

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
Claim of Arnel Robinson

TIRC No. 2017.491-R
(Relates to Cook County
Circuit No. 93-CR-27560)

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 Arnel Robinson was convicted of the November 9, 1993 murder of Martin Alvarez.
2. On or about March 13, 2017, Mr. Robinson filed with the Commission his claim form in the matter of the Alvarez murder conviction.¹ Mr. Robinson alleged that he was slapped repeatedly in the back of his head and told that if he did not sign a statement against his co-defendant, Mario Rodriguez, he would be sent to prison for 80 years.² Mr. Robinson’s claim form further indicated that his co-defendant, as well as various witnesses, were coerced into making statements that incriminated Mr. Robinson.³
3. During his detention, Mr. Robinson made a statement to the police. In a letter to TIRC on April 17, 2017, Mr. Robinson indicated that he only made an oral statement the day he was arrested that “[he] was not involved in any robbery or had knowledge of who the actual shooter was.”⁴ On June 26, 2020, TIRC served a subpoena duces tecum on the Chicago Police Department for the Area Investigative File (“AIF”) relating to the Alvarez investigation. The materials received in response to the subpoena corroborate Mr. Robinson’s claim that he made an oral statement.⁵ The closing police report’s summary of the entirety of Mr. Robinson’s statement to police is:

Robinson related that he was with JJ by the pay phones on 31st Street near the alley. He said he heard a couple of shots and he and JJ walked away. He said he did not see Mario Rodriguez or Tony Segoviano in the area at this time. Robinson denied that he had a gun and denied being involved in any robbery.⁶

4. Mr. Robinson did not make or provide any written statements to the police or prosecutors.⁷ Police obtained no physical evidence other than crime-scene evidence they obtained from responding to the scene of the victim’s location, the crime scene, and the hospital and

¹ See EXHIBIT A - TIRC Claim Form of Arnel Robinson (Mar. 13, 2017).

² *Id.*; see also Feb. 6, 2017, Letter from Arnel Robinson (inquiring whether being slapped several times on the head and being threatened with 80 years in prison constituted “torture” within the meaning of the TIRC Act).

³ TIRC Claim Form of Arnel Robinson (Mar. 13, 2017).

⁴ See EXHIBIT B: Apr. 17, 2017, Letter from Arnel Robinson.

⁵ See EXHIBIT H: George Cary & Stephen Glynn, Supplementary Report CPD (Nov. 10, 1993) (closing report).

⁶ *Id.* at 8-9.

⁷ *Id.*

morgue. Police reports indicate this physical evidence was obtained or at least located before any suspects were detained.

5. The timeline leading up to Mr. Robinson's statement is as follows:
 - a. Prior to Mr. Robinson's arrest and oral statement, the police obtained multiple statements from Mr. Robinson's co-defendants and witnesses placing him at the scene of the robbery/homicide.⁸
 - b. One witness, Ms. Nadine Lopez, placed Mr. Robinson and his co-defendants at the scene.⁹ Following the interview with Ms. Lopez, officers were able to locate co-defendant Mario Rodriguez.¹⁰ Mr. Rodriguez then provided a statement that placed Mr. Robinson at the scene of the crime.¹¹
 - c. Following Mr. Rodriguez's statements, the police were able to locate Mr. Robinson who then provided the oral statement that he was not involved in the robbery.¹²
6. On Mr. Robinson's claim form, he indicated that the statement given to the police was not used in his trial.¹³ On March 3, 2020, Commission staff wrote to Mr. Robinson, inquiring whether any prosecutors or police officers testified to Mr. Robinson's oral statements.¹⁴ In his reply letter, Mr. Robinson indicated that the prosecution stated "the Defendant [Mr. Robinson] even admits to his involvement in his statement to the police" either during his bench trial or during his post-conviction petition hearing.¹⁵
7. A review of the transcripts from Mr. Robinson's bench trial shows:
 - a. Mr. Robinson's statements were not entered into evidence.
 - b. However, during the State's rebuttal closing argument, the prosecutor incorrectly stated, or at least began to erroneously state, that Robinson had confessed to the crime. The prosecutor stated:

The defendant himself during his statement, he [sic] was in fact the guy who killed the victim in this case.¹⁶

⁸ *Id.*

⁹ *Id.* at p. 8.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at p. 9.

¹³ See EXHIBIT A: TIRC Claim Form of Arnel Robinson (Mar. 13, 2017).

¹⁴ See EXHIBIT C: Mar. 20, 2017, Letter from Rob Olmstead, TIRC Executive Director to Arnel Robinson.

¹⁵ See EXHIBIT B: Apr. 17, 2017, Letter from Arnel Robinson.

¹⁶ See TCROP 1 - Report of Proceedings of entire bench trial of *People v. Arnel Robinson* (Bench Trial, Sept. 13, 1996, before Judge Gaughan) at A-65.

- c. No one objected to this statement or partial statement, and the court ruled without reference to this statement.¹⁷
 - d. One of Mr. Robinson's post-conviction petitions relied on claims involving police misconduct and alleged that Area 2 detectives used coercion to obtain incriminating statements against him from his co-defendants.¹⁸ However, Mr. Robinson's petition did not allege that the same detectives obtained incriminating statements from him or had tortured him.¹⁹
 - e. During the hearing dismissing Mr. Robinson's post-conviction claims based on police misconduct, the Court noted that Mr. Robinson did not make a confession to the police.²⁰ The Court stated:

[A]s pointed out by the State, Mr. Robinson didn't make a confession, whether it was true or false, either way. ... Let's move on.²¹
 - f. Mr. Robinson's entire trial was held in one day and the verdict rendered by the judge immediately after the close of arguments.²² The transcript of proceedings is just 65 pages long.
8. A review of the Mr. Robinson's appellate and post-conviction filings and rulings shows that the prosecutor's misstatement in his closing arguments was not raised in his motion for a new trial and apparently not raised in his direct appeal either.²³

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 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).

