

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
Claim of Anthony Garrett

TIRC Claim No. 2012.126-G
(Relates to Cook County Circuit Court
Case No. 92-CR-25695)

CASE DISPOSITION

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Adm. Code 3500.385(b), the Commission concludes that, by a preponderance of the evidence, there is sufficient evidence of torture to merit judicial review. The Commission refers this claim to the Chief Judge of the Circuit Court of Cook County and requests assignment to a trial judge for consideration. *See* 775 ILCS 40/50. This decision is based upon the Factual Summary and Conclusions set forth below, and the supporting record attached.

Introduction

Anthony Garrett was convicted of first-degree murder in the killing of Dantrell Davis, a seven-year-old boy who was shot in the face on October 13, 1992.¹ Mr. Garrett claims that during interrogations at Area 6, Western and Belmont police station, from October 13–14, 1992, detectives did not read his Miranda rights to him and did not honor his requests for an attorney.² Mr. Garrett further claims that during approximately 24 hours of confinement in a small, windowless interview room, he was not given any bathroom breaks and could not lay down to sleep. Mr. Garrett also claims that he was not given any food or drink by the detectives on October 13, 1992 and was only fed breakfast at approximately 8:30 AM on October 14, 1992.³ Moreover, during such interrogations, Mr. Garrett claims two Caucasian male individuals who were not wearing uniforms entered the room and physically beat him on two or three occasions with a rubber hose on his torso, privates and legs, including on an area of his right leg that is the site of a prior gunshot wound.⁴ Mr. Garrett later claimed that these two men also beat him with a phone book in a similar manner.⁵ Mr. Garrett claims these two men, along with other detectives who were separately interrogating him, strongly implied that if he did not confess to the murder, he would continue to be beaten.⁶ Mr. Garrett claims that as a direct result of this sustained physical abuse during this extensive period of interrogation without food, drink, bathroom breaks or sleep, together with the threat of continued physical abuse, he was coerced to sign a pre-written confession that became "the centerpiece of the State's case" against him and resulted in his conviction for the first-degree murder of Dantrell Davis.⁷ He was sentenced to 100 years of confinement.⁸

¹ Ex. 1, Police Report, Det. Zuley, dated Oct. 13, 1992, at 2.

² *See* Ex. 2, Mot. to Suppress Statements, ¶¶ 3–6, filed Mar. 3, 1993.

³ *See* TCROP at 1275.

⁴ *See id.* at 0196–0203, 0213–0214; Ex. 3, TIRC Interview Tr. ¶¶ 341–343, dated May 3, 2012.

⁵ *See* Ex. 4, Anthony Garrett TIRC Claim Form, submitted May 1, 2012.

⁶ *See* TCROP at 0203–0209, 0211, 0218.

⁷ *See id.* at 0664–0665.

⁸ *See* Ex. 5, Ill. Dept. of Corrections (IDOC) Inmate Search Results, printed Oct. 25, 2019.

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The factors weighing *in favor* of Garrett's claims are:

- Overwhelming pattern and practice evidence of abuse and torture allegations against Detective Richard Zuley, who was highly involved in Mr. Garrett's case. Detective Zuley was the arresting officer, key trial witness, and Grand Jury witness in Mr. Garrett's case. He is identified by name in a United States Senate report on Guantánamo Bay torture of terrorism suspects as designing tactics to heighten “tension” upon detainee Mohamedou Ould Slahi⁹ by using police dogs during his transport. Further reporting by The Guardian newspaper identifies him as the chief architect of the enhanced interrogation plan for Slahi that included hooding, sensory deprivation, sleep deprivation, up to 20 hours of interrogation at a time, pouring cold water on Slahi’s head, using dogs during interrogation, forcing him to wear humiliating signs, strip-searching him, denying him the opportunity to pray, playing stress-inducing music, subjecting him to disorienting strobe lights, shaving his head, forcing him to bark and perform dog-like tricks, and interrogating him in a room devoid of any stimuli save audio speakers and “an eyebolt in the floor.” Further, Detective Zuley has many allegations by CPD detainees alleging conduct of the same nature as Mr. Garrett has alleged, especially in high profile cases: abusing and threatening suspects until they confessed to crimes, and shackling suspects to police walls for hours at a time.¹⁰ The complaints include one in which the confessor was eventually exonerated of his crimes. That Mr. Garrett’s suppression motion was denied without the benefit of this extensive history is highly significant.
- Partial consistency of Mr. Garrett's claims. There is general consistency in the details of the incidents among Mr. Garrett's testimony at the suppression hearing (at which Mr. Garrett's attorney raised the abuse allegations and sought to have Mr. Garrett's confession suppressed before his initial trial started), his testimony at trial, his two post-conviction petition filings, his Statements in his claim forms to the Illinois Torture Inquiry and Relief Commission ("TIRC") and his TIRC interview. Mr. Garrett also filed a complaint with the Office of Professional Standards regarding the alleged beatings, naming Detective Zuley and Commander Callaghan as being aware of the beatings. Moreover, Mr. Garrett's testimony at trial remained remarkably consistent throughout the stages of trial, including with regard to specific details such as what the detectives, Man 1 and Man 2 were wearing during his interrogations.
- A lack of any physical or eyewitness testimony tying Garrett to the crime provided a strong motive for police to obtain a confession. Police were led to Garrett through double-hearsay reports and were never able to locate the witness who allegedly saw him with a rifle after the shooting, nor did they find the murder weapon. Tests for gunpower residue on his clothes were negative, and an eyewitness who reported that Garrett confessed to him shortly after the shooting had initially provided police with an alibi for Garrett, making the value of the eyewitness testimony assailable. In addition, media attention on the horrific nature of the crime and its young victim was intense, also providing strong motivation to secure a confession.

⁹ We note there is some variation in the spelling of Mohamedou’s last name, sometimes spelled Salahi.

¹⁰ See *id.*

The factors weighing *against* Garrett's claims are:

- Lack of physical evidence or contemporaneous documentation of abuse. Mr. Garrett did not seek medical attention for any injury he sustained from his alleged beatings. It is disputed whether Mr. Garrett reported the alleged beatings while he was in police custody or to the paramedic who examined him at his intake to the County Jail.¹¹ Mr. Garrett testified at trial that he told the paramedic he was beaten. This contradicted his Statement at his Motion to Quash that he did not speak to the paramedic.¹² Mr. Garrett admits he did not have any bruises that were apparent at the time, and the paramedic's intake form corroborates this fact.¹³
- Mr. Garrett's alleged assailants could not be identified. Mr. Garrett alleges two Caucasian men wearing plain clothes and no badges beat him. Mr. Garrett alleges one man was approximately 6'3" or 6'4" tall, weighed around 250 pounds, had short brownish hair with a bald spot on the top of his head and wore a black and gray Raiders football jersey, blue jeans and brown buck shoes. Mr. Garrett alleges the other man was approximately 6'5" tall, weighed around 280 pounds, had blondish hair that was not very long and was wearing a turquoise blue and white San Jose Sharks jersey, blue jeans and white and purple Nike track shoes. Mr. Garrett filed a complaint with the Office of Professional Standards as to the alleged beatings, naming Detective Zuley and Commander Callaghan as being aware of the beatings. The Office of Professional Standards was unable to identify either of the two assailants. Detective Zuley and Commissioner Callaghan insisted that no one matching those descriptions had access to Mr. Garrett that day.
- There are inconsistencies in Mr. Garrett's allegations. Mr. Garrett has consistently claimed that he was beaten with a rubber hose; however, in his claim form filed with the Commission, he for the first time claimed he was beaten with a phone book as well as a rubber hose.¹⁴ At his TIRC interview, Mr. Garrett maintained that he was beaten with a phone book and a rubber hose. Moreover, across his testimony, Mr. Garrett testified to different timelines of the events that occurred in interrogation, as reflected below. Each telling of the events contained all of the instances described below, but the precise order of the second beating, the discussion with Detective Zuley about Mr. Garrett's military service, the signing of the Statement, and breakfast has at least three variations over the years.

While certain aspects of Mr. Garrett's testimony and interview responses contradict prior testimony or were not raised by him during the early stages of proceedings against him and, therefore, raise credibility issues, the Commission finds that, on balance, there is sufficient evidence of torture to merit judicial review, particularly in light of Detective Zuley's history to which the judge was not privy at the time of the suppression hearing.

¹¹ See, e.g., *id.* at 0410-0412.

¹² Compare *id.* at 0412 with *id.* at 1328-1329.

¹³ See *id.* at 0197-0198.

¹⁴ Ex. 4, Anthony Garrett TIRC Claim Form.

Timeline of events during Anthony Garrett's police custody¹⁵

- Morning of October 13, 1992: Detectives appeared at the scene outside the Cabrini Green housing project in Chicago, Illinois in relation to the shooting death of Dantrell Davis that occurred at approximately 9:10 AM. A police investigation ensued.
- October 13, 1992 at approximately 2:30 PM: Anthony Garrett was handcuffed and put into a police car on suspicion of being involved in the shooting of Dantrell Davis. At the time, Alberto Borges, a private security guard at the Cabrini Green projects said something to the effect of "You have the wrong guy. He was with me." The police alleged that they only handcuffed Mr. Garrett by one hand to walk him to the police car. Mr. Garrett and multiple witnesses, including the State's witness Mr. Borges, all assert that Mr. Garrett was handcuffed with both hands behind his back. The police alleged at pre-trial and trial that Mr. Garrett was not under arrest at that time and was only told he was to be questioned. Police later alleged that Mr. Garrett's arrest was founded on reasonable suspicion based on a tip from an unknown woman known only as "Hollywood," who identified the clothes Mr. Garrett was wearing that day, identified Mr. Garrett by his alias "Quabeenie," and stated that she saw Mr. Garrett climbing the stairs with a rifle in his hands that morning shortly before 9:00 AM. This statement from Hollywood was not given directly to the police. Instead, it was relayed to Mario Hamilton, a cousin of Dantrell Davis. Hollywood was never identified by either party in the case. Mr. Garrett asserts that he was not read his Miranda rights and was refused a lawyer. He also asserts that he asked for a lawyer while he was in the police car being transported to the Western and Belmont Police Station for questioning.
- October 13, 1992 sometime after 2:30 PM: Mr. Garrett was taken to Area 6, Western and Belmont police station. He was placed in a small, windowless interview room on the second floor, with no clock, only a ring on the wall and a few chairs. Detective Zuley allegedly handcuffed Mr. Garrett to the eyebolt on the wall, left Mr. Garrett alone in the room, and locked the door behind him. Mr. Garrett alleges he was handcuffed at times with his hands together behind his back and at other times with one hand to the eyebolt on the wall. Mr. Garrett's allegations are inconsistent as to whether he was handcuffed the entire time he was in the room and, if not, when he was handcuffed and when he was not.
- October 13, 1992 sometime after 2:30 PM: Mr. Borges, the private security guard, signed a Statement claiming that Mr. Garrett threatened him in order to coerce Mr. Borges to say he was with Mr. Garrett at the time of the shooting. Mr. Borges' Statement reads that Mr. Garrett told him that "I killed the kid, and I didn't mean to kill the kid." Mr. Borges' Statement further states that Mr. Garrett threatened to kill him if he told anyone.
- October 13, 1992 a few minutes after Detective Zuley first leaves the room: Detective Zuley reentered the room, and interrogated Mr. Garrett about the shooting of Dantrell Davis for an unknown amount of time. Detective Zuley allegedly made statements to Mr. Garrett such as, "You know who did it. We know you know who did it. Why don't you tell us? You're going to have to take the case." Mr. Garrett alleges that Detective Zuley

