

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
Claim of Armando Fernandez

TIRC No. 2016.457-F
(Relates to Cook County
Circuit No. 09-CR-10950)

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. In 2014, Armando Fernandez was convicted of possession of heroin with intent to deliver and unlawful possession of a weapon by a felon and sentenced to 17 years in prison.¹
2. In a letter dated December 11, 2016, Mr. Fernandez wrote to the Commission requesting a claim form. Shortly thereafter, he filed a claim form, received by TIRC on December 29, 2016, claiming that he had been tortured into a statement by various 14th District officers, and that that statement was used to obtain his conviction.²
3. On December 20, 2016, the Illinois Appellate Court overturned Fernandez’ conviction, ruling that the trial court had insufficient evidence to conclude that the drugs and guns recovered in the case were constructively possessed by Fernandez. The court reversed the conviction.³
4. Court records reflect that on January 19, 2017, the appellate court’s mandate reached the Cook County Circuit Court, and on January 20, 2017, the chief judge of the criminal court ordered Fernandez released from the Illinois Department of Corrections. The trial judge, Angela Petrone, formally vacated judgement the same day. As of November 26, 2018, no court activity had occurred in the case since March 14, 2017.⁴

ANALYSIS

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

* * * a claim on behalf of a living person *convicted of a felony* in Illinois asserting that he was torture 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

¹ See *People v. Fernandez*, 2016 IL App (1st) 141667.

² See TIRC Claim Form of Armando Fernandez.

³ See *People v. Fernandez*, 2016 IL App (1st) 141667.

⁴ See Court Docket of Cook County Circuit Court Case No. 09-CR-10950, reflecting vacating of conviction.

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. Fernandez’ court records and his appellate opinion confirm that the conviction in this matter was ultimately vacated. Accordingly, the Commission finds that Mr. Fernandez’s claim does not meet the definition of “claim of torture” under the TIRC Act because there is no conviction, and the Commission is therefore without jurisdiction in this matter.

The Commission summarily dismisses Mr. Fernandez’s claim and instructs the Executive Director to notify Mr. Fernandez 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).⁵



Dated: December 18, 2018

Cheryl Starks
Chair
Illinois Torture Inquiry and Relief Commission

⁵ 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.