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

PEOPLE OF THE STATE OF ILLINOIS,	)	91 CR 22460
	)	91 CR 22152
Plaintiff-Respondent,	)	
	)	On referral from the Illinois
v.	)	Torture Relief & Inquiry
	)	Commission
GEORGE ANDERSON,	)	
	)	Hon. William H. Hooks
Defendant-Petitioner.	)	Judge Presiding

ORDER

This matter comes before the Court upon referral for judicial review from the Illinois Torture Relief and Inquiry Commission (TIRC or Commission). The Commission, on June 13, 2012, found there was sufficient evidence that Anderson was tortured, thus meriting judicial review. Accordingly, this Court conducted a hearing pursuant to the TIRC Act (775 ILCS 40/50(a)). This order follows from the Court's review of those proceedings.

BACKGROUND

In summary, petitioner, George Anderson, alleges in his petition for relief, under Illinois Torture Relief and Inquiry Commission (TIRC) that:

> In 1991, George Anderson was arrested in the afternoon and held overnight in the Area 3 Detective Division before signing a confession the next morning that was the result of the abusive tactics of CPD Detectives Michael Kill and Kenneth Boudreau. In the overnight interrogation, Kill and Boudreau repeatedly denied Anderson's requests for an attorney, and kicked and punched him as well. The situation was so hopeless that Anderson signed a confession against his will. But that was not enough. Instead, Anderson was subjected to additional inquisition, via another set

> of CPD Detectives, wherein he was handcuffed with his arms above his head, as if he were hanging from a rack, subject to extremely cold temperatures while wearing only a t-shirt, and physically abused by being struck with a pipe-like object on this side (perhaps a phone book). This incident caused damage to Anderson's kidney such that he needed surgery while awaiting trial. Mr. Anderson testified to these events at his original suppression hearing. The officers denied all of the allegations against them, and these denials were credited by the finder of fact.

Post-Hearing Conclusions of Law and Statement of Facts in Support of George Anderson's Petition for Relief under the Illinois Torture Inquiry & Relief Commission Act (p. 2).

Legal Standard

The court adopts petitioner's Summary of Applicable legal framework for a "Claim of Torture" under TIRC Act. Under the Illinois Torture Inquiry and Relief Commission Act, 775 ILCS 40/1 et seq. (West 2012)), the Illinois legislature created the Illinois Torture Inquiry and Relief Commission (TIRC), an administrative agency that considers "claims of torture" by criminal defendants in Illinois. The Act "establishes an extraordinary procedure" to review such claims. 775 ILCS 40/10. At current, the Act defines a "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 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).2 The TIRC has defined "torture" as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from that person a confession to a crime." 20 Ill. Adm. Code. § 2000.10.

The Commission is charged with determining whether a claimant has made a credible claim under the act, conducts an investigation that includes an interview of the claimant, as well as full public hearing. 775 ILCS 40/40. From there, the Commission can dismiss claims or sent them for judicial review. *Id.*

In 2009, the General Assembly established the Illinois Torture Inquiry and Relief Commission (TIRC or Commission). Public Act 96-223 (eff. Aug. 10, 2009) (TIRC Act, 775 ILCS 40/1 *et seq.*). The purpose of the TIRC Act was to provide "an extraordinary procedure to investigate and determine factual claims of torture related to allegations of torture..." 775 ILCS 40/10. That purpose arose because:

> During the 1980's and 1990's, there were a series of allegations that confessions had been coerced by Chicago Police Detectives under the command of Chicago Police Commander Jon Burge by using torture. Burge was suspended from the Chicago Police Department in 1991 and fired in 1993 after the Police Department Review Board ruled that he had in fact used torture.
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> Between 2002 and 2006, a Cook County Special Prosecutor, retired Justice Edward Egan, investigated these allegations. Special Prosecutor Egan concluded that Burge and officers under his command had likely committed torture, but that any crimes were outside the state statute of limitations and could not be prosecuted.
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> * * *
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> Following the release of Special Prosecutor Egan's report, legislative and community efforts intensified to provide new hearings to persons who claimed to have been tortured by Commander Burge and his subordinates. The 2009 passage of the TIRC Act, whose lead sponsor was Senator Kwame Raoul, was a result.

For purposes of the TIRC Act, a "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." 775 ILCS 40/5(1).

Plainly, the TIRC Act did not provide a remedy for torture *per se*. For instance, it does not provide civil damages for injury resulting from torture. Rather, it refers credible allegations of torture to the circuit court for review of the claim insofar as it is may bear on the claimant's criminal conviction. 775 ILCS 40/50. In this regard, such claims resemble proceedings under the Post-conviction Hearing Act (725 ILCS 5/122-1 *et seq.*), which take place in the court in which the conviction occurred. 725 ILCS 5/122-1(b). Post-conviction claims are collateral attacks on a conviction or sentence alleging a substantial denial of constitutional rights in the original trial. *People v. Edwards*, 2012 IL 111711 ¶ 21. "In a post-conviction proceeding, the trial court does not re-determine a defendant's innocence or guilt, but instead examines constitutional issues which escaped earlier review." *People v. Johnson*, 205 Ill. 2d 381, 388 (2002). Such claims are adjudicated in a process that may consist of up to three stages. *People v. Bailey*, 2017 IL 121450, ¶ 18. The first two stages perform a gatekeeping function to screen out allegations that could not or do not make a substantial showing of a constitutional violation. *People v. Rivera*, 198 Ill. 2d 364, 373 (2001); *People v. Gaultney*, 174 Ill. 2d 410, 518 (1996). When claims, taken as true, do make a substantial showing of a constitutional deprivation, they receive an evidentiary hearing for final resolution. 725 ILCS 5/122-6; *Bailey*, 2017 IL 121450, ¶ 18. Likewise, when a majority of the Commission finds by a preponderance of evidence that a claim of torture merits judicial review,

TIRC refers the claim to the Cook County Circuit Court for a hearing. 775 ILCS 40/45(c), 50(a).

The TIRC Act does not expressly reference the Post-conviction Hearing Act, though. Despite that, TIRC explains on its website that if the Commission refers a claim to court, "a claimant can receive what is referred to in Illinois as a 'third stage post-conviction hearing.'" The appellate court quoted this statement approvingly in *People v. Christian*, 2016 IL App (1st) 140030, ¶ 78. In *Christian*, the appellate court analogized TIRC proceedings to the gatekeeping function of the first two post-conviction stages. *Id.* ("the initial screening of the claim is roughly comparable to the first stage [and] the Commission's inquiry and recommendations are the second stage[1]"). The court also noted that the circuit court does not review TIRC's findings. *Christian*, 2016 IL App (1st) 140030, ¶ 95 ("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"). Further, the Commission's inquiry is not an adversarial proceeding nor does it have other hallmarks of an adjudicative decision. *Id.* ¶¶ 83-88. Thus, TIRC's findings have no preclusive effect. *Id.* ¶¶ 92, 102, 104.

Rather, just as with post-conviction claims, "the circuit court hearing is the third-stage evidentiary hearing." *Id.* ¶ 78. Likewise, in *People v. Whirl*, the court noted the State's concession that the judicial review contemplated under the TIRC Act is akin to a

[1] Presumably, the Commission's referral to the Circuit Court for review also effectively removes any *res judicata* or other procedural barriers—matters that would be litigated in second-stage post-conviction proceedings.

third-stage post-conviction hearing. 2015 IL App (1st) 111483 ¶ 51. And in *People v. Gibson*, the appellate court further held that the rules of evidence do not apply at an evidentiary hearing on a TIRC-referred claim—just like a third-stage postconviction hearing. 2018 IL App (1st) 162177, ¶ 138.

While there is some clarity on the procedures applicable to an evidentiary hearing on a TIRC claim, what a petitioner must prove to obtain relief is less clear. On its website, TIRC explains the evidentiary hearing "means that the claimant can have a full court hearing before a judge to show by a preponderance of the evidence *that his confession was coerced.*" (emphasis added). And the *Christian* court remarked "the circuit court is asked to determine whether defendant has been tortured." *Christian*, 2016 IL App (1st) 140030, ¶ 95. Comparable language does not appear in the text of the TIRC Act. Instead, the TIRC Act describes disposition in the circuit court thusly:

> Notwithstanding the status of any other post-conviction proceedings relating to the petitioner, if the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings and such supplementary orders as to rearraignment, retrial, custody, bail or discharge, or for such relief as may be granted under a petition for a certificate of innocence, as may be necessary and proper.

775 ILCS 40/50(a).

This sentence, except the first clause, is "taken, verbatim, from section 122-6 of the Post-conviction Hearing Act." *Gibson*, 2018 IL App 162177, ¶ 135; 725 ILCS 5/122-6. Due to the similarity and "telling reference to '*other* post-conviction proceedings'" the appellate court concluded "the legislature intended post-commission judicial review to

be understood as a new species of post-conviction proceeding." *Id.* ¶ 135 (emphasis in original).

With the understanding that a TIRC claim is a type of post-conviction hearing, the proposition that the petitioner must prove that he was tortured or his confession was coerced is problematic. A petitioner would not necessarily have to prove he was tortured or his confession was coerced to obtain relief had he brought such a claim under the Post-conviction Hearing Act instead of through TIRC. In *Whirl,* the appellate court stated:

> the purpose of an evidentiary hearing is not for the court to determine the ultimate issue of whether a confession was coerced * * * the issue at this stage of post-conviction proceedings is not whether the confession was voluntary but whether the outcome of the suppression hearing likely would have differed if the officer who denied harming the defendant had been subject to impeachment based on evidence revealing a pattern of abusive tactics employed by that officer in the interrogation of other suspects.

2015 IL App (1st) 111483, ¶ 80; See also, *People v. Patterson,* 192 Ill. 2d 93, 145 (2000). The court found Whirl did meet that standard. So it reversed the circuit court which applied a higher standard on Whirl to prove he was tortured and his confession was coerced. *Id.* ¶ 81. The appellate court's ruling granted Whirl "a new suppression hearing and, if necessary, a trial." *Id.* ¶ 110. *Whirl* was a combined post-conviction and TIRC proceeding. Having found Whirl entitled to a new suppression hearing under the Post-conviction Hearing Act, the court did not address Whirl's TIRC claim for "identical relief." *Id.* ¶ 111.