¹⁵ See Factual Summary, *infra*, for supporting testimony and documentation.

interrogated him with the same questions over and over again during the time he was kept in this room. Mr. Garrett asserts that he told Detective Zuley that he knew nothing about the case first-hand. After a considerable time, Detective Zuley left the room. Mr. Garrett alleges that he was shackled to the eyebolt on the wall at this time.

- October 13, 1992 subsequent to the initial questioning: Detectives Zuley and Murray entered the room to further question Mr. Garrett about the shooting of Dantrell Davis. Mr. Garrett alleges the detectives interrogated him with the same questions repeatedly. Mr. Garrett stated that this round of questioning did not last "that long." Mr. Garrett denied being involved in the shooting, offering certain individuals as alibi witnesses. Detectives Zuley and Murray then left the room.
- October 13, 1992 subsequent to the second round of questioning: Detectives Zuley and Murray reentered the room with a short man in a brown corduroy jacket, tie and cowboy boots. Mr. Garrett does not know his name but assumes he was an officer. Mr. Garrett alleges the short man interrogated and cursed at him for a little while. The three men left the room and allegedly locked the door from the outside. Mr. Garrett was allegedly cuffed to the eyebolt on the wall. Mr. Garrett states that he was not given any beverages, food, bathroom breaks, or a place to lay down to sleep at any time from his detention through the end of this third round of interrogation.
- October 13, 1992 sometime after the third questioning: Mr. Garrett alleges two Caucasian men wearing plain clothes and no badges ("Man 1" and "Man 2," respectively) came into the room. Mr. Garrett alleges that Man 1 was approximately 6'3" or 6'4" tall, weighed around 250 pounds, had short brownish hair with a bald spot on the top of his head and wore a black and gray Raiders football jersey, blue jeans and brown buck shoes. Mr. Garrett alleges that Man 2 was approximately 6'5" tall, weighed around 280 pounds, had blondish hair that was not very long and was wearing a turquoise blue and white San Jose Sharks jersey, blue jeans and white and purple Nike track shoes. Allegedly, Man 1 sat down next to Mr. Garrett and starting cursing at him about Mr. Garrett knowing what happened in the Dantrell case. Mr. Garrett states that Man 2 let the room door close, and someone locked the door from the outside. Mr. Garrett claims that Man 1 held down Mr. Garrett's leg while he was handcuffed to the eyebolt on the wall and Man 2 hit Mr. Garrett repeatedly for "a while" with a two- to three-foot, hollow, black rubber hose "way more" than ten times on his leg. Mr. Garrett was hit on the leg where he had a steel rod implanted due to a gunshot wound that he had suffered in 1984 which shattered the bone in his lower leg. Mr. Garrett allegedly shouted that he did not know anything about the case. Mr. Garrett alleges that someone then unlocked the door and Man 1 and Man 2 left the room.
- October 13, 1992 sometime after the alleged initial beating: Mr. Garrett states that Detectives Zuley and Murray entered the room and asked if he was ready to confess. When Mr. Garrett replied that he didn't know anything about the shooting, Mr. Garrett alleges that the detectives responded, in sum and substance, "Well, you don't want that to happen again, do you?" which Mr. Garrett asserts strongly implied that he would be physically beaten again unless he complied with their requests. Mr. Garrett alleges that Detectives Zuley and Murray were in the room on this occasion for about an hour, during which time he was handcuffed to the eyebolt on the wall.

- October 13, 1992 sometime after the fourth questioning: Mr. Garrett alleges that Detectives Zuley and Murray and Commander Callaghan came into the room and took the handcuffs off of him. Mr. Garrett alleges Commander Callaghan asked him to stand up, then pushed him hard into his chair while cursing and saying he was "tired of you gangbangers doing this over and over again." Mr. Garrett alleges that after he repeated that he had not done anything involving the shooting, the three men handcuffed him to the wall again, left the room, and locked the door behind them.
- October 13, 1992 sometime after the fourth questioning: Mr. Garrett alleges that Man 1 and Man 2 reentered the room, closed and locked the door, took the handcuffs off him and one told him to stand up. He further alleges that one of the men put him in a bear hug from behind with Mr. Garrett's hands behind his back. Mr. Garrett alleges that the other man proceeded to beat him many times with a rubber hose from the neck down, under his neck, his chest, his genitals, his legs and his thighs, and that he was in pain as a result. Mr. Garrett alleges he was hit more than ten times on his chest with the rubber hose, and that when his legs were hit with the rubber hose, he felt like his leg was being broken again. Mr. Garrett alleges the two men kept insisting he needed to confess either that: 1) Mr. Garrett knew who was responsible for the shooting; or 2) that he himself was responsible for the shooting. Mr. Garrett asserts that during this incident, he kept "hollering" that he did not know anything. Subsequently, Mr. Garrett alleges that the men handcuffed him to the wall again and left. Mr. Garrett consistently alleges that he was handcuffed to the eyebolt on the wall from this point until the morning of October 14, 1992.
- October 13, 1992 sometime after the second beating: Mr. Garrett alleges that Detectives Zuley and Murray came into the room and asked him to testify that he shot Dantrell Davis. Mr. Garrett alleges he said, "I'm not fixing to testify to nothing that I didn't do." Detective Zuley told him they already had Mr. Borges as a witness to testify that Mr. Garrett committed the crime. Detective Zuley then asked about Mr. Garrett's military experience, and Mr. Garrett spoke about his military occupational specialty. Mr. Garrett alleges that Detective Zuley again insisted he should confess to the shooting of Dantrell Davis "because [they] know [he was] the sniper," which Mr. Garrett then explicitly denied. Mr. Garrett alleges he remained handcuffed to the wall during this entire exchange and that after Detectives Zuley and Murray left the room, they did not come back until the next morning.
- October 13, 1992 night through October 14, 1992 in the early morning: Mr. Garrett was left alone overnight in the interview room at Area 6, Western and Belmont police station. Mr. Garrett alleges he was not allowed to use the bathroom during this period, and the Police witnesses at trial agreed Mr. Garrett was not given food, a cot, or a blanket overnight. Mr. Garrett allegedly sat on the chairs in the room all night, handcuffed to the eyebolt on the wall, and slept a little by leaning against the wall. Mr. Garrett alleges he did not leave the room at all from the time when he was first brought to Area 6, Western and Belmont police station until after breakfast on October 14, 1992.
- October 14, 1992 at approximately 8:30 AM: Mr. Garrett was given breakfast, which he alleges was his first meal since being detained the previous afternoon. This is the first mention of food on Detective Zuley's police report, but the police witnesses alleged in testimony that Mr. Garrett was fed multiple times.

- October 14, 1992 at approximately 9:30 AM: Mr. Garrett states that Detective Zuley again suggested that if Mr. Garrett did not sign a confession, then the beatings would continue. Upon this threat, Mr. Garrett asserts that he said he would sign anything to stop the beatings. Detective Zuley then told Commander Callaghan, who came into Mr. Garrett's room, shook his hand, and gave him a cigarette and a soda. Mr. LeFevour, an attorney for the State, was called in. Mr. Garrett then signed a Statement confessing to the Dantrell Davis shooting. Mr. Garrett alleges this Statement was written out in advance and that he had no opportunity to read it. He alleges that from the time of his arrest on October 13, 1992 until the signing of his confession on October 14, 1992, Mr. Garrett was confined in the interview room at Area 6, Western and Belmont police station, for approximately 24 hours. During those 24 hours, he claims he was denied access to a bathroom, did not sleep, and was provided only one meal.

Factual Summary

Background

On the morning of Tuesday, October 13, 1992, just before 9:00 a.m., Dantrell Davis—a seven-year-old boy—was shot and killed while walking to school with his mother outside the Cabrini Green housing project in Chicago, Illinois. A police investigation and key witness testimony, including from Annette Freeman, the victim's mother, revealed that shots were likely fired from the 9th or 10th floor of the nearby building at 1157 North Cleveland Avenue, and that a gang member was likely attempting to fire at a rival gang, with Dantrell Davis unfortunately caught in the crossfire.

At or around 2:00 PM or 2:30 PM that same afternoon, Mr. Garrett was standing in front of 1160 North Sedgwick Street with five or six other people when a plain-clothes police officer apprehended him. Mr. Garrett alleges he was never formally told he was under arrest, but he was taken to the police station at Area 6, Western and Belmont police station, now known as Area 3.¹⁶ Mr. Garrett and all witnesses to this event agree that the officer forced Mr. Garrett's hands behind his back and placed handcuffs around both of Mr. Garrett's hands. The police maintain that they apprehended Mr. Garrett on information from an alleged informant named "Hollywood"—who was never identified—and the experience of Officer Collier, who alleged that Mr. Garrett was "head of security" for a gang.¹⁷ Police allege that Hollywood told them that she saw "Quabeenie" walk up the stairs of 1157 North Cleveland Avenue carrying a rifle, moments before the shots were fired from the same building.¹⁸ Officer Collier—knowing that "Quabeenie" was Mr. Garrett's nickname—alleges that, when he saw Mr. Garrett at or around 2:00 PM that day, he put a single handcuff around Mr. Garrett's hand and led him to the police car to take him to the station for questioning.¹⁹

¹⁶ Referred to herein as Area 6.