¹⁷ *Id.*

¹⁸ See EXHIBIT D: Supplemental Post-Conviction Petition, June 14, 2007 at 48 (“Although Arnel Robinson never made an inculpatory statement, he was prejudiced BY [sic] the police officers who elicited false statement of his co-defendant and other suspects. The statements of these co-defendants and suspects were used in the decision to prosecute Arnel Robinson.”).

¹⁹ *Id.*

²⁰ See EXHIBIT E: Excerpt of Report of Proceedings from *People v. Arnel Robinson* (Hearing on State's Motion to Reconsider Court's Grant of Post-Conviction Evidentiary Hearing, July 31, 2008) at 13.

²¹ *Id.*

²² See, generally, Sept. 13, 1996 ROP – Entire Trial Transcript.

²³ See EXHIBIT F, November 21, 1996 Motion for Judgment of Acquittal or Alternatively, Motion for New Trial; See also EXHIBIT G, *People v. Robinson*, No. 1—97-0663, August 3, 1998 (appellate opinion denying direct appeal and making no mention of any issues being raised regarding the prosecutor's erroneous argument).

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

The Commission concludes Mr. Robinson did make an incriminating statement to police in that, if the police reports are an accurate summation of his statement, he admitted to being in the vicinity of the crime and in the company of other suspects or persons of interest.²⁴ However, making a statement to police or prosecutors is not enough, in and of itself, to confer jurisdiction on this Commission. The allegedly tortured statement must somehow have been used to “obtain the conviction.” Transcripts show the statement that Robinson made was not introduced into evidence at trial.

Nor was physical evidence introduced at trial that could have arguably come from Mr. Robinson’s statement, nor does he contend any such evidence was so procured.

However, transcripts do reflect that the prosecutor in the case stated, or began to state in his closing arguments, that Mr. Robinson had admitted committing the murder. This statement appears to be an erroneous misstatement of the facts in evidence, since no defendant statement of any kind was ever entered into evidence. The Court, in rendering its verdict, did not make mention of this misstatement of evidence. Judges are presumed to have ignored any improper arguments. *Harris v. Rivera*, 454 U.S. 339, 465 (“In bench trials, judges routinely hear inadmissible evidence that they are presumed to ignore when making decisions.”); *see also People v. Richardson*, 123 Ill.2d 322, 361 (“Although the prosecutor may not argue matters unsupported by the evidence, a trial court is presumed to recognize and disregard incompetent matters presented to it.”) (internal citations omitted). Additionally, in post-conviction proceedings, the same judge who found Mr. Robinson guilty, Vincent Gaughan, explicitly acknowledged that Mr. Robinson made no confession. Therefore, even though the prosecutor apparently misspoke during closing arguments, the court does not appear to have used this statement, or misstatement on the part of the prosecution, to convict Robinson.

Even if the statement was erroneously considered by the judge, the words of the prosecution in its closing were that Robinson had given a statement *admitting to the murder*. In fact, Robinson gave no such statement. Robinson’s statement merely placed him at the scene, a statement the prosecutor neither entered into evidence nor argued in his closing. Therefore, Robinson’s own statement of being at the scene was not entered into evidence nor used in closing arguments, and was therefore not used to obtain his conviction.

The Commission, in this ruling, does not minimize the gravity of the allegations that police used coercion and abuse to secure incriminating testimony from co-defendants and witnesses. While the Commission does not condone police misconduct of any kind, 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 *his own* statement was subsequently

²⁴ *See People v. Gibson*, 2018 IL App (1st) 162177, ¶¶113-114 (explaining how trial attorney was mistaken in believing his client’s statement denying guilt but admitting to being in the vicinity of the murder and near another defendant was not incriminating. In fact, the appellate court said, the statement was the “lynchpin” for Gibson’s conviction.)

used to obtain his conviction.²⁵ Because no tortured statement by Mr. Robinson was used to obtain his conviction, the Commission is without jurisdiction in this matter.

CONCLUSION

The Commission summarily dismisses Mr. Robinson's claim and instructs the Executive Director to notify Mr. Robinson 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).²⁶

Dated: October 21, 2020


Kathleen Pantle, Alternate/Acting TIRC Chair

²⁵ See *In re Marcus Wiggins* (Aug. 19, 2020) (summary dismissal because Mr. Wiggins claimed that other witnesses were tortured into giving statements against him and though Mr. Wiggins alleged that he himself was tortured and provided a statement to the police, his statements were ultimately exculpatory in nature and were not used against him at his trial); *In re Daniel W. Makiel* (Dec. 17, 2019) (summary dismissal because Mr. Makiel claimed that other witnesses were tortured into giving statements and testifying against him); *In re: Bobby Cooks* (Aug. 21, 2019) (summary dismissal because Mr. Cooks, though tortured, did not make any statement in response to torture); See *In re: Claim of James Sardin* (June 17, 2014) (summary dismissal because Mr. Sardin claimed only a witness, and not himself, was tortured into giving a statement that was used to convict Mr. Sardin).

²⁶ 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.