Yet, a standard requiring the petitioner to prove torture would impose a higher burden on claimants situated like Whirl. Since "[a]n evidentiary hearing on a claim of police torture might be held because the claim was referred by the TIRC, or because a petition under the Post-Conviction Hearing Act survived the State's motion to dismiss;" and "the General Assembly did not establish the TIRC because victims of police torture needed a remedy that was *harder* to secure than what they already had." *Gibson*, 2018 IL App (1st) 162177, ¶ 136 (emphasis in original); a TIRC claim is a new species of post-conviction claim, but it is not an entirely different animal. That is, substantive law ought to apply equally as it would if the matter had come before the circuit court through a post-conviction petition. "[A] court presumes that the legislature did not intend to create absurd, inconvenient, or unjust results." *People v. Jackson*, 2011 IL 110615, ¶ 12. So if a TIRC claimant meets the standard set forth in *Whirl*, he is entitled to a new suppression hearing.

Nonetheless, a higher standard may apply if the petitioner seeks greater relief through the evidentiary hearing—suppression of the confession and a new trial. That is the relief requested here. *Whirl* found the circuit court applied an incorrect standard with respect to whether the petitioner was entitled to a new suppression hearing only. *Whirl* did not prohibit a joint proceeding or extended inquiry where a circuit court could find a confession was involuntary in addition to or independently from making the finding that a petitioner is entitled to a new suppression hearing by showing "the outcome of the suppression likely would have differed." *Whirl*, 2015 IL App (1st)

111483, ¶ 80. The *Whirl* court's remark sets a floor for the circuit court's inquiry for these type of claims; not a ceiling.

In addition, judicial economy favors resolution in a single proceeding. "[T]he trial court's inquiry [in a suppression hearing] overlaps significantly with the inquiry at an evidentiary hearing on a claim of police torture." *Gibson*, 2018 IL App (1st) 162177, ¶ 139. In the evidentiary hearing here, the parties treated the matter as though the voluntariness of Anderson's confession was the ultimate issue to be decided in this proceeding. Before the hearing, Anderson expressly pled that he sought suppression of his confession and a new trial. Thus, the State was put on notice and it did actually litigate the issue when it presented and argued its case. So the State would not be prejudiced by resolving the issue now instead of in a new suppression hearing. Additionally, the Court has every reason to believe the evidence and arguments would be identical in a new suppression hearing and, further, that the witnesses who invoked their Fifth Amendment privilege would do so again.

Moreover, "[t]he trial court is not limited in its remedies by section 122-6 and the purpose of the [Post-conviction Hearing] Act, which is to promote the concept of fundamental fairness." *People v. Perez*, 115 Ill. App. 3d 446, 451 (1983). As the *Gibson* court noted, the TIRC Act uses the very same language as section 122-6 of the Post-conviction Hearing Act and the TIRC Act shares the same purpose, but for a particular type of claim. Accordingly, the Court is not limited to a certain remedy. Rather, the Court should provide the relief the evidence warrants.

Accordingly, if Anderson's claim satisfies the *Whirl* standard, he is entitled to a new suppression hearing. But, if the hearing evidence also or separately establishes that the State could not meet its burden to prove his statement was voluntary in a new suppression hearing, he should be entitled to have the statement suppressed and a new trial.

With respect to suppression, the Fifth Amendment to the U.S. constitution commands that no person shall be compelled in any criminal case to be a witness against himself. The Fifth Amendment's self-incrimination clause applies to the states through the fourteenth amendment's due process clause. *Malloy v. Hogan*, 378 U.S. 1, 6 (1964).[2] "The constitutional test for the admission of a confession in evidence is whether the confession was made freely, voluntarily, and without compulsion or inducement of any sort." *People v. Davis*, 35 Ill. 2d 202, 205 (1966). "The test for voluntariness is whether the defendant made the statement freely, voluntarily, and without compulsion or inducement of any sort, or whether the defendant's will was overcome at the time he or she confessed." *People v. Slater*, 228 Ill. 2d 137, 160 (2008) (citation omitted). "In determining whether a statement is voluntary, a court must consider the totality of the circumstances of the particular case; no single factor is dispositive." *People v. Richardson*, 234 Ill. 2d 233, 253 (2009). Factors to consider include the defendant's age, intelligence,

[2] The United States seminal case of *Brown v. Mississippi*, 297 U.S. 278 (1936) vividly illustrates and underscores why due process forbids confessions obtained by torture. "The *Brown* defendants, not only confessed, but confessed in every matter of detail as demanded by those present; and in this manner the defendants confessed to the crime, and as the whippings progressed and were repeated, they changed or adjusted their confession in all particulars of detail so as to conform to the demands of their torturers. When the confessions had been obtained in the exact form and contents as desired by the mob, they left with the parting admonition and warning that, if the defendants changed their story at any time in any respect from the last stated, the perpetrators of the outrage would administer the same or equally effective treatment."38 Fordham Urb.L.J. 1221 n 64 (2011).

background, experience, mental capacity, education, and physical condition at the time of questioning; the legality and duration of the detention; the presence of *Miranda* warning; the duration of the questioning; and any physical or mental abuse by the police, including the existence of threats or promises." *Id.* 253-54.

"Where a defendant challenges the admissibility of an inculpatory statement through a motion to suppress, the State bears the burden of proving, by a preponderance of the evidence, that the statement was voluntary. *Id.* 254. "The State carries the initial burden of making a *prima facie* case that the statement was voluntary. Once the State makes its *prima facie* case, the burden shifts to the defense to produce some evidence that the confession was involuntary [citations], and the burden reverts back to the State." *Id.*

Judicial review of a TIRC disposition is a civil proceeding "akin to" the third stage of a post-conviction proceeding. *People v. Gibson,* 2018 IL App (1st) 162177, ¶ 85; *People v. Christian,* 2016 IL App (1st) 140030, ¶ 78; *People v. Whirl,* 2015 IL App (1st) 111483, ¶ 51 ("The State conceded that the judicial review contemplated under the TIRC Act is akin to a third-stage evidentiary hearing under the Post-conviction Act.").

Claims of torture submitted for review have further been adjudicated as analogous to the pattern and practice jurisprudence set forth in *People v. Patterson,* 192 Ill.2d 93, 145 (2000), and as clarified in other cases, *e.g., People v. Galvan,* 2019 IL App (1st) 170150, ¶68,74; *People v. Whirl,* 2015 IL App (1st) 111483, ¶¶80, 113.

FINDINGS OF FACTS

The court considered, the evidence, consisting of testimony and exhibits and having considered the arguments of counsels, the court makes the following findings of facts:

1. On August 21, 1991 at around 1:15 p.m., eleven-year-old Jeremiah Miggins was shot in a residential backyard located at 6533 South Marshfield Avenue, Chicago, Illinois. Report of Proceedings ("ROP"), 4/30/18 at 19-20, 22. Soon thereafter, Chicago police officers found his lifeless body lying near a tree on his back and noted that discovered Jeremiah had received a single gunshot wound to his chest. ROP, 4/30/18 at 22. Petitioner was convicted of first degree the murder in the August 21, 1991 shooting of Jeremiah Miggins.
2. Petitioner was also convicted of first-degree murder in the June 9, 1991 shooting of another child, a fourteen-year-old Kathryn Myles.
3. Petitioner, George Anderson, is 57 years old. He appears to be mobile, healthy and most importantly still living amongst us. Petitioner was twenty-eight years old at the time of the shootings. ROP, 9/30/16 at 50. Petitioner pled guilty to the murder of Kathryn Myles and, after trial, was convicted of the murder of Jeremiah Miggins. ROP, 7/1/15, George Anderson, at 124-25; Petitioner's Exhibit 3 at E-122-123.
4. George Anderson was arrested on August 21, 1991 at 1:55 p.m. on the street at 1545 W. 79th Street. (PX 32). He was transported to the 7th District at 61st and Racine Ave. and then to Area 3 Violent Crimes ("Area 3") which was then

located at 3900 South California Avenue, Chicago, Illinois. ROP, 7/1/15, George Anderson, at 40-42.

5. Retired Chicago police officer John Halloran testified in this TIRC hearing that he was promoted to detective on August 18, 1990 and that on August 21, 1991 he and his partner, John Smith, worked on the investigation of the Jeremiah Miggins murder. ROP, 4/30/18 at 15, 19.

6. On August 21, 1991, Halloran responded to the location of the shooting. He then met patrol officers and supervisors who were gathered at 6623 S. Marshfield Avenue and taken to the area where Jeremiah was. He was then informed of an additional address to visit and responded to 6525 S. Marshfield where he observed the presence of blood in both the living room and kitchen and learned that additional juvenile victims had been transported to the hospital. John Halloran visited Wyler's Children's Memorial Hospital at 57th and Maryland Avenue for the purposes of interviewing Anthony Wilson and Stephen Crosby. ROP, 4/30/18 at 20-23.

7. On August 21, 1991, at around 8:30 p.m., John Halloran and Detective John Smith moved petitioner to an interview room on the west end of the squad floor, a room commonly referenced as the "Bamburger room." ROP, 4/30/18 at 25.

8. Halloran handcuffed petitioner to a ring on the wall and did so while aware that other individuals had been arrested and because he feared the room was

not secured well due to a locking mechanism on the interview room door. ROP, 4/30/18 at 25-26.

9. Subsequently, Halloran and Smith asked for the assistance of a team of detectives from the third watch to assist them and those detectives included Detective Michael Kill and Detective Kenneth Boudreau. ROP, 4/30/18 at 27.

10. Halloran and Kill then entered the room to speak with George Anderson and introduced themselves. ROP, 4/30/18 at 27-28.

11. Detective Kill uncuffed George Anderson from the ring on the wall and asked Anderson if he needed anything, wanted any food or water or to use the bathroom. ROP, 4/30/18 at 28. Petitioner stated he needed to use the bathroom, did not need food, and was then escorted to the bathroom by Michael Kill while Halloran waited outside the door. *Id.* The bathroom was within six to eight feet of the Bamburger room. *Id.*

12. Detectives Kill and Halloran returned to the interview room with petitioner. ROP, 4/30/18 at 28.

13. Detective Kill read petitioner his *Miranda* rights from the Fraternal Order of Police handbook and, once petitioner stated that he understood his rights, would waive them, and agreed to speak, the three had a conversation that lasted 30 minutes from 10:00 p.m. until around 10:30 p.m. ROP, 4/30/18 at 29-30) 38.