¹⁷ See TCROP at 0736.

¹⁸ *Id.* at 0337–0338.

¹⁹ *Id.* at. 0746.

There is conflicting testimony about Mr. Garrett's alibi at the time of the shooting, and thus Mr. Garrett's alibi could not be substantiated.²⁰

Mr. Garrett was formally placed under arrest around 9:00 PM that evening, and he was held overnight in an interview room at Area 6, Western and Belmont police station.²¹ Mr. Garrett has alleged consistently since his indictment that two unknown officers beat him while he was in this interview room.²²

Written Confession

On October 14, 1992 at approximately 9:30 AM, Mr. Garrett is alleged to have confessed to the murder of Dantrell Davis.²³ That morning, Detective Zuley and Assistant State's Attorney Andrew LeFevour interviewed Mr. Garrett about the shooting. At 2:30 PM, Mr. Garrett signed a Statement confessing to the murder of Dantrell Davis.²⁴ This confession was handwritten by Mr. LeFevour, and there is conflicting testimony about whether Mr. Garrett was involved in dictating it, or if he was even given an opportunity to read the Statement before signing it.²⁵

Case Proceedings, Case No. 92-25695 (Judge Earl E. Strayhorn)

Suppression Hearing

On March 2, 1993, Mr. Garrett filed two motions: a motion to quash Mr. Garrett's arrest and suppress the evidence obtained therefrom and a motion to suppress Mr. Garrett's written confession.²⁶ The motion papers for the first motion claimed that the arrest was made without probable cause and without a warrant.²⁷ The next day, Mr. Garrett also filed a motion to suppress his confession.²⁸ The motion papers claimed that Mr. Garrett was not read his Miranda rights.²⁹ It further claimed that Mr. Garrett's confession was obtained as a result of "physical coercion," "psychological [sic] and mental coercion" and "confronting the accused with certain material misrepresentations."³⁰

A hearing regarding these motions was held starting on July 7, 1993 in front of Judge Strayhorn.³¹ At the hearing, Mr. Garrett and his fiancée, Ina Thomas, testified for the petitioner, and Commander William Callaghan, paramedic Freddy Morris, and Officers Collier, Murray and

²⁰ See *infra*, Case Proceedings, Case No. 92-25695 (Judge Earl E. Strayhorn), Trial, (ii) Testimony of Other Defense Witnesses.

²¹ TCROP at 0937–0938.

²² See, e.g., Ex. 2, Mot. to Suppress Statements (Mar. 3, 1993); TCROP at 0172; TCROP at 0988; Ex. 8, Appellant Br., *People v. Garrett*, 1995 WL 17167561 (Ill. App. 1995); Ex. 4, Anthony Garrett Form to File Claim of Torture with TIRC (May 1, 2012); Ex. 3, TIRC Interview Tr. (May 3, 2021).

²³ See, e.g., Ex. 1, Police Report, Det. Zuley at 2.

²⁴ See, e.g., TCROP at 0204.

²⁵ Compare, e.g., *id.* at 0277 with, e.g., *id.* at p. 0243.

²⁶ See *id.* at 0028; *id.* at 0032.

²⁷ *Id.* at 0028.

²⁸ See *id.* at 0032.

²⁹ *Id.* at at 0032, ¶¶ 3–5.

³⁰ *Id.* ¶¶ 7–20.

³¹ See *id.* at 0172.

Zuley testified for the State.³² Judge Strayhorn denied Mr. Garrett's motions.³³ The Judge held, *inter alia*, that he did not believe Mr. Garrett's "recitation of his being abused and beaten by unknowns, other than a description given by Anthony Garrett of police officers who allegedly struck him with a rubber hose" and did not believe that Mr. Garrett was "presented a pre-written out Statement and ordered to sign it, without knowledge of what was in that Statement."³⁴

(i) Testimony of Ina Thomas

Mr. Garrett's common law wife, Ina Thomas, testified that she was standing next to Mr. Garrett outside of the CHA building in the Cabrini Green housing project when a black police officer grabbed Mr. Garrett by his arm and put handcuffs on him.³⁵ She testified that the officers did not mention any arrest warrant or ask Mr. Garrett any questions, and that they simply grabbed him and put him in their police car before driving away to Area 6, Western and Belmont police station.³⁶

(ii) Testimony of Anthony Garrett

The following is a summary of the testimony Mr. Garrett gave at the suppression hearing.

At or around 2:30 PM on October 13, 1992, Mr. Garrett was standing in front of 1160 North Sedgwick Street with Ina Thomas and four or five other people: James Gates, John Echols, Johnny Smith, and the security guards.³⁷ A black man in street clothes handcuffed him and took him towards a police car, without identifying himself.³⁸ His handcuffs were then removed and put back on by two white men in suits, and Mr. Garrett was put into the police car.³⁹ Mr. Garrett was not told he was under arrest, nor did any of the officers mention a warrant for his arrest.⁴⁰

Mr. Garrett was driven to Area 6, Western and Belmont police station.⁴¹ While in the car on his way there, he alleges that he asked for a lawyer, to which the police officers did not respond. He was placed into a second floor room with no windows and no clock, and one of his hands was handcuffed to a ring on the wall.⁴² He was left alone in the room for about half an hour and not questioned or told why he was in custody.⁴³ Then two white officers in suits came into the room and asked Mr. Garrett his name and where he was at 9:00 AM that morning.⁴⁴ He responded that he was standing in front of 1150 North Sedgwick Street.⁴⁵ He was never informed that he was under arrest, and when he asked, the officers simply replied that they were just questioning him.⁴⁶

³² *Id.* at 0173, 0304.

³³ *Id.* at 0433, 0435.

³⁴ *Id.* at 0105.

³⁵ TCROP at 0177-0178.

³⁶ *Id.* at 0178-0179.

³⁷ *Id.* at 0185-0187.

³⁸ *Id.* at 0186-0187.

³⁹ *Id.* at 0186.

⁴⁰ *Id.* at 0187.

⁴¹ *Id.* at 0188.

⁴² *Id.*

⁴³ *Id.* at 0189.

⁴⁴ *Id.* at 0189-0190.

⁴⁵ *Id.* at 0190.

⁴⁶ *Id.*

He was told he could not go home until the questioning was finished, and he was handcuffed to the eyebolt on the wall whenever the officers left the room.⁴⁷ One of these officers identified himself as Detective Zuley.⁴⁸

The officers left and then came back, asking Mr. Garrett the same questions "over and over" and also stated that they "knew" that Mr. Garrett had shot Dantrell Davis and they had witnesses to support that allegation.⁴⁹ They left and came back a few times, but there were no windows or clocks so Mr. Garrett had no idea how much time had passed.⁵⁰ At some point, they reentered the room, this time with a third officer in a suit, who was short in stature and referred to Mr. Garrett as a "gang banger."⁵¹ The officers kept saying: "why don't you just tell us you did it? We know you did it."⁵² Mr. Garrett informed the officers that he had alibi witnesses.⁵³

When they left the room this time, Mr. Garrett remained handcuffed to the wall. Shortly thereafter, two large, Caucasian men came in.⁵⁴ The two large men did not identify themselves as police officers or have police uniforms on.⁵⁵ The first was 6'3 or 6'4 and about 245 or 250 pounds and was wearing a black and gray Raiders jersey, blue jeans and brown bucks.⁵⁶ He had a bald spot on top, and short brownish hair combed back. The second was about 6'5 and 275 or 280 pounds and was wearing a blue and white San Jose Sharks jersey, blue jeans and Nike track shoes.⁵⁷ He had blondish hair that was not very long. The first man told Mr. Garrett that he was going to tell them who shot Dantrell Davis or Mr. Garrett was going to "take the case."⁵⁸ Mr. Garrett replied that he didn't know anything about the shooter.⁵⁹ Then, someone locked the door from the outside, and the first man grabbed Mr. Garrett's right lower leg and the second man said "after we get through with you, you go' tell us who did it or you go' tell somebody who did it."⁶⁰ The second man then started beating his right leg with a 2 to 3 foot black rubber hose.⁶¹ The man struck Mr. Garrett's leg with the hose significantly more than 10 times, and Mr. Garrett was in pain.⁶² They then asked if he was ready to testify.⁶³ He said no, and someone let the men out from the room.⁶⁴ Mr. Garrett remained handcuffed to the wall.⁶⁵

⁴⁷ *Id.* at 0191.

⁴⁸ *Id.* at 0192.

⁴⁹ *Id.* at 0192-01932.

⁵⁰ *Id.* at 0194.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* at 0197.

⁵⁵ *Id.*

⁵⁶ *Id.* at 0198.

⁵⁷ *Id.* at 0198-0199.

⁵⁸ *Id.* at 0201.

⁵⁹ *Id.*

⁶⁰ *Id.* at 0201-0202.

⁶¹ *Id.*

⁶² *Id.* at 0202-0203.

⁶³ *Id.* at 0203.

⁶⁴ *Id.*

⁶⁵ *Id.*

Detective Zuley and his partner then came into the room, and Detective Zuley asked, "Are you ready to tell us now?"⁶⁶ Mr. Garrett said he knew nothing, and Detective Zuley said: "I know you don't want this to happen again."⁶⁷ Detective Zuley then continued to question him about the shooting for about an hour.⁶⁸ Mr. Garrett remained handcuffed to the wall.⁶⁹

After Detective Zuley and his partner left, the two plain-clothed men who beat Mr. Garrett came back into the room, took the handcuffs off Mr. Garrett and asked him if he was ready to tell them who the shooter was yet.⁷⁰ Mr. Garrett repeated that he didn't know anything about the shooter. The first man then grabbed Mr. Garrett in a bear hug, holding Mr. Garrett's arms behind his back, and the second man began hitting Mr. Garrett on his chest, his leg and his private parts more than ten times.⁷¹ After an indeterminate amount of time, they then asked if Mr. Garrett was "ready to tell them yet," to which Mr. Garrett replied that he didn't have anything to tell them.⁷² He was again handcuffed to the wall and the men left the room.

