to *People v. Williams,*
Circuit Court No. 01-CR-1019*)*

SUMMARY DISMISSAL

Pursuant to section 40 (as) of the Illinois Torture Inquiry and Relief Act (TIRC ACT, 775ILCS 40/40 (a)), the Commission herby summarily dismisses this claim for the reasons that follow.

1. Kevin A. Williams was convicted of the 2000 murder of Traci Todd and the concealment of her death.[1]

2. On November 30, 2017, Williams submitted information to the Commission on his potential torture claim in a letter. He alleged a Chicago police detective at Area 4, Thomas Flaherty, had deprived Williams for three days of food, water, a chair in which to sit and a bed in which to sleep, as well as subjected him to psychological coercion including threats of imprisonment. He also alleged the detective had falsified evidence against him and threatened witnesses in the case. However, Williams added that "Williams' illegal prosecution did not involve * * * any admissions; any confessions."[2]

3. An appellate court ruling on Williams' conviction does not mention any introduction into evidence of any pre-trial statements or confessions by Williams to police or prosecutors.[3]

4. On December 1, 2017, Commission staff sent Williams a claim form to fill out and a letter seeking to clarify whether police and/or prosecutors introduced at trial (orally or in writing) any statements made by or alleged to have been made by Williams to police or prosecutors. Staff also asked whether Williams' attorney had filed any motions to prohibit at trial the use of any statements by Williams.[4]

5. On January 3, 2018, the Commission received Williams' completed claim form and a letter outlining which witnesses' statements (some including hearsay statements of the defendant) were introduced at trial, but not contending any statements by Williams to

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[1] *See* **EXHIBIT A,** People *v. Williams, 2011 IL App (1st) 091520-U.*
[2] *See* **EXHIBIT B**, November 22, 2017 letter from Kevin Williams to TIRC, and attachments, received Nov.30, 2017.
[3] *See* **EXHIBIT A**, *People v. Williams, 2011 IL App (1st) 091520-U.* Williams testified at his trial and denied murdering Todd.
[4] *See* **EXHIBIT C**, December 1, 2017, letter to Kevin A. Williams from TIRC Executive Director Rob Olmstead.

police or prosecutors were made or used.[5] In addition, his claim form indicated affirmatively that he had "refused to talk" to police and that police and prosecutors had not claimed that he made statements to them regarding the crime.[6] The claim form additionally alleged that police had pulled the back of his pants up, pressing the pants into his scrotum and "causing excruciating pain" any time they moved him from one room to another.[7]

6. On January 4, 2018, Commission staff wrote Williams, informing him that the Commission likely did not have jurisdiction over a claim that did not involve a confession or other incriminating statement. The Commission explained that "confession" was defined broadly under the Commission's rules and could include any incriminating statement or gesture made to authorities and used to obtain a conviction. Staff asked Williams again to either confirm no such statement was made and used, or to specify what statement was used and how it was used to obtain his conviction.[8]

7. In a January 16, 2018, letter received by the Commission on January 24, 2018, Williams explained that during interrogations, "I repeatedly told the Area 4 detective that I didn't commit any crime." Williams argued, however, that the detective's grand jury testimony "was designed to give the grand jurors the impression that I gave a confession and made admissions to him [Det. Flaherty] as well as to others" and therefore put his case within the Commission's jurisdiction.[9]

8. Commission staff reviewed the grand jury transcript of Detective Flaherty's testimony that Mr. Williams supplied.[10] The detective's testimony cites as the basis for his testimony "physical evidence, witnesses' statements, and statements made by the defendant *to witnesses*." (Emphasis added).[11] Although the detective cited hearsay statements of Williams, nowhere does Flaherty tell the grand jury that Williams made any statements to police or prosecutors.[12]

9. On February 5, 2018, Commission staff wrote and informed Williams that it would recommend dismissal of his claim due to the lack of any tortured statement by Williams being used to convict him.[13]

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[5] *See* **EXHIBIT D**, December 27, 2017 letter from Kevin A. Williams to TIRC, received January 3, 2018
[6] *See* **EXHIBIT E,** Kevin A. Williams claim form, received January 3, 2018.
[7] *Id.*
[8] *See* **EXHIBIT F**, January 4, 2018 letter from TIRC Executive Director Rob Olmstead to Kevin A. Williams.
[9] See **EXHIBIT G**, January 16, 2018 letter From Kevin A Williams to TIRC, and attachments, received January 24, 2018.
[10] See **EXHIBIT H,** Transcript of December 26, 2000 proceedings before the Grand Jury
[11] Id.
[12] *Id.*
[13] *See* **EXHIBIT I**, February 5, 2018, letter to Kevin A. Williams from Rob Olmstead, Executive Director of TIRC.

10. On February 14, 2018, Commission staff received a letter from Williams dated February 8, 2018, acknowledging receipt of the Commission's Feb. 5, 2018, letter.[14]

ANALYSIS

The Commission is empowered to "conduct inquiries into claims of torture." 775 ILCS 40/35. Section 40/5(1) of the TIRC Act defines "Claim of torture" 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 * * *. 775 ILCS 40/5(1)

Section 2000.10 of the TIRC Administrative Code defines a "tortured confession" as,

> 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 interrogation that the convicted person claims included torture.20 Ill. Admin. 2000.10

Section 40(a) of the TIRC Act provides that the "Commission may informally screen and dismiss a case summarily at its discretion."

Although Mr. Williams' January 24, 2018, letter alleges he made a pre-trial statement to police denying the murder, he does not allege any such statement was introduced at his trial or "used to obtain his conviction" as required by the statute. To the contrary, he affirmatively states in his claim form that the state did *not* claim at his trial that he made any statements.

Mr. Williams argues that the detectives' use of other witnesses' pre-trial statements to police to secure his indictment brings his claim within the Commission's jurisdiction. However, Section 5(1) of the statute is clear that the tortured statement must come from the convicted party. The use of witnesses' statements falls outside this requirement.

Williams also argues that Detective Flaherty's testimony to the grand jury gives the impression that Williams himself made a confession to police. However, review of that transcript shows that nowhere does Detectives Flaherty tell the grand jury that Williams made any incriminating statements to him or prosecutors. Although Williams' statements to civilian witnesses are cited by Det. Flaherty to the grand jury, those statements by Williams to witnesses were not tortured confessions and do not fall under the TIRC Act because Williams' statements to civilian witnesses were not made as "a result of interrogation that the convicted person claims included torture" as required by the Administrative Code.

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[14] *See* **EXHIBIT J**, February 5, 2018 letter from Kevin A. Williams to TIRC, received February 8, 2018.

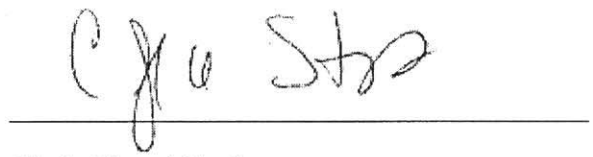
CONCLUSION

Because Mr. Williams does not allege that any tortured confession by him was used to obtain his conviction, the Commission is without jurisdiction to investigate his claim, and summarily dismisses it.

The Commission instructs its executive director to notify Mr. Williams of the decision and of his right of review under the Illinois Administrative Review Law.

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).[15]

Date: March 28, 2018



Chair Cheryl Starks

[15] *See* 775 ILCS 40/55(a) of the TIRC Act.

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 (*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.