14. At his suppression hearing, petitioner testified that he was aware of his *Miranda* rights at the time he was interviewed. ROP, 1/24/94, at 58-59.

15. Petitioner George Anderson was cooperative in this first interview. ROP, 4/30/18 at 29.

16. Detective Michael Kill did not kick petitioner's handcuffs, or strike or abuse him. ROP, 4/30/18 at 30; State Exhibit 29, 12-16, 33.

17. John Halloran did not kick, punch, strike or abuse George Anderson. ROP, 4/30/18, at 31. Petitioner did not ask the detectives for a lawyer. ROP, 4/30/18 at 30, 32. Petitioner was not handcuffed when he was questioned by Detective Kill. *Id.;* State Exhibit 29, Michael Kill testimony from Motion to Suppress Statements at 12; ROP, 4/30/18 at 28-30; Brent Evidence Dep., 6/21/18 at 37-38. Detective Kill's practice was to remove handcuffs when questioning a suspect unless the suspect was considered a violent person. *Id.,* at 35. Anderson was a very cooperative witness. State Exhibit 29, Michael Kill testimony from Motion to Suppress Statements at 35; ROP, 4/30/18 at 29.

18. On August 21, 1991, Kenneth Boudreau was working as a Chicago police detective assigned to Area 3. He had returned to the United States two months prior from his service in the Iraq War where he was stationed as an Sergeant First Class (E-7 grade), assigned to the 416 Engineer Command. ROP, 5/14/18 at 23. Kenneth Boudreau did not participate in the interview between 10-10:30 p.m. on August 21 but was working in the Area on other aspects of the investigation. ROP, 4/30/18 at 31.

19. Boudreau, on August 21, 1991, had been a detective for two months. *Id.*

20. Boudreau was assigned to investigate the murder of 11-year-old Jeremiah Miggins that occurred on August 21, 1991 and in that capacity spoke with Eric Clark and Michael Sutton. State Exhibits 4A, 4B.

21. Boudreau attended the statement of Eric Clark which was made at 3:10 a.m., August 22, 1991 together with ASA Brent and Detective Michael Kill. ROP, 5/14/18 at 27.

22. Boudreau attended the statement of Jerome Johnson which was given at 6:00 a.m. on August 22 as well as the statement of Michael Sutton. *Id.*

23. Detective Kenneth Boudreau did not interview George Anderson. *Id.*

24. His only contact with George Anderson was when Kenneth Boudreau provided him food. Indeed, Boudreau purchased food for all individuals in the area that day. ROP, 5/14/18 at 27-28.

25. Michael Sutton and Eric Clark were brought to Area 3 and each gave witness statements. *Id.* Both gave statements to police and an ASA wherein they indicated they had been not made promises for their statements, that neither had been threatened in any way and that each was free from the influence of alcohol and drugs. State Exhibits 4A, 4B.

26. At no time during his initial interview did petitioner, George Anderson, ask for an attorney. ROP, 4/30/18 at 30, 32.

27. Former ASA Joseph Brent received an assignment in the evening of August 21, 1991 to respond to Area 3 Violent Crimes and arrived there at around 11:45 p.m. ROP, 4/30/18 at 32; State's Ex. 52, Brent Evidence Dep., 6/21/18 at

16. Brent started with the Cook County State's Attorney's Office (CCSAO) in March 1989 and by 1990, obtained the position of assistant in the felony review section. State Ex. 52, 8. His duties in that position were to review cases to determine whether to charge individuals with felonies. State's Ex. 52, Brent Evidence Dep., 6/21/18 at 9. Brent would eventually leave his position with the CCSAO between 1994-95 and recently practiced law in San Francisco, California. State Ex. 52, Brent Evidence Dep., 6/21/18 at 9-11.

28. ASA Brent then spoke with Michael Kill about the case and then afterwards entered the interview room with Detective Kill and found petitioner uncuffed. State Ex. 52, Brent Evidence Dep., 6/21/18 at 17.

29. Joseph Brent testified that it was practice to first introduce himself, state whom he represented, and that he was not the interviewee's lawyer. State's Ex. 52, Brent Evidence Dep., 6/21/18 at 18. He would then read the individual his *Miranda* rights, asked if he understood them, and then asked if he wanted to make a statement. *Id.*, at 17, 20, 27. Brent read petitioner his *Miranda* rights. State Exhibit 1, Motion to Suppress Statements, ROP, 1/24/94 at 62; State Ex. 52, Brent Evidence Dep., 6/21/18 at 17-20.

30. Joseph Brent next told George Anderson that he had the right to remain silent, that anything he said can and would be used against him a in a court of law, and that he has a right to an attorney before any questioning and that if he could not afford an attorney, one would be appointed for any testimony. State Ex. 52, Brent Evidence Dep., 6/21/18 at 19.

31. The statement given by George Anderson bears the *Miranda* warnings that he was given and petitioner's signature appears on the handwritten statement which acknowledges his receipt of the warnings. State Ex. 52, Brent Evidence Dep., 6/21/18 at 19-20, 27.

32. Joseph Brent spoke with George Anderson for about a half hour and during this conversation Michael Kill left the room. State Ex. 52, Brent Evidence Dep., 6/21/18 at 21.

33. Brent asked George Anderson how he had been treated by the police and Anderson responded that he had no complaints. State Ex. 52, Brent Evidence Dep., 6/21/18 at 22.

34. George Anderson did not complain to Joseph Brent that he had been kicked, punched, struck, or beaten. State Ex. 52, Brent Evidence Dep., 6/21/18 at 22-23.

35. Petitioner never said to Joseph Brent that he wanted a lawyer present. State Ex. 52, Brent Evidence Dep., 6/21/18 at 24.

36. At the conclusion of the statement Brent advised petitioner that there were three options to memorialize the statement in which he had given, that one of the options was to keep the statement oral, another was to summon a court reporter, and the third was to have the statement handwritten. State Ex. 52, Brent Evidence Dep., 6/21/18 at 24.

37. George Anderson asked that Joseph Brent write down the statement, which was a summary of what he had been saying. *Id.*

38. At that time, Joseph Brent left the interview room. *Id.*

39. That same night and early morning, Brent spoke with witnesses including Eric Clark, Michael Sutton and Jerome Johnson and took statements from each of them before speaking again with petitioner Anderson. *Id.,* at 25.

40. Brent at one point returned to the interview room and asked George Anderson how he was doing and whether he needed food as the Chicago police officers were buying a lot of McDonald's for people who were hungry. *Id.,* at 26. It was Detective Boudreau who had left Area 3 to go out and purchase McDonald's in the early morning of August 22, 1991. ROP, 4/30/18 at 34.

41. George Anderson gave a handwritten statement to Joseph Brent and Brent wrote down what he stated when he stated it and the handwritten statement was made in the presence of Det. Michael Kill. State Ex. 52, Brent Evidence Dep., 6/21/18 at 27-28.

42. There were not multiple detectives in the room and Det. Mike Kill was not hovering over George Anderson when he gave the statement. State Ex. 52, Brent - Evidence Dep., 6/21/18 at 28.

43. Detective Kill did not tell Joseph Brent what to write in George Anderson's statement. State Ex. 52, Brent Evidence Dep., 6/21/18 at 29.

44. After Joseph Brent drafted the statement George Anderson made, Brent discussed corrections to the statement with the petitioner and corrections were made. State Ex. 52, Brent Evidence Dep., 6/21/18 at 30.

45. George Anderson, Michael Kill and Joseph Brent each wrote their initials above the corrections. State Ex. 52, Brent Evidence Dep., 6/21/18 at 30-31.

46. George Anderson directed a correction be made on page 2. State Ex. 52, Brent Evidence Dep., 6/21/18 at 31.

47. At the conclusion of the 4-page statement, Joseph Brent read it to George Anderson and they went over the statement word for word. State Ex. 52, Brent Evidence Dep., 6/21/18 at 31-32. Throughout the entire time that the statement was written, no other individual besides Michael Kill, George Anderson and Joseph Brent were present in the interview room. State Ex. 52, Brent Evidence Dep., 6/21/18 at 32.

48. Joseph Brent denied ever speaking with George Anderson in the presence of Ken Boudreau, and denied that George Anderson ever requested an attorney. State Ex. 52, Brent Evidence Dep., 6/21/18 at 36.

49. George Anderson's TIRC form affidavit claiming he told former ASA Brent that he wanted an attorney and that ASA Brent looked at him and said nothing and walked away is a lie. State Ex. 52, Brent Evidence Dep., 6/21/18 at 37.

50. Joseph Brent never told George Anderson that he would spend the rest of his life in a Joliet prison. State Ex. 52, Brent Evidence Dep., 6/21/18 at 18.

51. Detectives Boudreau, Halloran and Kill did not stand behind George Anderson in ASA Brent's presence or when Brent showed him the statement.

State Ex. 52, Brent Evidence Dep., 6/21/18 at 38-39. Brent testified that he did not recall Halloran or Boudreau ever coming into the room.

52. John Halloran left Area 3 Violent Crimes hours before petitioner sat for a handwritten statement. After, Mr. Halloran left Area 3, he went home in the early morning hours of August 22, between 1-3:00 a.m. in the morning. ROP, 4/30/18 at 32. John Halloran did not interview George Anderson again. ROP, 4/30/18 at 33.

53. *This court specifically finds that the statement given by George Anderson to Brent was voluntary, not coerced.* State Ex. 52, Brent Evidence Dep., 6/21/18 at 62. (emphasis added)

54. On January 24, 1994, George Anderson testified at his Motion to Suppress hearing that Detective Boudreau never hit him. ROP, 7/17/15, George Anderson, at 32-33; State Exhibit 1, ROP, 1/24/94, Motion to Suppress Statements, at 68.