Around 30 minutes later, Detective Zuley, his partner and Commander Callaghan entered the room.⁷³ They said: "You ought to just go on and tell us who did it. You ought to go on and take the case. We already got a witness that said you did it anyway that you told you did it."⁷⁴ Mr. Garrett said: "I don't know how you got that." The officers said: "We will make it easy for you. We will get you off for manslaughter if you take the case."⁷⁵ Then, another white person came in with a pre-written Statement and Mr. Garrett was told to "sign the Statement and that won't happen to you no more."⁷⁶ Mr. Garrett asked to see a lawyer and Detective Zuley responded: "Don't worry about the lawyer."⁷⁷ At one point, Commander Callaghan asked Mr. Garrett to stand up and then pushed him back down into his chair and said: "You fucking guys, goddamn gang bangers. I'm getting tired of you fuckers. You know you did the shit."⁷⁸ The officers wouldn't let Mr. Garrett read the pre-written Statement and said: "Don't worry about that, just sign it."⁷⁹ Mr. Garrett signed the Statement on every page because he didn't "want to get beat no more."⁸⁰ Mr. Garrett did not initial any corrections made to the Statement.⁸¹ Commander Callaghan then shook Mr. Garrett's hand and said, "Don't worry about it. We go' straighten it out in court. We will get it broke down to manslaughter."⁸²

⁶⁶ *Id.* at 0204.

⁶⁷ *Id.* at 0205.

⁶⁸ *Id.* at 0204-0205.

⁶⁹ *Id.* at 0205.

⁷⁰ *Id.* at 0205-0206.

⁷¹ *Id.* at 0206-0207.

⁷² *Id.* at 0207.

⁷³ *Id.* at 0208.

⁷⁴ *Id.*

⁷⁵ *Id.* at 0208.

⁷⁶ *Id.* at 0208-0209.

⁷⁷ *Id.* at 0209.

⁷⁸ *Id.* at 0210.

⁷⁹ *Id.*

⁸⁰ *Id.* at 0211.

⁸¹ *Id.*

⁸² *Id.* at 0212.

Mr. Garrett testified that it was his right leg that was beaten, which is the leg in which he has a rod and three screws as the result of suffering a gunshot wound in 1984.⁸³ He described the pain from the beating in that leg as "very, very painful."⁸⁴ Mr. Garrett also testified that he has two broken screws in this leg, but that no one had been able to definitively confirm when exactly they were broken, whether it would have been before, during or after the alleged beatings.⁸⁵

After Mr. Garrett signed the Statement, he was permitted a phone call and called his mother.⁸⁶ Then the officers took him downstairs and brought him out in front of the news cameras that had gathered inside the police station.⁸⁷

Mr. Garrett testified that he would not have signed the Statement had he not been beaten and been threatened with further beatings.⁸⁸

On cross-examination, Mr. Garrett testified that the rubber hose beating did not leave marks on his leg because "rubber hose don't leave marks."⁸⁹ He said he knows this because "many people have been beaten with rubber hoses that I know of. Area 6 is known for that."⁹⁰ Mr. Garrett also testified that he filed a complaint about the beatings with the Office of Professional Standards, but that they sent a letter to his wife's house saying that they couldn't identify the officers in question.⁹¹ Mr. Garrett testified that on October 14, 1992, Detective Zuley brought him breakfast, and that he was made to sign the confession Statement before he got the breakfast.⁹² Up until this point, Mr. Garrett stated he was not given food, drink, or a bathroom break, and he was not allowed to see a lawyer.⁹³ Mr. Garrett said he did not recall speaking to the intake officer in the police lock-up.⁹⁴

Mr. Garrett also said he did not have the regular physical an inmate ordinarily receives upon arrival at the county jail.⁹⁵ Upon being shown the "history and physical examination" documents from Cermak Hospital, known colloquially as a "bruise sheet," Mr. Garrett admitted that he had signed the bruise sheet and that he did recall in fact being examined by a paramedic by the name of Fred Morris.⁹⁶ But Mr. Garrett said: "They didn't take me because of the — I guess because of the conflicts that was going on with the case."⁹⁷ He said he told the paramedic that he had a rod in his lower right leg and complained of back and neck pain from a motor vehicle accident in August 1992.⁹⁸ But when asked if he told the paramedic that he was in good health, Mr. Garrett said: "No, I didn't. We didn't talk. He just said sign this and we will take your physical. Next

⁸³ *Id.* at 0213.

⁸⁴ *Id.* at 0214.

⁸⁵ *Id.* at 0214–0215.

⁸⁶ *Id.* at 0215–0216.

⁸⁷ *Id.* at 0216–0217.

⁸⁸ *Id.* at 0218.

⁸⁹ *Id.* at 0233.

⁹⁰ *Id.*

⁹¹ *Id.* at 0234–0235.

⁹² *Id.* at 0239.

⁹³ *Id.* at 0195–0196.

⁹⁴ *Id.* at 0244.

⁹⁵ *Id.* at 0245–0246.

⁹⁶ *Id.* at 0246.

⁹⁷ *Id.* at 0246–0247.

⁹⁸ *Id.* at 0247.

thing I know they was taking me to Division 9."⁹⁹ Mr. Garrett also testified on cross-examination that he was screaming out loud during the beatings, and that he was not limping when he was brought out in front of the media.¹⁰⁰

(iii) Testimony of Detective Richard Zuley

Detective Zuley was called as a witness for the State at the suppression hearing. The following is a summary of the testimony Detective Zuley gave at the suppression hearing.

At approximately 2:30 PM on October 13, 1992, Detective Zuley and Officer John Murray came into contact with Mr. Garrett at the Cabrini Green housing projects.¹⁰¹ When Mr. Garrett was subsequently being led to the police car by Officer Collier, a security guard by the name of Mr. Borges, who worked for Federal Security at the Cabrini Green housing projects, ran out and said, "You got the wrong guy, you got the wrong man, it wasn't him."¹⁰² Detective Zuley and Officer Collier then transported Mr. Garrett to Area 6, Western and Belmont police station, to the Violent Crimes unit, and placed him in interview room 239.¹⁰³

At around 6:00 PM, Detective Zuley brought Mr. Garrett a meal of chicken, French fries and a Coke from Checker's restaurant.¹⁰⁴ At around 9:00 PM that evening, Detective Murray read Mr. Garrett his Miranda rights, placed him under arrest, and then interviewed him for about an hour.¹⁰⁵ Around midnight, Detective Zuley interviewed Mr. Garrett again for another hour.¹⁰⁶ Mr. Garrett was not handcuffed for either of these interviews.¹⁰⁷

At around 8:30 AM the next morning, Detective Zuley brought Mr. Garrett hotcakes, sausage, and orange juice from McDonald's.¹⁰⁸ Around 9:00 AM, Detective Zuley again read Mr. Garrett his Miranda rights, and Mr. Garrett then gave a Statement implicating himself in the murder of Dantrell Davis.¹⁰⁹ Detective Zuley subsequently returned to the interview room with Commander Callaghan and Detective Joseph Stahula, and Commander Callaghan spoke to Mr. Garrett, with Mr. Garrett repeating the admissions.¹¹⁰ At or around 11:15 AM, Detective Zuley and Assistant State's Attorney Andrew LeFevour interviewed Mr. Garrett for approximately 45 minutes, and Mr. Garrett agreed to have the State's Attorney reduce his Statement to writing, after being offered the choice between a court-reported Statement or a handwritten Statement by the State's Attorney.¹¹¹ At around 12:00 PM or 12:30 PM, Mr. Garrett was fed a cheeseburger, fries and a Coke for lunch, which Detective Zuley bought at Checker's restaurant.¹¹² At around

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 0248.

¹⁰¹ *See id.* at 0368.

¹⁰² *Id.* at 0395.

¹⁰³ *Id.* at 0369.

¹⁰⁴ *Id.* at 0369.

¹⁰⁵ *Id.* at 0369-0370.

¹⁰⁶ *Id.* at 0370-03710. Note the questioner misstated the date in his question, stating August 14th, 1992 instead of October 14, 1992.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 0372.

¹⁰⁹ *Id.* at 0373-0374.

¹¹⁰ *Id.* at 0374-03754.

¹¹¹ *Id.* at 0376-0378.

¹¹² *Id.* at 0383-0384.

2:00 PM, Detective Zuley and Assistant State's Attorney LeFevour went over the handwritten Statement with Mr. Garrett.¹¹³ Corrections were made and initialed by the three of them.¹¹⁴

Detective Zuley denied having seen or knowing any persons fitting Mr. Garrett's descriptions of the plain-clothed men who allegedly beat him,¹¹⁵ and denied that Mr. Garrett was subject to a beating with a rubber hose by Detective Zuley or anyone in his presence, or ever being made aware that Mr. Garrett was ever beaten by anyone during his time in the interview room.¹¹⁶ Detective Zuley also denied that Mr. Garrett was threatened with further beatings if he did not confess to the shooting of Dantrell Davis, and denied forging Mr. Garrett's initials on the corrections to the handwritten Statement.¹¹⁷

On cross-examination, Detective Zuley admitted that police had still not identified the woman nicknamed "Hollywood," who was the person who allegedly provided information to Mario Hamilton regarding Mr. Garrett and the shooting of Dantrell Davis. This was one of the reasons that Mr. Garrett was brought to the police station for questioning.¹¹⁸ Detective Zuley further testified that the weapon used to kill Dantrell Davis was never found.¹¹⁹

(iv) Testimony of Other Officers and the Paramedic

Commander Callaghan testified that at approximately 2:30 PM on the afternoon of October 13, 1992, he entered the interview room alone where Mr. Garrett was being held to introduce himself.¹²⁰ At approximately 9.30 AM the next day, Detective Zuley came into Commander Callaghan's office and told him that Mr. Garrett had confessed to the murder. Commander Callaghan then returned to the interview room with Detective Zuley and Detective Stahula where Mr. Garrett repeated the confession, and Commander Callaghan shook Mr. Garrett's hand and congratulated him on his confession.¹²¹ Commander Callaghan testified that Mr. Garrett was not handcuffed during their conversation, and that he gave Mr. Garrett a can of pop and cigarettes.¹²² Commander Callaghan testified that, in his presence, no one pushed Mr. Garrett or threatened him to sign the confession,¹²³ and that Mr. Garrett never made any complaints to him that he had been mistreated by any officer under his command.¹²⁴ Commander Callaghan also testified that no one beat Mr. Garrett with a rubber hose in his presence.¹²⁵ Commander Callaghan testified that neither on the evening of October 13, 1992, nor the next morning, did he see any police officers matching the descriptions of those Mr. Garrett alleged beat him. Commander Callaghan further testified that

¹¹³ *Id.* at 0378–0379.