55. Detective Boudreau did not attend George Anderson's interview with Detectives Kill and Halloran. State Ex. 52, Brent Evidence Dep., 6/21/18 at 36-37; ROP, 4/30/18 at 31. Boudreau's only contact with George Anderson while he was in custody on August 21, 1991 and August 22, 1991 was to bring him food on the morning of August 22, 1991; State Exhibit 29, Michael Kill testimony from Motion to Suppress Statements at 22-23; ROP, 4/30/18 at 34; ROP, 5/14/18 at 28; Boudreau MTS testimony, 1-21-94 at 54.

56. George Anderson did not accuse Detective Halloran of punching, hit or kicking him in both his written motion to suppress statements or during his live testimony at suppression hearing. State Exhibit 6; ROP, 4/30/18 at 170-71.

57. On August 21, 1991 and August 22, 1991, Detective Boudreau interviewed the following witnesses and was present when they gave statements in connection with the investigation of Jeramiah Miggins murder: Eric Clark, Jerome Johnson and Michael Sutton. ROP, 5/14/18 at 26-27.

58. On August 22, 1991 and August 23, 1991, Detective Halloran and his partner, Detective John Smith, recovered the vehicle that George Anderson drove during the shooting. Detective Halloran also obtained statements from Stephen Crosby and Anthony Wilson in connection with the investigation of Jeramiah Miggins murder. State Exhibit 5; State Exhibits 4E and 4F; ROP, 4/30/18 at 36-37.

59. There is no credible evidence that Detectives Kill, Boudreau and Halloran punched, hit or kicked petitioner and they did not witness any police officer or detective punch, hit or kick petitioner on August 21, 1991 or August 22, 1991 in connection with their working on the investigation of Jeremiah Miggins murder. State Exhibit 29, Michael Kill testimony from Motion to Suppress Statements at 24-25; ROP, 4/30/18 at 31; ROP, 5/14/18 at 29.

60. Petitioner chose to give a handwritten statement to former Assistant Cook County State's Attorney Joseph Brent. Present with Joseph Brent was Michael

Kill. ROP, 7/1/15, George Anderson, at 41; ROP, 4/30/18 at 35; State Ex. 52, Brent Evidence Dep., 6/21/18 at 38-40.

KATHRYN MYLES' MURDER INVESTIGATION

61. On June 9, 1991, fourteen-year-old Kathryn Myles was viviouslymurdered in a play lot near 6551 S. Wolcott Avenue, at approximately 11:45 p.m.

62. Detective Joseph Stehlik began working for the Chicago Police Department on July 1, 1985. ROP, 5/14/18, 164. Stehlik testified that he was assigned to investigate the murder of Kathryn Myles. ROP, 5/14/18 at 182.

63. Stehlik arrived at Area 3 on August 22, 1991 at around 8:30 a.m. ROP, 6/18/18, 8. He learned there that petitioner had been arrested for his participation in the Jeremiah Miggins murder. *Id.*

64. Stehlik did not work the day of August 21, 1991. ROP, 6/18/18, 12.

65. Joseph Stehlik and James O'Brien spoke with petitioner at about 1:15 p.m. on August 22, 1991 and the initial conversation lasted approximately thirty minutes. ROP, 6/18/18 at 19, 39, 41.

66. *This court finds that there is no credible evidence that in connection with the Kathryn Myles murder investigation, petitioner was hung by handcuffs from the top of a locker.* State Exhibit 29, Michael Kill testimony from Motion to Suppress Statements at 24; ROP, 5/14/18 at 187; ROP, 8/8/18 at 19. (Emphasis added)

67. George Anderson informed detectives in the first interview that he heard of the Myles shooting but was in Indiana at the time and had nothing to do with it. ROP, 6/18/18 at 42.

68. This court finds that there was no credible evidence that petitioner was not forced to stay in an air-conditioned room with extreme cold temperatures. ROP, 9/30/16 at 11, 20; ROP, 5/14/18 at 190; ROP, 8/8/18 at 18.

69. *There is no credible evidence that Detective James O'Brien or Detective Joseph Stehlik held a phone book over petitioner's side and struck the phone book with a pipe or a baton.* ROP, 8/8/18 at 16, 121-22; ROP, 5/14/18 at 187; ROP, 6/4/18 at 42-43; ROP, 6/7/18 at 42. (Emphasis added)

70. *There is no credible evidence that Detective James O'Brien or Detective Joseph Stehlik slapped, hit, kicked or abused petitioner in any way during the Kathryn Myles murder investigation.* ROP, 6/4/18 at 61; ROP, 5/14/18 at 186-87. (Emphasis added)

71. Former Chicago police detective and Sergeant Joseph Stehlik served for almost 31 years and over those 31 years received possibly four complaints that were filed with the Office of Professional Standards. None of those complaints were sustained. ROP, 6/7/18 at 62.

72. After Detective O'Brien had left the station, ASA Brian Grossman met petitioner shortly before 5 p.m. on August 22, 1991. He introduced himself as the lawyer for the State and gave petitioner his *Miranda* rights. ROP, 9/30/16 at 6; ROP, 5/14/18 at 188. He talked with George Anderson for about an hour. *Id.* at 7. Grossman then met with another person in custody and, at about 7 p.m., met with petitioner and Detective Stehlik for about 20 minutes.

Id. at 8-9. After the 20-minute conversation, petitioner stated he would give a handwritten statement. *Id.* at 9.

73. Petitioner signed a handwritten statement in connection with the murder of Kathryn Myles on August 22, 1991 at 8:30 p.m. in the presence of ASA Brian Grossman and Detective Joseph Stehlik. State Exhibit 19; ROP, 9/30/16 at 11-17.

74. Petitioner did not ask ASA Grossman or Detective O'Brien or Detective Stehlik for an attorney at any time in connection with his interrogation involving the murder of Kathryn Myles. ROP, 9/30/16 at 17-18.

75. ASA Brian Grossman talked to petitioner, outside of the presence of any police officer or detective and petitioner told him that he was treated well by the police and that he was not slapped, punched, hit or abused by the police in any way. Petitioner told him that he was given food and drink and was allowed to use the bathroom during the time he was in police custody in connection with the Kathryn Myles murder investigation. ROP, 9/30/16 at 10, 18. Petitioner appeared normal and did not appear to have been abused. *Id.* at 19. Petitioner never told him that he was abused by the police. *Id.* at 19.

76. Petitioner waived attorney-client privilege with respect to his conversations with his attorneys who represented him at his suppression hearing. ROP, 12/7/15 at 18.

77. Stuart P. Katz was the Public Defender who drafted petitioner's motion to suppress statements. Subsequently, he has served as a Cook County judge in various assignments. ROP, 7/17/15, George Anderson, at 24.

78. Thomas O'Hara was the Public Defender who represented petitioner at his suppression hearing and at his criminal trial. Subsequently, he has served as a Cook County judge in various assignments. ROP, 12/07/15 at 9-14.

79. Stuart Katz and Thomas O'Hara both denied George Anderson's allegation that he told them that he believed that his March of 1993 surgery for a UPJ obstruction was caused by a police beating he received during his August 22, 1991 interrogation. ROP, 12/07/15 at 20; ROP, 10/2/15 at 52.

80. There is no reference in George Anderson's motion to suppress drafted by Stuart Katz (1) that George Anderson was tortured by use of a pipe or baton and a phone book; (2) that George Anderson had any medical problems as a result of his physical abuse; (3) that George Anderson had blood in his urine as a result of this physical coercion; (4) that George Anderson has pain in his left flank as a result of this physical coercion; (5) that George Anderson passed out on more than one occasion as a result of this physical coercion; or (6) that George Anderson had surgery in March of 1993 as a result of this physical coercion. ROP, 10/2/15 at 51-52; State Ex. 6.

81. Petitioner's then attorney, Thomas O'Hara, did not tell petitioner that the Public Defender's Office lacked funds to hire an investigator to determine whether there was any relationship between his 1993 surgery for a UPJ

obstruction and his alleged torture by Detectives O'Brien and Stehlik in connection with his interrogation in the Kathryn Myles murder investigation. ROP, 12/07/15 at 20-2 1.

82. Had petitioner told his attorney, Thomas O'Hara, that he was hospitalized within a month following his arrest and that petitioner believed that the hospitalization was related to torture, O'Hara testified he would have subpoenaed the medical records from that hospitalization. ROP, 12/07/15 at 18-20.

83. Dr. Mark Jonathan Schacht, a board-certified urologic surgeon, appeared to testify in this cause on March 18, 2016 and was qualified as an expert in the field of urology. ROP, 3/8/16, 5-156; 8.

84. Dr. Schacht serves as a Division Chief of Urology at St. Francis Hospital in Evanston and is on the staffs of both North Shore University Hospital Systems and Swedish Covenant Hospital. ROP, 3/8/18, 6. Schacht reviewed the medical records of George Anderson, an affidavit from George Anderson, excerpts from George Anderson's testimony at his TIRC hearing and the deposition testimony of Dr. Cudecki. ROP, 3/8/16, 10.

85. Petitioner had a bilateral congenital UPJ obstruction which, to a reasonable degree of medical certainty, could not have been caused by trauma. ROP, 3/18/16 at 64-65.

86. In order for there to have been any possible connection between petitioner's alleged torture and the UPJ obstruction which caused petitioner to have

surgery in March of 1993, petitioner would have experienced severe symptoms within 24 to 36 hours of his arrest. ROP 3/18/16 at 23-25; 60.

87. *Petitioner provided no evidence in the form of witnesses or documentary evidence at his TIRC hearing that he experienced any severe symptoms of trauma within 24 to 36 hours of his arrest on August 21, 1991.* (Emphasis added)

88. *Dr. Schacht found no records that suggested petitioner experienced pain which caused him to obtain medical attention at Cermak Hospital.* (Emphasis added)

89. *Dr. Schacht reviewed petitioner's Cermak Hospital intake examination, performed on August 23, 1991, which stated Mr. Anderson had no complaints and contained record of a physical examination that revealed no bruises on his body.* ROP, 3/8/16, 24. (Emphasis added)

90. There was no evidence in the August 23, 1991 medical record from Cermak Hospital which contained annotations such as flank bruising, complaints of flank pain, complaints of tenderness, complaint of blood in the urine, or any of the things Dr. Schacht would expect should one sustain enough trauma to their side. *Id.*

91. The August 23, 1991 intake examination showed that petitioner was in good health. ROP, 3/8/16, 24.

92. According to Anderson's own affidavit, George Anderson first reported symptoms of pain to medical providers on December 15, 1992, more than a year after his interrogations at Area 3. ROP, 3/8/16, 25.

93. Had Mr. Anderson spent a week at Cook County Hospital in December 1992 and had surgery in March 1993, one would expect a record of the hospitalization, a complete record, including doctor's notes, nurse's notes, and vital signs. *Id.*

94. There was no record from Cook County Hospital suggesting these events regarding a December 1992 week-long visit took place that was introduced at hearing. *Id.* at 34.

95. In 1993, George Anderson had a bilateral UPJ obstruction, and severe urethral stricture disease which was dictated by Dr. Merrick as a dense structure in his bulb. ROP, 3/8/16 at 38.

96. The symptoms of urethral stricture disease include those reported by George Anderson in his affidavit which consisted of burning in the urination and blood in the urine. *Id.*

97. It is highly more probable that petitioner George Anderson's stricture disease caused blood in his urine. ROP, 3/8/16 at 56.

98. George Anderson had a congenital condition that led to his March 1993 surgery to repair his UPJ obstruction where he had bilateral disease. ROP, 3/8/16 at 59.

99. There is no scientific support for the proposition that trauma can cause the UPJ obstruction that George Anderson experienced. *Id.*

100. The type of injury that causes disruption to the UPJ are high speed motor vehicle accidents, gunshot wounds, stab wounds, and falls from greater than 20 feet. ROP, 3/8/16 at 60.

101. The type of injury that causes disruption to the UPJ are high speed motor vehicle accidents, gunshot wounds, stab wounds, and falls from greater than 20 feet. ROP, 3/8/16 at 60.

102. Dr. Schacht arrived at his opinion after reviewing a medical record, numbered 001701177c, introduced as State's Exhibit 16, a radiologist report which indicated petitioner had marked retention in both areas of the kidney where the urine is collected. ROP, 3/8/16 at 62.

103. Dr. Schacht testified that it is extremely unlikely that George Anderson had alleged trauma on the 21st, and when examined on August 23, he had no symptoms or complaints. ROP, 3/8/16 at 67.

104. Had petitioner's alleged trauma been linked to UPJ obstruction, one would expect that petitioner had experienced ruptured spleen or a torn stomach, vertebral fractures and was in excruciating pain, had low blood pressure, nausea and vomiting. Such patients would be looked at by trauma surgeons immediately. ROP, 3/8/16 at 68-69.

105. George Anderson had a standard congenital UPJ where there was a disruption of the muscle bundles where the ureter and the renal pelvis meet, and that had scar tissue inside. ROP, 3/8/16 at 70.

106. Surgeons noted on George Anderson's record that it was easy to bring his kidney down into the field, a fact which would rule out scarring and casing. *Id.*

107. Petitioner has not produced or introduced any medical records showing that he was hospitalized at Cermak Hospital or Cook County Hospital within a month of his arrest. A history and physical examination sheet, dated August 23, 1991, was taken of Charles Anderson AKA George Anderson. The sheet contains the notation, "Pt. sts. Good Health". People's Ex. 5. A column referenced as Medical History and Review of Symptoms contains questions regarding medical history on a list of certain health related issues, including head injury, eye problems, chest pain, and broken bones. On the right of each column, the sheet is marked "NO" for all such questions and the statement bears "None" in response to Chief Complaints/ History of the Present Illness. People's Ex. 5. On the second page of the same document, George Anderson was listed as being 6'2 and weighing 192 pounds. The sheet shows that petitioner was examined on his body for the following identification marks and injuries: bruise, cut, swelling, sore, amputation, bandage, cast, scar, tattoo and birthmark. George Anderson's body as of August 23, 1991 was spotless on this sheet save a marking for a tattoo appearing on his right shoulder and identified as "9." George Anderson signed the sheet above where the examiner signed People's Ex. 5.

GEORGE ANDERSON'S JUDICIAL ADMISSIONS

108. Petitioner testified on his own behalf at his 1991 trial. Petitioner's Exhibit 3.

109. Petitioner testified at the murder trial of eleven-year old Jeramiah Miggins that he was treated well by the police. Anderson trial testimony, petitioner's Exhibit 3 at E-67, 68. He testified that he had an opportunity to go over the statement with State's Attorney Joseph Brent, that Brent read the statement out loud to him. Petitioner's Ex. 3, at E-63. Petitioner testified that he made changes in the statement. *Id.* He testified that he told the state's attorney Jerome Johnson fired a shot before he got in the car that he did not know how the portion that Jerome "fired one more shot at Mike and Mike fired a shot back at George and Jerome" came to appear in the statement but did not ask that the statement be corrected. *Id.,* at E-65. Petitioner further testified that he knew when he gave the statement that anything he said could be used against him in a court of law and some of his rights. *Id.,* at E-66. He testified that he had told the state's attorney Brent that he had been treated well by members of the police and the assistant state's attorney and that this statement was true. He testified that he told the assistant state's attorney he had not been threatened nor was he made any promises and affirmed his statement to the state's attorney was true. Petitioner's Ex. 3, E-67. He testified in his bench trial that he had told the state's attorney that he had been offered food and water and that food had been brought to him from McDonald's and that some of this statement was true. Petitioner was asked this question and gave this answer:

Q. So you weren't treated badly by the police?

A. No.

Petitioner's Ex. 3, E-68. Petitioner testified at this TIRC evidentiary hearing that this testimony was perjured. ROP, 7/17/15, p.m. Session, at 108-109.

110. Petitioner pled guilty to accessory liability in connection with the murder of Kathryn Myles. ROP, 7/1/15 at 124-25; ROP, 7/17/15 at 65-66. Petitioner's guilty plea was given freely and voluntarily. ROP, 7/17/15 at 73-78.

111. Petitioner testified at trial in connection with the murder of Jeramiah Miggins. His trial testimony and his statement were consistent on the major events leading up to the shooting where eleven-year old Jeremiah was shot and killed. For example, he testified at trial that Lamont Jones was a member of the C/Notes, a rival gang to the Gangster Disciples. Petitioner's Ex. 3 at E-41, Petitioner's Exhibit 1, Statement at 1. Lamont tells petitioner not to deal drugs at 66th and Laflin. Petitioner's Ex. 3 at E-42; petitioner's Ex. 1 at 1. Petitioner could see that Lamont had a gun in his belt. Petitioner's Ex. 3 at E-45; petitioner's Ex. 1 at 1. Lamont told Petitioner that he had a fight with Jerome Johnson and that someone was going to die today. Petitioner's Ex. 3 at E-24; petitioner's Ex. 1 at 2. Jerome Johnson had a gun. Petitioner's Ex. 3 at E-3 1; petitioner's Ex. 1 at 2. Jerome Johnson put his gun on the floor of the passenger side of the car he and petitioner took to the shooting. petitioner's Ex. 3 at E-53, petitioner's Ex. 1 at 3. Petitioner testified that he did not correct ASA Joseph Brent's minor inconsistencies in his Statement before he signed his statement. Petitioner's Ex. 3 at E 52-73.

PATTERN OF PRACTICE

The parties have taken opposite position concerning patterns of practice.

112. Ivan Smith testified as a pattern and practice witness. Ivan Smith testified that he was arrested for murder in Tennessee in November of 1991 and was visited by Chicago police at Tipton County Jail. ROP, 12/7/15 at 57-58. He testified that he met with ASA Mike Smith, a court reporter and Detectives O'Brien and Stehlik at a picnic table in the "chow hall" at the jail and the Tipton guard shackled his ankles while his ankles were on either side of the bench. *Id.*, at 60-62. He testified that he asked to see his attorney and that Detective O'Brien slapped him on the side of his face. *Id.*, at 64-65. He testified that they told him they wanted him to testify against Terrence Brooks and, when he refused, O'Brien slapped him in the back of the head. *Id.*, at 66-67. He testified that he told them he wanted his lawyer or his mother and O'Brien started punching him in the chest. *Id.*, at 69-71. He testified that then Stehlik placed a phonebook below his rib cage and Stehlik began hitting it with a night stick. *Id.*, at 72-73. He testified that after Stehlik stopped, he asked for his lawyer and Detective O'Brien started hitting him with the stick and the phone book. *Id.* at 74. He later gave a statement and was taken back to Chicago on November 25, 1991. *Id.*, at 76-77.

113. Ivan Smith claims that Mike Smith, not Charles Burns, took his statement at the Tipton County Jail and that Mike Smith told him what to say in his statement. ROP, 12/7/15 at 87-88. He also claims that both Chicago police detectives O'Brien and Stehlik were in the room at the time he gave his statement. *Id.* at 89. Ivan Smith's statement reflects that then ASA Charles Burns and Detective O'Brien

were present (not Mike Smith or Detective Stehlik) and that the statement contained Charles Burns' writing. *Id.* at 92-95; State Exhibit 7.

114. Contrary to Ivan Smith's testimony, Charles Burns took Ivan Smith's statement with Detective O'Brien the only detective present in the cafeteria at Tipton County Jail. Mike Smith and Detective Stehlik remained in the office area. ROP, 5/14/18 at 11-16; ROP, 6/7/18 at 79, 84-89; ROP, 8/7/18 at 21-23. Charles Burns took a photo of Ivan Smith at the time he completed his statement. ROP, 6/7/18 at 89-9 1; State Exhibit 51.

115. Contrary to Ivan Smith's testimony, Ivan Smith was not physically abused by either Detective O'Brien or Detective Stehlik. ROP, 5/14/18 at 13; ROP, 6/7/18 at 61-62, 80-82; ROP, 8/7/18 at 23.

116. After TIRC filed its Disposition concerning George Anderson, the Independent Police Review Authority conducted a new investigation into this case and found that the claims asserted by petitioner against Detectives James O'Brien, Joseph Stehlik, John Halloran, Kenneth Boudreau and Michael Kill were unfounded. ROP, 4/30/18 at 180-81; State Exhibit 20.