¹¹⁴ *Id.* at 0380.

¹¹⁵ *Id.* at 0380–0381.

¹¹⁶ *Id.* at 0381–03821.

¹¹⁷ *Id.* at 0382–0383.

¹¹⁸ *Id.* at 0389–0390.

¹¹⁹ *Id.* at 0406.

¹²⁰ *Id.* at 0314.

¹²¹ *Id.* at 0319.

¹²² *Id.* at 0315, 03099.

¹²³ *Id.* at 0310.

¹²⁴ *Id.* at 0311.

¹²⁵ *Id.*

he did not know any officers that fit those descriptions at Area 6, Western and Belmont police station.¹²⁶

Officer Collier testified that the police were informed that Mario Hamilton, the victim's cousin, had been informed by a female by the nickname of "Hollywood" that while leaving 1157 North Cleveland Avenue, as she was going down from the eighth floor, she met an individual she knew as "Quabeenie" going up from the eighth floor carrying a rifle.¹²⁷ Upon reaching the ground floor, she relayed to Mr. Hamilton that she heard a shot and saw somebody go down at 502 West Oak Street.¹²⁸ Hollywood gave a description of Quabeenie as wearing a green starter cap, a black jacket and blue jeans.¹²⁹ Officer Collier testified that Mr. Garrett was known by the nickname Quabeenie and that he did not know anyone else in the Cabrini Green housing projects who used that nickname.¹³⁰ Officer Collier testified that he picked up Mr. Garrett later that afternoon because he saw he was wearing clothes that fit Hollywood's description and knew Mr. Garrett by the nickname Quabeenie.¹³¹ He also testified that he did not know anyone who worked in his police unit that fit the descriptions of either of the two people who Mr. Garrett alleged beat him.¹³² On cross-examination, Officer Collier stated that Mario Hamilton had relayed the information to his partner and the other detectives who were on the scene, and not to Officer Collier directly.¹³³ Officer Collier also admitted that Hollywood was never found, so this information was not able to be verified.¹³⁴

Detective Murray testified that after he and Detective Zuley picked up Mr. Garrett in their squad car at around 2:30 PM or 3:00 PM and took him to the police station,¹³⁵ they went to an interview room on the second floor and Detective Murray had a conversation alone with Mr. Garrett, during which he advised him of his Miranda rights and then had a conversation about Mr. Garrett's alibi for 9:00 AM that morning.¹³⁶ Detective Murray testified that he next had contact with Mr. Garrett between 4:30 PM and 5:00 PM, when he re-entered the interview room with Officers Gilda and Elmore in order to obtain information about Mr. Garrett's alibi witnesses.¹³⁷ Detective Murray testified that at about 9:00 PM that evening, he re-entered the interview room and informed Mr. Garrett of his Miranda rights again, placed him under arrest and told him that three out of the four alibi witnesses had given conflicting Statements and that Mr. Borges, the security guard, had told the police that he had a conversation with Mr. Garrett that morning, during which Mr. Garrett had told him that he had shot Dantrell Davis.¹³⁸ Detective Murray testified that Mr. Borges had told police that he was approached by Mr. Garrett while he was working security on the morning of October 13, 1992, and that Mr. Garrett said to him: "I shot a little boy this

¹²⁶ *Id.* at 0310–0311.

¹²⁷ *Id.* at 0337–0338.

¹²⁸ *Id.* at 0338.

¹²⁹ *Id.*

¹³⁰ *Id.* at 0341.

¹³¹ *Id.* at 0342–0343.

¹³² *Id.* at 0343–0344.

¹³³ *Id.* at 0345.

¹³⁴ *Id.* at 0347.

¹³⁵ *Id.* at 0362.

¹³⁶ *Id.* at 0353–0354.

¹³⁷ *Id.* at 0354–0355.

¹³⁸ *Id.* at 0355–0356.

morning. If the police come looking for me, I was with you."¹³⁹ Detective Murray testified that Mr. Borges did not initially tell police about this conversation because he was "scared."¹⁴⁰ On cross-examination, Detective Murray testified that when Mr. Garrett was being placed into the squad car, Mr. Borges ran out and said: "Wait, wait, you've got the wrong guy, he didn't do anything."¹⁴¹ Mr. Borges was then brought to the police station.¹⁴² Detective Murray testified that no one struck Mr. Garrett with a hose in his presence, or threatened to beat him again if he did not divulge what he knew about the shooting.¹⁴³ Detective Murray further testified that no one ever called Mr. Garrett a "fucking gang banger" and pushed him, and that he knows no police officers or persons that would have had access to Mr. Garrett that match the descriptions of those that allegedly beat Mr. Garrett.¹⁴⁴

Paramedic Freddy Morris testified that he conducted a physical examination of Mr. Garrett at around 1:00 PM or 2:00 PM on October 15, 1992.¹⁴⁵ Mr. Morris testified that he had Mr. Garrett take off his shirt and did not notice any fresh bruises, only scars.¹⁴⁶ Mr. Morris testified that he asked Mr. Garrett if he had any medical problems, and Mr. Garrett told him that he had a rod in his right leg, and was in a motor vehicle accident a couple months prior and complained of neck pain from that.¹⁴⁷ Mr. Morris testified that he examined Mr. Garrett's lower right leg and found no fresh bruises or marks there.¹⁴⁸ Mr. Morris testified that he prepared a history and physical examination report and reviewed that report with Mr. Garrett and that they both then signed it.¹⁴⁹ Mr. Morris testified that Mr. Garrett did not complain about mistreatment by anybody, or any beatings by a rubber hose.¹⁵⁰ On cross-examination, Morris testified that he did not directly ask Mr. Garrett if he was beaten.¹⁵¹

Trial

Following a jury trial in the Circuit Court of Cook County, Mr. Garrett was found guilty of first-degree murder and unlawful use of a weapon by a felon.¹⁵² A selection of key testimonies offered at trial are summarized below.

(i) Testimony of Mr. Garrett

At trial, Mr. Garrett recounted that, after high school, he served in the United States Army for three years.¹⁵³ Later, Mr. Garrett was employed by Al Carter's Youth Foundation directing

¹³⁹ *Id.* at 0356.

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 0358–0359.

¹⁴² *Id.* at 0363.

¹⁴³ *Id.* at 0358.

¹⁴⁴ *Id.* at 0357–0358.

¹⁴⁵ *Id.* at 0325–0326.

¹⁴⁶ *Id.* at 0326.

¹⁴⁷ *Id.* at 0326–0327.

¹⁴⁸ *Id.* at 0327.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at 0328.

¹⁵¹ *Id.* at 0332.

¹⁵² *See* Ex. 7, *People v. Garrett*, 658 N.E.2d 1216, 1218 (Ill. App. Ct. 1995).

¹⁵³ *See* TCROP at 01226-1227.

youth sports and counseling youth.¹⁵⁴ The victim, Dantrell Davis, attended one or two of Mr. Garrett's sessions, where Mr. Garrett taught him sports skills.¹⁵⁵

Mr. Garrett explained that he had been an "active" member of the Mickey Cobras street gang starting when he was a teenager up until the mid-1980s,¹⁵⁶ but then subsequently became an "inactive" member on "security" duties, where he did not carry a gun but would walk around their part of the Cabrini Green housing projects ensuring they stayed safe.¹⁵⁷

Mr. Garrett testified that on the morning of October 13, 1992, he woke up around 7:00 AM at his apartment with his then-fiancé.¹⁵⁸ Mr. Garrett testified that around 8:15 AM or 8:25 AM that morning, Mr. Garrett met Rhonda White at the "Tranquillity Marksman [*sic*]" recreation center.¹⁵⁹ Afterwards, Mr. Garrett testified that he grabbed two beers and drank them outside of 1160 North Sedgwick Street,¹⁶⁰ and then proceeded to talk to Tory Farrell, who was putting oil in his car.¹⁶¹ Mr. Garrett testified that Sonny Blake then drove up in his car and Mr. Garrett spoke to him for another few minutes¹⁶² before walking towards 1150 North Sedgwick Street, where he saw Sandra Floyd and briefly spoke to her.¹⁶³ Mr. Garrett testified that he also saw Mr. Borges but did not talk to him.¹⁶⁴ Mr. Garrett testified that he then smoked a marijuana cigarette and talked with Melvin Cole (alias "Stony"),¹⁶⁵ shortly after which, while standing in front of 1150 North Sedgwick Street, Mr. Garrett heard a single gunshot.¹⁶⁶ Mr. Garrett testified that while he was standing there, he also saw Lonnie Robinson, Nancy Gates, and Mr. Willingham.¹⁶⁷ Mr. Garrett testified that he did not go into 1157 North Cleveland Avenue on October 13, 1992 and did not touch a weapon at any time on October 13, 1992.¹⁶⁸

From here, Mr. Garrett's trial testimony recounted an identical story to his testimony during the Suppression Hearing with respect to his alleged torture, save for the following additional details or discrepancies in his testimony:

- Mr. Garrett testified that later on the afternoon of October 13, 1992, he was standing in front of 1150 North Sedgwick Street and someone told him that the police were looking for Mr. Garrett because they thought he "shot that little boy."¹⁶⁹

¹⁵⁴ *Id.* at 1228-1229.

¹⁵⁵ *Id.* at 1230-1231.

¹⁵⁶ *Id.* at 1235-1236.

¹⁵⁷ *Id.* at 1238-1239.