117. Marvin Reeves testified as a pattern and practice witness for petitioner in connection with the statement petitioner gave in the Jeremiah Miggins murder investigation. Reeves testified he was threatened while he was shown some pictures by unidentified police officers and that Detective Kill was standing in doorway when that happened. ROP, 12/7/15 at 253. Reeves testified that he was physically abused by detectives other than Detective Kill. ROP, 12/7/15 at 259-60.

Reeves testified that he did not sign a statement and Detective Kill did not physically abuse him in any way. ROP, 12/7/15 at 261- 62. Detective Kill was not in the room when he was physically abused. ROP, 12/7/15 at 254, 259-60.

118. In the instant matter, there is insufficient evidence in the instant matter that Detective James O'Brien used physical force against Cortez Brown. He did not strike Cortez Brown with his fist or a flashlight and did not slap him on the side of his head with his open hand. ROP, 8/7/18 at 52. Judge St. Eve allowed Detective O'Brien to come off of his Fifth Amendment testimony in the Harold Hill case and testify as to any questions regarding Cortez Brown.

119. Nicholas Escamilla, like petitioner, admitted he perjured himself at this criminal trial. Judge Frank Easterbrook, voting for the unanimous decision of the United States Seventh Circuit of Appeals, wrote, "It is difficult to see how a collateral attack based on the proposition that the petitioners own trial testimony was a pack of lies has any prospect of success. Litigants must live with the stories that they tell under oath." *Escamilla v. Jungworth,* 426 F.3d 868, 870 (7th Cir. 2005). Escamilla accused Detectives Kenneth Boudreau and John Halloran of physically abusing him. *Here, however, Petitioner, George Anderson testified at his Motion to Suppress hearing that Boudreau never touched him and he did not name Halloran in his Motion to Suppress as having abused him. See* State Exhibit 1 at 68; Petitioner Exhibit 7. Further, Escamilla told the Assistant 25 State's Attorney he was treated well by the police. State Exhibit 211 at 82 and Escamilla's motion to suppress was withdrawn. State Exhibit 210.

120. Petitioner did not question Detective Kenneth Boudreau about any allegations made by Tyrone Reyna and, therefore, any attempt to use Reyna's testimony as pattern and practice with respect to Boudreau has been waived. Petitioner only questioned Detective John Halloran with respect to his treatment of Reyna by asking him about his assertion of the Fifth Amendment privilege in *Harold Hill, et al. v. City of Chicago, et al.* but Halloran was allowed to come off his Fifth Amendment testimony in that case and testify. ROP 4/30/18 at 167-168; State Exhibit 26. Detective James O'Brien did not abuse Tyrone Reyna in any manner. ROP 8/7/18 at 92-93.

121. For the purposes of this proceeding, there is a lack of evidence that Detective Kenneth Boudreau abused Jerry Gillespie in any manner. ROP 5/14/18 at 101. Detective Halloran did not abuse Jerry Gillespie in any manner. Gillespie is irrelevant as a pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him and he did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7. Jerry Gillespie did not identify any Detective in this case as having abused him. *See People v. Jerry Gillespie,* 407 Ill. App. 3d 113, 129 (1st Dist. 2010) ("[The] four officers involved in petitioner's interrogation were Detectives Foley, McDonald, Clancy, and Rajkovich"). The First District Court of Appeals in Illinois has already held in a decision affirming the trial court's denial of leave to file a successive post-conviction that Jerry Gillespie "has not alleged that Detective Boudreau was involved in petitioner's interrogation and

petitioner's successive post-conviction petitions did not name Detective Boudreau in his allegations of police brutality." *Gillespie,* 407 Ill. App. 3d at 129.

122. Detective Michael Kill read Jason Gray his *Miranda* rights before talking to him. State Exhibit 233 at 99-100; State Exhibit 234 at 17-18; State Exhibit 239 at 795. There is insufficient evidence which suggests that the late detective Kill threatened or physically abused Gray in any manner. State Exhibit 233 at 102; State Exhibit 238 at 1277-78. In his statement, Jason Gray stated that he was not threatened and that he was treated well by the police. State Exhibit 237 at 125-26.

123. For the purpose of these proceedings there is insufficient evidence that Detective Kenneth Boudreau abused Peter Williams. ROP 5/14/18 at 100, 144. Peter Williams is irrelevant as a pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him and he did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7.

124. For the purpose of these proceedings there is insufficient evidence Detective Kenneth Boudreau abused Harold Hill. ROP 5/14/18 at 99-100, 143. Harold Hill is irrelevant as a pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him and he did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7.

125. For the purpose of these proceedings there is insufficient evidence that Dan Young was interrogated by Detective James O'Brien. Petitioner did not question

Detective James O'Brien about any allegations of coercion made by Dan Young and, therefore, any attempt to use Young's testimony as pattern and practice with respect to O'Brien has been waived.

126. The police and the Assistant State's Attorney who took his statement treated Joseph Jackson "like a gentleman." State Exhibit 261 at 14. There is insufficient evidence that Detective Kenneth Boudreau abused Joseph Jackson. ROP 5/14/18 at 104. There is insufficient evidence that Detective John Halloran abused Harold Hill. ROP 4/30/18 at 75, 159-162. Joseph Jackson is irrelevant as a pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him and he did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7.

127. There is insufficient evidence that Detective Kenneth Boudreau abused Oscar Gomez in any way. ROP 5/14/18 at 100, 144. Detective James O'Brien did not abuse Oscar Gomez in any manner and did not interview him. ROP 8/7/18 at 102. Oscar Gomez is irrelevant as a pattern and practice witness against Detective Boudreau because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him. *See* State Exhibit 1 at 68.

128. For the purpose of these proceedings, there is insufficient evidence that Detective Kenneth Boudreau abused Johnnie Plummer in any way and was not accused by Plummer of having abused him. ROP 5/14/18 at 99, 140. There is no evidence that Detective John Halloran interviewed Johnnie Plummer and abused him in any manner. ROP 4/30/18 at 68. Johnnie Plummer is irrelevant as a

pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him and he did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7. The Appellate Court has found:

> While Plummer was at Area 3 as a witness to homicide, other detectives developed information that made defendant a suspect in the homicide of Michael Engram. He was briefly questioned and denied knowledge of it. Some four hours after this denial, [Plummer] was placed in a lineup relating to the Engram homicide and was identified. Defendant testified that he willingly cooperated with the police as to the Phillips homicide, signing a witness statement. Defendant testified that he was identified in the Engram lineup and beaten by the police 'about a half day' after signing the Phillips witness statement. In fact, the statements show that [Johnny Plummer] gave his statement on the Phillips case three hours after he confessed to the Engram homicide.

People v. Johnny Plummer, No. 1-95-3400, *18 (1St Dist. 1999).

129. For the purposes of these proceedings is insufficient evidence that Detective Michael Kill did not read Ronald Kitchen his *Miranda* rights. State Exhibit 278 at 1077-79; State Exhibit 281 at 56-58. There is insufficient evidence that Kitchen asked to have a lawyer present before being questioned. State Exhibit 281 at 67.

130. Michael Saunders was interrogated by Detective Kenneth Boudreau. Petitioner did not question Detective Boudreau about any allegations of coercion by Michael Saunders and, therefore, any attempt to use Saunder's testimony as pattern and practice with respect to Boudreau has been waived. Michael Saunders is irrelevant as a pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him. *See* State Exhibit 1 at 68.

Moreover, Michael Saunders alleged at his own suppression hearing that an unidentified detective snatched an earring from him. The detective who questioned him and was identified as having abused his was Detective William Foley. See *People v. Michael Saunders,* 307 Iii. App. 3d 406, 409-10 (1st Dist. 1999). There is insufficient evidence that Detective William Foley participated in George Anderson's interrogation or alleged abuse.

131. Terrell Swift was interrogated by Detective Kenneth Boudreau. Petitioner did not question Detective Boudreau about any allegations of coercion by Terrell Swift and, therefore, any attempt to use Swift's testimony as pattern and practice with respect to Boudreau has been waived. Terrell Swift is irrelevant as a pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him. *See* State Exhibit 1 at 68.

132. For the purposes of these proceedings there is insufficient evidence that Detective John Halloran chocked or punched Kilroy Watkins in the face or held him over 30 hours or denied him access to food. ROP 4/30/18 at 69. While Halloran initially asserted the Fifth Amendment in *Hill v. City of Chicago, et al.,* he later was allowed to testify as to the matters to which he asserted the Fifth Amendment. ROP 4/30/18 at 167; State Exhibit 26. There is insufficient evidence that Detective Kenneth Boudreau abused Kilroy Watkins in any way. ROP 5/14/18 at 100, 144. Kilroy Watkins is irrelevant as a pattern and practice witness because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched

him and he did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7.

133. The principal issue in the Wiggins, Clemon case with respect to Detectives Boudreau and O'Brien was whether there should have been a youth officer present when Wiggins and Clemon were questioned. There are no allegations of torture against any of the detectives in this case. In addition to being irrelevant because there is no youth officer issue with George Anderson (who was 28 years of age when he was arrested), Wiggins and Clemon are irrelevant pattern and practice witnesses against Kenneth Boudreau with respect to any physical coercion because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him. *See* State Exhibit 1 at 68.

134. Clayborn Smith is not a pattern and practice witness with respect to Kenneth Boudreau or John Halloran. The exhibits designated with respect to Clayborn Smith reflect that Kenneth Boudreau never touched Clayborn Smith. This is consistent with this case where Petitioner testified (at his Motion to Suppress hearing) that Boudreau never touched him. To the extent Clayborn Smith accused John Halloran of physical abuse, Petitioner did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7. John Halloran never physically abused Clayborn Smith. ROP4/30/18 at 69, 122-134.

135. *For the purposes of these proceedings there is no medical evidence that Anthony Jakes was physically abused by any detective or other members of the Chicago Police Officers in the instant matter.* (Emphasis added). There was evidence that Anthony Jakes was

fourteen years of age and was not questioned in front of a parent or guardian or a youth officer.

136. For the purposes of these proceedings there is insufficient evidence that Detective James O'Brien threw sixty-year old Samhan Ali against a car and kicked and struck him. ROP 8-7-18 at 103. The complaint filed by Ali with OPS was not a complaint about a coerced statement and was determined to be unfounded by the Office of Professional Standards. Petitioner Exhibit 681.

137. Glen Dixon filed a complaint with the Office of Professional Standards against five detectives, including Detective James O'Brien, alleging that he was kicked about the head and body by them on rail road tracks and not in the context of a coerced statement and Dixon's complaint was found to be not sustained against Detective O'Brien. Petitioner Exhibit 682. The five detectives did have a physical altercation with Dixon while arresting him, but for the purposes of these proceedings there is insufficient evidence that that Detective James O'Brien kicked him. ROP 8-7-18 at 70.

138. Detective Michael Kill was accused by Bobby Spencer of slamming his head against a desk and slapping his face three times in an interview room at Area 3 but not in connection with giving a statement. Petitioner Exhibit 683. Spencer also accused two unnamed detectives of abusing him but refused to cooperate with OPS in order to identify them. The Office of Professional Standards determined that the complaint against Detective Kill not sustained. *Id.* Michael Kill was not asked about Spencer when examined in the Jakes case.

139. Gregory Logan filed a complaint with the Office of Professional Standards against Detective James O'Brien and 7 other officers alleging being beaten with a bat, arrested, denied a right to counsel and denied food in a complaint that did not allege a coerced statement. Petitioner Exhibit 684. Detective O'Brien was not the arresting officer and the complaint was determined to be unfounded by the Office of Professional Standards. *Id.;* ROP 8/7/18 at 123- 25. Logan also filed a civil complaint against the officers which was dismissed. *Id.*

140. Detectives James O'Brien and Joseph Stehlik and seven other police officers were accused in a complaint filed with OPS of arresting Andre Altman and Eric Jackson without probable cause, forcing them to stand in a line-up and submitting false reports to cover-up their actions, all allegations found to be not sustained. Petitioner's Exhibit 685. Detective O'Brien was only asked if he was sued by the Altman and Jackson and their civil complaint was dismissed. ROP 8/7/18 at 106-07. Detective Stehlik was not asked about Altman or Jackson.

141. Maurice Lane's mother filed an Office of Professional Standards complaint against Detective James O'Brien accusing him of calling Maurice a "dickhead," choking him and injuring his shoulder when he was attacked by unknown detectives. Lane's complaint was determined to be not sustained. Petitioner Exhibit 686. Detective O'Brien does not recall speaking to Lane. ROP 8/7/18 at 105-06.

142. Emmett White filed an Office of Professional Standards complaint alleging that Detectives O'Brien and Halloran beat White about the body and stepped on his face in a complaint found to be not sustained. Petitioner Exhibit 687. Detectives

O'Brien and Halloran both denied using force against White. ROP 8/7/18 at 107; ROP 4/30/18 at 71.

143. Jeremy Allen, through his attorney, filed a 1996 Internal Affairs complaint against Detective James O'Brien alleging that he caused others to falsely identify him in a lineup. Internal Affairs found the complaint to be not sustained. Petitioner's Exhibit 688. Detective O'Brien was not asked about Allen's allegations when he testified in this case.

144. Luis Martinez filed a 1996 Office of Professional Standards complaint against Detective James O'Brien and three other detectives alleging that Detective O'Brien physically abused him and tried to force him to sign a document allowing them to keep questioning him. The complaint was not sustained by OPS. Petitioner Exhibit 689. Detective O'Brien was not asked about Martinez' allegations when he testified in this case.

145. David Torrentt, Sr. filed a 1997 Office of Professional Standards complaint against Detective James O'Brien and four other officers alleging that Detective O'Brien, inside an interview room at Area 1, physically assaulted his son, David Torrentt, Jr., and that the four other officers entered his home without a search warrant. OPS determined that the complaint was not sustained. Detective O'Brien was not asked about Torrentt's allegations when he testified in this case.

146. In 1999, Marcus Jackson and Joseph Jackson made a complaint to the Office of Professional Standards. Marcus Jackson alleged that Detective Halloran physically abused him and obtained a confession by hanging him by his shoelaces. Joseph

Jackson alleged that Detective Boudreau and Detective Halloran physically abused him to obtain a confession. OPS found that both complaints were unfounded. Detective Halloran did not physically abuse Joseph Jackson. ROP 4/30/18 at 75. Detective Halloran was not asked about Marcus Jackson's allegations when he testified in this case. Detective Boudreau did not physically abuse Joseph Jackson, whose story kept changing. ROP 5/14/18 at 104, 149. Detective Boudreau was not asked about Marcus Jackson's allegations when he testified in this case. Joseph Jackson and Marcus Jackson are irrelevant as pattern and practice witnesses because Petitioner testified at his Motion to Suppress hearing that Boudreau never touched him and he did not name Halloran in his Motion to Suppress as having abused him. *See* State Exhibit 1 at 68; Petitioner Exhibit 7.

147. Stanley Gardner filed a 2002 complaint with IPRA against Detective James O'Brien, Detective John Halloran and four other officers in which he alleged that Detectives O'Brien and Halloran beat him, left him in a cold interview room at Area 1, did not allow him to use the washroom, denied him an attorney, called him a motherfucker and threatened to kill him if he did not confess. IPRA found that Gardner's complaint was not sustained. Both O'Brien and Halloran denied the allegations when questioned in this case. ROP 8/7/18 at 126-27; ROP 4/30/18 at 75.

CONCLUSIONS OF LAW

1. Pursuant to 775 ILCS 40/45-50, this Court has jurisdiction of matters referred from the Illinois Torture and Inquiry Relief Commission ("TIRC").

2. The TIRC Act (775 ILCS 40/1) (the Act') establishes an extraordinary procedure to investigate and determine factual claims of torture. *See* 775 ILCS 40/5. Through this hearing, this Court is to decide whether petitioner has proved that his confession was the result of torture. In making that determination, the Court may receive proof by affidavits, depositions, oral testimony, or other evidence. *See* 775 ILCS 40/50.

3. The issue for determination at a hearing convened pursuant to 775 ILCS 40 is whether petitioner has met his burden of proving by a preponderance of evidence that his confession was a result of physical coercion or torture. This is the sole issue to be determined by the Court at the hearing. The website for TIRC suggests that a claimant can have a third-stage evidentiary hearing and the Appellate Court has taken that to mean that "the claimant can [there] have a full court hearing to prove by a preponderance of the evidence that his confession was coerced." *People v. Christian,* 2016 IL App (1st) 140030, ¶ 78, citing State of Illinois Torture and Relief Commission, Mission and Procedure Statement, http://www.illinois.gov/tirc/Pages/default.aspx (last visited Mar. 1, 2016).

4. *There is no evidence of medical injury introduced by* petitioner *despite allegedly having been beaten for prolonged periods of time by officers in connection with both statements that he signed. cf. People v. Hobley,* 637 N.E. 2d 992, 1002, 1010. (Emphasis added). (No medical evidence petitioner sustained injuries consistent with claims of police coercion). Petitioner *never introduced any medical evidence at his Motion to Suppress hearing in 1994. George Anderson's "Bruise Sheet" was created by Cermak*

Hospital upon his admission to Cook County Jail after he signed his statements in both the Miggins and Myles murders. See State Exhibit 1, Motion to Suppress Statements, ROP, 1/24/94 at 74-75. (Emphasis added). *The document does not reflect that George Anderson suffered any medical injury prior to the signing of his statements for these murders. A history and physical examination sheet (Bruise Sheet), dated August 23, 1991, and was taken of Charles Anderson AKA George Anderson. The sheet contains the notation, "Pt. sts. Good Health"*. People's Ex. 5. (Emphasis added).

5. Joseph Brent and Brian Grossman were the Assistant State's Attorneys who transcribed George Anderson's written statements in both the Miggins and Myles murders. *They read the statements to Anderson before he signed them.* (Emphasis added). They did not see any physical injury on George Anderson. *In addition, they both interviewed George Anderson outside of the presence of Chicago police and Anderson did not tell them that he was abused by the police in any way and he did not ask them for an attorney.* Brent Evidence Dep., 6/21/18 at 21-24, 31-32, 37. (Emphasis added)
6. George Anderson signed statements in both the Jeremiah Miggins murder and the Kathryn Myles murder investigation. As set forth below, George Anderson's testimony regarding both statements at his TIRC evidentiary hearing and in his affidavit submitted to TIRC are contradicted by his own testimony and the testimony of others at his suppression hearing and at his criminal trial.
7. *George Anderson testified at his criminal trial in the Jeremiah Miggins murder case that he was treated well by the police.* (Emphasis added). At his motion to suppress, he

testified that Kenneth Boudreau did not abuse him in any way, and he did not name John Halloran as an officer who abused him. While he testified at his motion to suppress hearing that Detective Michael Kill kicked his handcuffs during his interrogation, Michael Kill (now deceased) testified at his suppression hearing that George Anderson was not handcuffed during his interrogation and that he did not kick him. In addition, Detectives Boudreau and Halloran testified at his TIRC hearing that Michael Kill did not handcuff suspects during interrogations unless they were considered dangerous and that he did not interrogate George Anderson with Anderson wearing handcuffs. *The previous testimony of George Anderson's testimony demonstrated that his statements were voluntarily given and that his statements were not coerced. See, People v. Richardson,* 234 I11.2d 233, 241-243; 257-260 (2009) (Testimony of ASA that petitioner told him in a meeting, with only the ASA and his mother present, that he was treated fine by the police supported the trial court conclusion that the statement was voluntary). (Emphasis added).

8. With respect to the Kathryn Myles murder, George Anderson pled guilty to his role in her murder. However, the state is absolutely incorrect when it states "as a matter of law, [a petitioner] cannot contest the voluntariness of the statement he gave." State also cites to "*People v. Peeples,* 155 I11.2d 422 (1993); *People v. Smith,* 383 Il1.App.3d 1078, 1085 (1st Dist. 2008), citing *People V. Townsell,* 209 Ill.2d 543, 545 (2004); *People v. Mueller,* 2013 IL App (5th) 120566; *People v. Stice,* 160 Ill.App.3d 132 (5t h Dist. 1987)." The state is reminded that the Torture Act

establishes in relevant part that ". . . an extraordinary procedure to investigate and determine factual claims of torture related to allegations of torture that shall require an individual to voluntarily waive rights and privileges as described in this Act." 775 ILCS 40/10 (West 2010)" People v. Wilson, 2019 IL App (1st) 181486 ¶ 47.