¹⁵⁸ *Id.* at 1245.

¹⁵⁹ *Id.* at 1246.

¹⁶⁰ *Id.* at 1247-1248.

¹⁶¹ *Id.* at 1248.

¹⁶² *Id.* at 1249.

¹⁶³ *Id.* at 1249.

¹⁶⁴ *Id.* at 1252.

¹⁶⁵ *Id.* at 1249-1250.

¹⁶⁶ *Id.* at 1250.

¹⁶⁷ *Id.* at 1251.

¹⁶⁸ *Id.* at 1252-1253.

¹⁶⁹ *Id.* at 1253.

- Mr. Garrett testified that the black officer who handcuffed him he now knew was Officer Collier.¹⁷⁰
- Mr. Garrett testified that the white officers who put him in the police car he now knew were Detectives Zuley and Murray.¹⁷¹
- Mr. Garrett testified that when he was put into the police car, Mr. Borges ran out from the building at 1150 North Sedgwick Street and said "Oh no, oh no, you got the wrong guy. He was with me."¹⁷² Mr. Garrett testified that the police officers talked to Mr. Borges for a few minutes but then got in the car and took Mr. Garrett to the Violent Crimes unit at Area 6, Western and Belmont police station.¹⁷³ Mr. Garrett testified that in the police car, he asked for a lawyer, but the police officers did not respond.¹⁷⁴
- Mr. Garrett testified that an Officer Charles—who he knew from the neighborhood—knew about his leg injury.¹⁷⁵
- Mr. Garrett testified that he asked for a lawyer again later at Area 6, Western and Belmont police station, but never received one.¹⁷⁶
- Mr. Garrett testified that his interaction with Commander Callaghan occurred before the second beating at the hands of Man 1 and Man 2.¹⁷⁷ As was pointed out on cross-examination, this is a different order to Mr. Garrett's testimony at the Suppression Hearing.¹⁷⁸
- Mr. Garrett testified at the Suppression Hearing that the prepared confession Statement was brought in straight after his visit from Commander Callaghan, and that he signed the Statement before breakfast. However, in his trial testimony, Mr. Garrett testified that this all occurred the next morning after he was given breakfast.
- Mr. Garrett testified at trial that after the second beating, Detectives Zuley and Murray came into the room and asked Mr. Garrett if he was ready to testify that he killed Dantrell Davis.¹⁷⁹ Mr. Garrett testified that when he said no, Detective Zuley told him that they already had a security guard witness saying he was the shooter.¹⁸⁰ Mr. Garrett testified that Detective Zuley next questioned Mr. Garrett about his military history, Mr. Garrett explained that he shot

¹⁷⁰ *Id.* at 1254-1255.

¹⁷¹ *Id.* at 1256.

¹⁷² *Id.* at 1256.

¹⁷³ *Id.* at 1257.

¹⁷⁴ *Id.* at 1257.

¹⁷⁵ *Id.* at 1294.

¹⁷⁶ *Id.* at 1266-1267.

¹⁷⁷ *Id.* at 1267-1271.

¹⁷⁸ *Id.* at 1326.

¹⁷⁹ *Id.* at 1271.

¹⁸⁰ *Id.* at 1272.

marksmen as an expert,¹⁸¹ and the detectives then left, closing the door behind them, and did not come back until the next morning.¹⁸²

- Mr. Garrett testified that he was left overnight handcuffed to the eyebolt on the wall sitting on a row of chairs,¹⁸³ and was therefore unable to get a restful night's sleep and simply nodded off "every now and then."¹⁸⁴ Mr. Garrett testified that he was not given food, an opportunity to leave the room, smoke a cigarette, or even to use the bathroom.¹⁸⁵
- Mr. Garrett testified that the next morning, Detective Zuley came in with breakfast for Mr. Garrett, consisting of pancakes, sausages, and juice,¹⁸⁶ and offered him a cigarette.¹⁸⁷ Mr. Garrett testified that after Mr. Garrett smoked the cigarette, Detective Zuley removed the handcuffs on Mr. Garrett from the wall and asked him if he was ready to confess to the murder.¹⁸⁸ Mr. Garrett testified that he said he did not know anything about what happened, and Detective Zuley threatened him in response, saying, "I'll have it happen again if you don't testify."¹⁸⁹ Mr. Garrett testified that he replied that he would do whatever Detective Zuley wanted as long as he was not beaten again.¹⁹⁰
- Mr. Garrett testified that Detective Zuley then returned with Detective Murray and Mr. LeFevour, and the officers showed Mr. Garrett a document that was already drafted, but did not give Mr. Garrett an opportunity to read it.¹⁹¹ Mr. Garrett testified that he tried to read it but Detective Zuley prevented him from doing so, saying, "Don't worry about it, it's all there," and telling him to sign it.¹⁹² Mr. Garrett noted that this confession Statement did not use words that Mr. Garrett uses in his everyday vocabulary.¹⁹³
- Mr. Garrett testified that he signed the Statement and wrote the page numbers on the bottom corner from 1 to 6, but that he did not initial any corrections and did not get a chance to read them.¹⁹⁴
- Mr. Garrett testified that Detective Murray then came back with Commander Callaghan,¹⁹⁵ who shook Mr. Garrett's hand and congratulated him on his confession.¹⁹⁶

¹⁸¹ *Id.* at 1273.

¹⁸² *Id.* at 1274.

¹⁸³ *Id.* at 1274-1275.

¹⁸⁴ *Id.* at 1275.

¹⁸⁵ *Id.* at 1275.

¹⁸⁶ *Id.* at 1275.

¹⁸⁷ *Id.* at 1276.

¹⁸⁸ *Id.* at 1276.

¹⁸⁹ *Id.* at 1276-1277.

¹⁹⁰ *Id.* at 1276-1277.

¹⁹¹ *Id.* at 1278.

¹⁹² *Id.* at 1279.

¹⁹³ *Id.* at 1290.

¹⁹⁴ *Id.* at 1279, 1320-1321.

¹⁹⁵ *Id.* at 1279-1280.

¹⁹⁶ *Id.* at 1280.

- Mr. Garrett testified that Detectives Zuley and Murray and Officers Collier and Childs then moved Mr. Garrett to lock-up,¹⁹⁷ where a turnkey searched him for contraband and he flinched and/or yelled out in pain when the turnkey touched his leg.¹⁹⁸
- Mr. Garrett testified that the next day, on October 15, 1992, after his bond hearing, he was taken to a paramedic,¹⁹⁹ who he informed of a recent car accident and that his back and neck were hurting from that accident.²⁰⁰ Mr. Garrett testified that he also told the paramedic about the beatings by the two men the night before and that he was hurting from that.²⁰¹ Mr. Garrett testified that he was not aware of the paramedic making any notes in relation to that beating.²⁰² Mr. Garrett testified that the paramedic asked Garrett to point to where his tattoos were, but he did not take his shirt off.²⁰³ Mr. Garrett testified that the paramedic checked these items off on the medical sheet and told Mr. Garrett to sign, which he did.²⁰⁴ Mr. Garrett testified that he did not have any bruises or marks from the beatings at this time.²⁰⁵
- On cross-examination, Mr. Garrett was provided the People's Exhibit 51,²⁰⁶ the "bruise sheet,"²⁰⁷ about which he testified that there was nothing marked on the bruise sheet (e.g., tattoos and old scars) when he signed the document.²⁰⁸

(ii) Testimony of Other Defense Witnesses

Mr. Javeed Syed testified that he worked as a security guard at 1160 North Sedgwick Street and was partners with Mr. Borges on October 13, 1992.²⁰⁹ He testified that he did not see Mr. Borges have any contact whatsoever with Mr. Garrett during his shift on October 13, 1992, contrary to the State's case that Mr. Garrett had approached Mr. Borges on his shift and told him that he had shot and killed Dantrell Davis.²¹⁰ Mr. Syed also testified that Mr. Garrett had not called him from the county jail, despite repeated unsupported suggestions from the State that Mr. Garrett had threatened Mr. Syed from jail.²¹¹

Rhonda White testified that on the morning of October 13, 1992, she got to the "Tranquility Maxwell Center" at around 8:25 AM, and stayed at the lounge with Mr. Garrett for around 15 minutes, where he got two beers.²¹²

¹⁹⁷ *Id.* at 1284.

¹⁹⁸ *Id.* at 1319.

¹⁹⁹ *Id.* at 1288.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.* at 1289.

²⁰⁶ *See* Ex. 9, People's Ex. 51, Bruise Sheet, dated Oct. 14, 1992.

²⁰⁷ *See* TCROP at 1316.

²⁰⁸ *Id.* at 1317.

²⁰⁹ TCROP at 1052-1053.

²¹⁰ *See id.* at 1057.

²¹¹ *Id.* at 1063-1064.

²¹² *Id.* at 1072.

Torrie Farrell testified that he saw Mr. Garrett in the parking lot of 1160 North Sedgwick Street when he arrived between 8:20 AM and 8:30 AM, and stayed talking to him for about 25 to 30 minutes while he put oil in his car, leaving Mr. Garrett around 8:50 AM or 8:55 AM.²¹³ Mr. Farrell testified that as soon as he left to go upstairs to his apartment, he heard a gunshot go off.²¹⁴

Nancy Gates testified that she saw Mr. Garrett at about 8:35 AM outside of her apartment building and spoke to him for about five minutes.²¹⁵ She also testified that, later, at about 9:25 AM to 9:30 AM, she saw Mr. Farrell at the front of the building with a crowd of people as a child had been shot.²¹⁶

Sandra Floyd testified that she saw Mr. Garrett at the front of 1160 North Sedgwick Street at around 8:30 AM to 8:35 AM and spoke with him briefly.²¹⁷ She testified that she heard a gunshot go off at around 9:00 AM, and then afterwards saw Mr. Garrett at around 9:05 AM at the front of 1160 North Sedgwick Street, standing with Mr. Farrell.²¹⁸ Ms. Floyd further testified that the security guard for the building came forward when Mr. Garrett was arrested around 2:00 PM and said that Mr. Garrett had been out at the front of the building all day.²¹⁹

Melvin Cole testified that he woke up on October 13, 1992, and smoked a joint out at the front of 1150 North Sedgwick Street with Mr. Garrett for about five to ten minutes.²²⁰ He testified that he did not recall the time, but thought it was probably 9:00 AM or 9:15 AM.²²¹ He testified that he also saw Lonnie Robinson and Osborne Willingham while smoking with Mr. Garrett.²²² Mr. Cole testified that he had previously told the police his story, along with Mr. Roberts, Mr. Willingham, and Ms. Gates, but that he was not called in front of any Grand Jury in respect of Mr. Garrett's charges.²²³ Mr. Cole also testified that he belongs to the Vice Lords street gang, the rival gang to Mr. Garrett's previous gang affiliation.²²⁴

Alvin Carter testified to Mr. Garrett's character and stated that he has observed Mr. Garrett displaying traits of dependability, honesty, and reliability through his involvement in various sports and athletic programs.²²⁵ He further testified that Mr. Garrett often displayed "outstanding" conduct, got along well with other people, and is a committed person.²²⁶

Lawrence ("Lonnie") Roberts testified that he was with Mr. Garrett in the parking lot at the front of 1150 North Sedgwick Street between 9:00 AM and 9:10 AM on October 13, 1992,

²¹³ *Id.* at 1080-1081.