9. In addition, with respect to the Kathryn Myles murder, George Anderson's claimed that he was handcuffed to the top of a locker for several hours and hung with his feet 8 to 10 inches off the ground (but stated that this did not make any mark on his wrists). State Exhibit 1, Motion to Suppress Statements, ROP, 1/24/94 at 83-84. This claim is not credible. He never told ASA Grossman about being hung from the top of a locker. ROP, 9/30/16 at 19. The detectives interrogating George Anderson testified that it did not happen and it would have been impossible to handcuff someone with his hands over his head from the top of a locker. State Exhibit 29, Michael Kill testimony from Motion to Suppress Statements at 23-24; ROP, 5/14/18 at 187; ROP, 6/7/18 at 61; ROP, 8/7/18 at 19.

10. George Anderson's claim that he was forced to stay in a freezing room in August of 1991 is not credible because, unrebutted testimony reflects that the interrogation rooms at Area 3 had no working air conditioning. ROP, 5/14/18 at 189-90; ROP, 8/7/18 at 18-19

11. With respect to the Jeremiah Miggins murder, George Anderson did not submit any pattern and practice evidence relevant under *People v. Patterson,* 192 Iii. 2d 93 (2000).

12. With respect to the Kathryn Myles murder, George Anderson did not submit any pattern and practice evidence relevant under *People v. Patterson,* 192 Ill. 2d 93 (2000).

13. With respect to the Kathryn Myles murder, George Anderson did not prove that there was any connection between his March 1993 surgery for a UPJ obstruction and the physical abuse he has alleged was performed by Detectives Stehlik and O'Brien in obtaining his statement on August 22, 1991. Doctor Schacht's testimony establishes that there is no relationship between petitioner's allegations of abuse in connection with the Kathryn Myles murder investigation and his 1993 surgery for UPJ obstruction.

14. The Court agrees that the uncorroborated testimony of petitioner, with his later-added embellishing details, does not meet his burden of proof in face of the volume and quality of the evidence standing in opposition. *See People v. Christian, supra.*

15. The following pattern and practice witnesses presented by petitioner do not meet the relevancy requirements under *People v. Patterson,* 192 Iii. 2d 93 (2000): Peter Williams, Harold Hill, Dan Young, Terrell Swift, Michael Saunders, Harold Richardson, Vincent Thames, Anthony Jakes, and Marcus Wiggins.

16. Marvin Reeves is not a pattern and practice witness for petitioner because Reeves did not accuse Michael Kill of physically abusing him in any way. To the extent that he testified that Michael Kill stood by while he was abused by other police officers, there is no credible testimony that Michael Kill was present when

George Anderson claims he was abused. While petitioner claims that he was abused by Michael Kill's partner (Kenneth Boudreau), he testified at his motion to suppress that Boudreau never touched him in any way. To the extent that he now claims that he was abused by John Halloran, Halloran was not named in his motion to suppress as having abused petitioner in any manner.

17. For the purposes of these proceedings, Ivan Smith is not a credible pattern and practice witness. Smith testified that he was abused in a public cafeteria in Tennessee by Detectives O'Brien and Stehlick.

18. The settlement or resolution or disposition of the Anthony Jakes case is irrelevant as a matter of law under Rule 408 but also irrelevant where Jakes was a minor and alleges actions taken by officers dissimilar to the case at bar. ROP, 5/14/18 at 153-156.

19. Petitioner*'s trial court testimony that he was treated well and not abused by Chicago police officers constitutes a judicial admission.* (Emphasis added).

20. Judicial admissions are defined as "deliberate, clear, unequivocal statements by a party about a concrete fact within that party 's knowledge." *In re Estate of Rennick,* 181 Ill.2d at 406 (citing *Hansen v. Ruby Construction Co.,* 155 Ill.App.3d 475, 480, 108 Ill.Dec. 140, 508 N.E.2d 301 (1987)). Petitioner, George Anderson, has been unable to provide any credible evidence for this court to disturb or find except to this well settled law in the instant matter.

21. Petitioner's trial testimony concerning his August 1991 interrogation was deliberate, clear and unequivocal.

22. A party "cannot create a factual dispute by contradicting a previously made judicial admission" at trial. *Burns v. Michelotti,* 237 Ill.App.3d 923, 932 (1992); see also *In re Estate of Rennick,* 181 I11.2d 395, 406 (1998); *N. Shore Cmty. Bank & Tr. Co. v. Sheffield Wellington LLC,* 2014 IL App (1st) 123784, ¶ 103.

23. The purpose of judicial admissions "is to remove the temptation to commit perjury." *N. Shore Catty. Bank & Tr. Co. v. Sheffield Wellington LLC,* 2014 IL App (1st) 123784, 11 103.

CONCLUSION

WHILE ALL MEN ARE CREATED EQUAL NOT ALL CLAIMS AND THEIR PETITIONS BROUGHT UNDER THE ILLINOIS TORTURE RELIEF AND COMMISSION ACT ARE EQUAL. This court finds that the petitioner's testimony in the instant matter is not credible which was presented through the direct and cross-examinations. This court makes this assessment after hearing and observing the testimony of George Anderson as well as comparing the testimony to the entire proceeding.

Petitioner has no helpful medical evidence to support his claim of torture and in any credible way. Instead, the medical proof presented during the proceedings runs counter to petitioner's claim.

The pattern and practice evidence proffered by petitioner falls on its face. The former law enforcement officials did not use the Fifth Amendment as a shield during examinations, as many officers have done in other proceedings. As a result, petitioner

and his attorneys were wholly ineffective in shaking the State's witnesses to support the relief.

The petitioner's earlier admissions, during his previous trials, were not successfully explained by petitioner and his attorneys. Instead, these previous admission were effectively used by the State as weapons against petitioner during the proceedings.

This court is also unpersuaded by the testimony of the various witnesses called by petitioner. This court finds that witnesses, which include: Joanne Goldman, Anna Anderson, Rosalyn Anderson, and Brenda Hoover were incredible. This court finds that the relationship between petitioner and the witnesses clouded their ability to give credible evidence that would be helpful to this court.

George Anderson has attempted to deliberately tailor his testimony in the instant matter to fit him for relief under the requirements that qualify for a new trial under the parameters as allowed by TIRC. It was a failed attempt to paint himself as a victim of Chicago police torture. He failed to distant himself from his previous admissions that resulted in judgment of guilt involving the killing of two young children.

The instant Anderson claims is similar to the "Ghost rider" phenomenon. Simply stated ghost rider phenomenon exists when there is an accident of a public transportation. The people who are not aboard on the transit, race to get on board after an accident. They later falsely claim to be victims of the accident. One news story documents an incident which took place in East Orange, New Jersey where a bus was carrying 15 passengers when it was hit by a car going 10 miles per hour. Quicker than

you can say "what happened" numerous individuals boarded the bus. Transit authority later document 17 individuals not previously in the "accident" rushing on the bus before the police arrived. Later fraudulent claims were made by the victims who had simply used the occasion to take advantage of the deep pockets. *'Ghost Riders' Are Target of an Insurance Sting*, by Peter Kerr. Published on Aug. 18, 1993.

The instant matter is different, but similar at the same time as the New Jersey scam. It is different because there are dozens of legitimate African-American torture victims of the disgraced federal felon, Jon Burge and certain of his former colleagues. A miniscule number of bad officers exist compared to the tens and thousands of honorable police officers who proudly wear their uniform and pin on their badges to serve and protect the people of this great city, currently and historically. Similar to the 'Ghost rider' theme phenomenon, petitioner Anderson has falsely claimed to have ridden on the Burge's torture bus and he knows it.

Throughout the testimony of George Anderson, this Court took the opportunity to not only hear the testimony of Anderson, but also to closely observe him as he was questioned on direct and cross examination. The Court has reviewed its notes, the relevant transcripts of his testimony (both separately and in conjecture with trial proof), and the demeanor of petitioner. The credibility of George Anderson has been evaluated by this court and found to be severely lacking and unworthy of any credibility. Under the totality of circumstances, this court finds that George Anderson has not shown that he was abused either physically or psychologically over the course of his time in police custody since August of 1991.

This court realized the importance of Anderson's testimony from the very beginning. Much of what petitioner alleges depends on this court being persuaded that he was tortured. The court was equally aware that the determination of petitioner's credibility and ruling in this matter would impact the family and friends of Jeremiah Miggins who was only 11 at the time of the murder. Similarly, the court is aware that the findings will impact the family and friends of murdered 14 years old, Kathryn Myles.

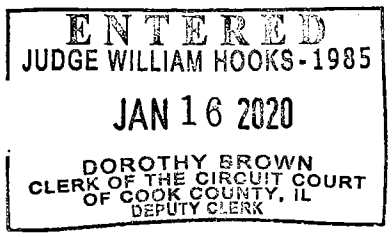
Mr. Anderson has been given his full array of Illinois Torture and Commission rights. He has also been given his Constitutional Due Process rights and on this day and previously for the underlying criminal proceedings where he was convicted of murdering two children in our community.

He has also been the beneficiary of especially skilled counsels who have concentrated their practice in this area of litigation. Some of those matters have resulted in successful findings for petitioners who were wrongfully convicted. This was not one of the cases. This court is also very mindful of Special State's Attorney's effort and work ethics. Both sides started this litigation on equal footing. However, in the instant case, the scales of justice favored the State.

In summary, based upon the forgoing this court finds that petitioner George Anderson has failed to meet his burden by a preponderance of the evidence. It is a standard that must be met before this court in order to get the relief sought. Based on the foregoing, this Court hereby denies petitioner's (George Anderson) claims of abuse.

Further denies his request to vacate his convictions, his request for new trials, and any other relief as justice requires.

IT IS SO ORDERED



Judge William H. Hooks
Cook County Circuit Court
Criminal Division
Hon George N. Leighton
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