²¹⁴ *Id.* at 1081-1082.

²¹⁵ *Id.* at 1094.

²¹⁶ *Id.* at 1094-1095.

²¹⁷ *Id.* at 1107-1108.

²¹⁸ *Id.* at 1109, 1113.

²¹⁹ *Id.* at 1111.

²²⁰ *See id.* at 1142-1143.

²²¹ *Id.* at 1142.

²²² *Id.* at 1144, 1153.

²²³ *Id.* at 1148-11495.

²²⁴ *Id.* at 1149.

²²⁵ *Id.* at 1139.

²²⁶ *Id.* at 1139-1140.

smoking a joint with Mr. Cole.²²⁷ Mr. Roberts testified that he did not have a watch, but he deduced the time because it was as he saw the last of the kids going into school.²²⁸ Mr. Roberts further testified that if Mr. Garrett shot Dantrell Davis, "he shot him from the parking lot because that's where I was with him."²²⁹ Mr. Roberts did not remember hearing any gunshots being fired.²³⁰ Mr. Roberts also testified to feeling pressured by police to change his story to having been with Mr. Garrett at 9:30 AM and not earlier.²³¹ Mr. Roberts was never called as a witness in front of the Grand Jury.²³²

Robert Berk, an analyst with the Chicago Police Department Crime Laboratory, testified that he did not perform a gunshot residue exam on Mr. Garrett's hands, and that none of the tests on Mr. Garrett's jacket revealed the presence of any gunshot residue.²³³ Mr. Berk further testified that although he examined Mr. Garrett's jacket on December 9, 1992, gunshot residue remains virtually intact on clothing as long as the exhibit is properly sealed, such that the delayed time frame would not have impacted the accuracy of the test.²³⁴

(iii) Testimony of Detective Zuley

Detective Zuley offered further testimony in Mr. Garrett's trial as a witness for the State.²³⁵ Detective Zuley's testimony was largely consistent with his testimony at the Suppression Hearing, summarized above.

In addition, at the trial, Detective Zuley explained that Mr. Borges was also brought to Area 6, Western and Belmont police station, and was interviewed by Detective Cole.²³⁶ Detective Zuley said that during the course of his interview of Mr. Garrett around 9:00 PM on the evening of October 13, 1992, Mr. Garrett told him that he had been in the army for approximately three years and that he had shot expertly with the M-16 rifle.²³⁷ Detective Zuley testified that the morning of October 14, 1992 was the first time he had initiated a conversation with Mr. Garrett without Detective Murray being present.²³⁸ However, Detective Zuley also testified that he spoke to Mr. Garrett alone on the evening of October 13, 1992.²³⁹ Detective Zuley testified that during the course of Mr. Garrett's oral confession to him on the morning of October 14, 1992, Mr. Garrett explained that the Mickey Cobras street gang kept a rifle up on the tenth floor of the building on North Cleveland Avenue,²⁴⁰ and that he was going over there to avenge a previous incident with some Vice Lords, a rival gang, and that he had shot a two- to three-round burst at the Vice Lords across the street from the window of the tenth floor of the building on North Cleveland Avenue,

²²⁷ See *id.* at 1157, 1160.

²²⁸ See *id.* at 1157, 1176.

²²⁹ *Id.* at 1164-1165.

²³⁰ *Id.* at 1176.

²³¹ *Id.* at 1163-1166.

²³² *Id.* at 1167-1168.

²³³ *Id.* 1178, 1181.

²³⁴ *Id.* at 1186-1187.

²³⁵ *Id.* at 0902.

²³⁶ *Id.* at 0907-0908.

²³⁷ *Id.* at 0912.

²³⁸ *Id.* at 0916-0917.

²³⁹ *Id.* at 0949.

²⁴⁰ *Id.* at 0917.

but hit Dantrell Davis instead.²⁴¹ Detective Zuley testified that Mr. Garrett said that he had used an AR-15 weapon, which is a civilian version of the M-16 rifle he used in the army.²⁴² Detective Zuley testified that Mr. Garrett told him that the weapon on the tenth floor had already been loaded by some "shorties," meaning young gang members, and that after the shooting, he passed the gun off to a shorty who got rid of the gun so police could not find it.²⁴³

On cross-examination, Detective Zuley testified that Mr. Garrett was left to sleep in interrogation Room 239 overnight, without a cot, blanket, or pillow.²⁴⁴ Detective Zuley further testified that Room 239 is a windowless room about 10 by 12 feet in size, with chairs that can be pushed together to become a bench.²⁴⁵ The room contains a ring on the wall for the purpose of shackling suspects to it, but Detective Zuley testified that Mr. Garrett was at no point handcuffed to the eyebolt on the wall.²⁴⁶ Detective Zuley further testified that no one opened the door to Room 239 between midnight and 8:30 AM.²⁴⁷ Detective Zuley testified that Mr. Garrett left the room to go to the bathroom "periodically."²⁴⁸ Detective Zuley testified that they never found the murder weapon, the informant called "Hollywood" or the shorty to whom Mr. Garrett allegedly gave the murder weapon.²⁴⁹ Detective Zuley testified he did not use a tape recorder or video camera in order to record Mr. Garrett's oral confession because this was not the standard procedure.²⁵⁰ Detective Zuley testified that no gunshot residue tests were conducted on Mr. Garrett's hands, and a gunpowder residue test performed on Mr. Garrett's clothing came back negative.²⁵¹ Detective Zuley also testified that the effectiveness of these tests fade over time and after five or six hours, there is no point in even conducting the tests.²⁵² Detective Zuley testified that Mr. Garrett crossed off and corrected certain facts listed in the confession Statement, initialing those corrections himself. Such corrections include Mr. Garrett's age, which was incorrectly entered as 34 and then corrected to 33 and the number of years Mr. Garrett attended high school.²⁵³

(iv) Testimony of Other Police Witnesses for the State

Commander Callaghan testified that Mr. Garrett was not handcuffed to a ring on the wall of Room 239 when he first saw him.²⁵⁴ Commander Callaghan further testified that according to regulations, Mr. Garrett would have been handcuffed to the eyebolt on the wall overnight unless he was being interviewed, watched, or going to the bathroom.²⁵⁵ Commander Callaghan testified that he never said, "I'm tired of all you gangbangers," or words to that effect to Mr. Garrett.²⁵⁶ Commander Callaghan testified that at approximately 2:30 PM on the afternoon of October 13,

²⁴¹ *Id.* at 0919.

²⁴² *Id.* at 0922.

²⁴³ *Id.* at 0922-0923.

²⁴⁴ *Id.* at 0939-0940.

²⁴⁵ *Id.* at 0940.

²⁴⁶ *Id.* at 0947-0948.

²⁴⁷ *Id.*

²⁴⁸ *Id.* at 0940.

²⁴⁹ *Id.* at 0942.

²⁵⁰ *Id.* at 0952.

²⁵¹ *Id.* at 0972-0973.

²⁵² *Id.* at 0984.

²⁵³ *Id.* at 0930.

²⁵⁴ *Id.* at 1201-1202.

²⁵⁵ *Id.* at 1203-1205.

²⁵⁶ *Id.* at 1207.

1992, he entered alone the interview room where Mr. Garrett was being held to introduce himself.²⁵⁷ Commander Callaghan testified that the next morning, Detective Zuley came into Commander Callaghan's office and told him that Mr. Garrett had confessed to the murder and wanted to talk to him. Commander Callaghan testified that he then returned to the interview room at which point Mr. Garrett repeated the confession, and Commander Callaghan shook Mr. Garrett's hand and congratulated him on his confession.²⁵⁸

Detectives Murray²⁵⁹ and Collier²⁶⁰ gave testimony for the State consistent with their respective testimonies at the Suppression Hearing. Detective Murray also testified that Mr. Borges told him that Mr. Garrett had spoken to him at 1:00 PM on October 13, 1992.²⁶¹

Andrew LeFevour, who was an Assistant State's Attorney employed by Cook County at the time in the Felony Review Unit, also testified for the State.²⁶² Mr. LeFevour testified that he arrived to Mr. Garrett's interview room around 10:30 AM on October 14, 1992, where Detective Zuley was also present.²⁶³ Mr. LeFevour testified that he informed Mr. Garrett of his Miranda rights, and then interviewed him for about an hour about the Dantrell Davis shooting.²⁶⁴ Mr. LeFevour testified that during this interview, Mr. Garrett implicated himself in the shooting.²⁶⁵ Mr. LeFevour testified that he explained to Mr. Garrett that his Statement could be memorialized in one of two ways: a court-reported Statement or a handwritten Statement.²⁶⁶ Mr. LeFevour testified that Mr. Garrett indicated that he did not want to wait and have another party come in so he requested that Mr. LeFevour prepare his handwritten Statement.²⁶⁷ On cross-examination, Mr. LeFevour admitted that he had never taken a court-reported Statement prior to then, having only taken approximately six to ten Statements from defendants during his tenure as Assistant State's Attorney.²⁶⁸ Mr. LeFevour testified that after Detective Zuley left the interview room, Mr. LeFevour asked Mr. Garrett how he had been treated, and Mr. Garrett replied that everything was fine and that he had been given food.²⁶⁹ Mr. LeFevour further testified that later, Detective Zuley brought Mr. Garrett a hamburger and French fries from Checker's.²⁷⁰ Mr. LeFevour testified that he handwrote a five-page confession Statement, and brought it to Mr. Garrett to go through it with him.²⁷¹ Mr. LeFevour testified that there were a few corrections that needed to be made, and Mr. LeFevour, Detective Zuley, and Mr. Garrett initialed them to acknowledge the corrections.²⁷² Mr. LeFevour testified that one of the corrections included the deletion of the sentence: "Anthony Garrett stated that at 1160 Sedgewick is a building controlled by his street gang, the Cobra Stones."

²⁵⁷ *Id.* at 1208-1209.

²⁵⁸ *Id.* at 1210-1211.

²⁵⁹ *Id.* at 0875-0900.

²⁶⁰ *Id.* at 0825-08385.

²⁶¹ *See id.* at Ex. 8; TCROP at 1123.

²⁶² *Id.* at 0991.

²⁶³ *Id.* at 0991-0993.

²⁶⁴ *Id.* at 0993-0994.

²⁶⁵ *Id.* at 0994.

²⁶⁶ *Id.* at 0994.

²⁶⁷ *Id.* at 0995.

²⁶⁸ *Id.* at 1017-1018.

²⁶⁹ *Id.* at 0994-0996.

²⁷⁰ *Id.* at 0996.

²⁷¹ *Id.* at 0997.

²⁷² *Id.* at 0999.

Mr. LeFevour testified that Mr. Garrett took issue with the word "control," stating that it was their building, meaning that they had lived there, but he didn't like the word "control."²⁷³ Mr. LeFevour testified that after the corrections were made, Mr. Garrett, Detective Zuley and Mr. LeFevour signed the Statement.²⁷⁴ Mr. LeFevour testified that Mr. Garrett never requested an attorney,²⁷⁵ and that when his first conversation with Mr. Garrett took place and Mr. Garrett was recounting what happened for between 45 minutes to an hour, Mr. LeFevour did not have a pen and paper with him and did not take notes, nor did Detective Zuley.²⁷⁶ Mr. LeFevour was cross-examined about whether specific words used in the Statement were his words or Mr. Garrett's words (such as, for example "retrieved," "located," and "summarize") and Mr. LeFevour testified they were Mr. Garrett's words.²⁷⁷ On redirect, Mr. LeFevour read People's Exhibit 47, Mr. Garrett's confession Statement, to the jury.²⁷⁸ Mr. LeFevour testified that there was a bank of four or five chairs in the room that served as a bed, that Mr. Garrett had told him he had slept, and that Mr. Garrett did not look like he had been beaten.²⁷⁹ Mr. LeFevour further testified that the police took a Polaroid picture of Mr. Garrett to show his condition on that day, pursuant to procedure, but did not ask him to remove any clothing for the picture.²⁸⁰ Mr. LeFevour testified that he also prepared a handwritten Statement for Mr. Borges that day, and that there were no corrections made to that Statement.²⁸¹

Freddie Morris, a paramedic employed by the Cook County Jail, testified that when he examined Mr. Garrett on October 15, 1992, Mr. Garrett did not tell him that he was beaten by police officers.²⁸² Mr. Morris further testified that he had Mr. Garrett remove his clothing, but Mr. Garrett did not have any bruises or marks indicating trauma.²⁸³ On cross-examination, Mr. Morris admitted that he did not know if rubber hoses leave marks following beatings, and that he did not follow procedure by noting Mr. Garrett's tattoos.²⁸⁴

Michael Jettner, a detention aid in the City of Chicago, stated that he did a check of Mr. Garrett as he came into lock-up, and he did not notice any obvious pain or injury. Mr. Jettner further testified Mr. Garrett was able to walk fine and was not limping.²⁸⁵

Detective James Gildea testified that Mr. Garrett gave him the following names of people that could verify his alibi: Nancy Gates, Melvin ("Stony") Cole, Lonnie Roberts, Mr. Willingham,

²⁷³ *Id.* at 1001-1002.

²⁷⁴ *Id.* at 1005.

²⁷⁵ *Id.* at 1013-1014.

²⁷⁶ *Id.* at 1014-1015.

²⁷⁷ *Id.* at 1035-1036.

²⁷⁸ *Id.* at 1039-1046; Ex. 12, People's Ex. 47, Mr. Garrett's Confession Statement, dated Oct. 14, 1992.

²⁷⁹ *Id.* at 1019-1021.

²⁸⁰ *Id.* at 1029-1030.

²⁸¹ *Id.* at 1031.

²⁸² *Id.* at 1346-1349.

²⁸³ *Id.* at 1349.

²⁸⁴ *Id.* at 1351, 1354.

²⁸⁵ *Id.* at 1376.

and Osborne Willingham.²⁸⁶ On cross-examination, Gildea testified that he only questioned three of these five alibi witnesses.²⁸⁷

Officer Kenneth Charles testified that he brought Mr. Garrett to lock-up and Mr. Garrett was able to walk down the stairs without complaint.²⁸⁸

(v) Testimony of Expert Witnesses for the State

The State called Richard Chenow, a firearms examiner with the Chicago Police Department, to testify as an expert witness. Mr. Chenow testified that he tested the two fired bullet jacket fragments and three lead fragments that were recovered from Dantrell Davis' body, and opined that the bullet that killed Dantrell Davis was a boat-tailed bullet, which is a type of bullet that will travel further because of its design.²⁸⁹ Mr. Chenow opined that the jacket fragments had rifling marks consistent with it being fired by the Colt AR-15 rifle.²⁹⁰ He also opined that the fired jacket fragments recovered from Dantrell Davis' body was consistent with the jacket of a 223 caliber or 5.56 millimeter jacket from the bullet.²⁹¹ Mr. Chenow testified that the four fired cartridges recovered from apartment 1001 at 1157 North Cleveland Avenue were 5.56 millimeter cartridges, with military head stamps,²⁹² and that the cartridge cases were also consistent with having been fired in a Colt AR-15 rifle.²⁹³ However, on cross-examination, Mr. Chenow admitted that it was possible that other rifles would have given the same rifling measurements as the Colt AR-15 rifle.

Appeal

Following Mr. Garrett's jury trial, he filed an appeal on five grounds.²⁹⁴ First, he challenged the trial court's denial of his motion to quash and suppress evidence when the police allegedly did not have probable cause to arrest. Second, he claimed that it was plain error for the trial judge to allow evidence of the defendant's gang membership and other gang-related activities. Third, he claimed it was plain error for the State to comment about gang membership in closing arguments. Fourth, he claimed the cumulative effect of the trial judge's remarks to defense counsel was reversible error. Finally, he alleged that the trial judge abused his discretion in denying the defendant's motion for mistrial.²⁹⁵ Mr. Garrett again explained his factual allegations regarding torture in his brief. Mr. Garrett argued he only "signed the [confession] Statement . . . after [being] beaten on the leg and the chest with a rubber hose and ordered to sign" the Statement.²⁹⁶ Mr. Garrett continued to consistently describe his tormentors as two Caucasian men, one of which was about 6'3" or 6'4" weighing 245 to 250 pounds, and the other about 6'5" weighing 275 to 280

²⁸⁶ *Id.* at 1360.

²⁸⁷ *Id.* at 1370.

²⁸⁸ *Id.* at 1396.

²⁸⁹ *Id.* at 0849, 0853-0854.

²⁹⁰ *Id.* at 0855.

²⁹¹ *Id.* at 0857.

²⁹² *Id.* at 0858-0859.

²⁹³ *Id.* at 0859.

²⁹⁴ Ex. 7, *People v. Garrett*, 658 N.E.2d 1216, 1218 (Ill. App. Ct. 1 Dist. 1995).

²⁹⁵ *See id.*

²⁹⁶ *See* Ex. 14, Appellant Br., *People v. Garrett*, 1995 WL 17167561, *10-*11 (Ill. App. 1 Dist. 1995).

pounds.²⁹⁷ The appellate court found the denial of Mr. Garrett's motion to quash and suppress his Statement was not in error, and affirmed his conviction.²⁹⁸ The court did not there consider separately the motion to suppress Mr. Garrett's Statement.²⁹⁹

Post-Conviction Relief

Mr. Garrett filed a petition for post-conviction relief after his appeal was denied, arguing that his 100-year sentence for his conviction of first-degree murder and unlawful use of a weapon by a felon was unconstitutional based on the Supreme Court decision in *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348 (2000).³⁰⁰ In his petition, Mr. Garrett argued that his Fourteenth Amendment right to Due Process was violated when the trial judge imposed an extended sentence of 100 years without giving the jury an opportunity to consider whether aggravating factors used to extend his sentence were present, beyond a reasonable doubt.³⁰¹ Mr. Garrett's petition was dismissed without prejudice, and post-conviction relief was denied.³⁰² While the court dismissed the petition first because he had already filed one petition for post-conviction relief, the court went on to discuss a circuit split in applying the *Apprendi* rule retroactively. The court concluded that it would be imprudent to apply *Apprendi* retroactively until the Supreme Court made that determination.³⁰³ Mr. Garrett sought to appeal this decision to the Appellate Court of Illinois, but his petition for a writ of certiorari to the First District was denied on April 24, 2004.³⁰⁴

Mr. Garrett filed a motion for leave to file a successive petition for post-conviction relief, alleging that new Supreme Court precedent merited reconsideration.³⁰⁵ There, he sought to challenge his written confession because of a denial of rights "guaranteed and secured by and through the United States Constitution."³⁰⁶ It is unclear from Mr. Garrett's TIRC file whether this motion to file a successive petition was granted. In a much later letter to TIRC, Mr. Garrett raised the fact that a recent Chicago Tribune article showed Detective Zuley had tortured other suspects into confessing while working as a detective in Chicago and as an interrogator in Guantánamo Bay, and that this history corroborated his story.³⁰⁷

TIRC Proceeding

Mr. Garrett first filed a claim with TIRC on May 1, 2012. At the time, the jurisdiction of TIRC was limited to cases related to John Burge. When the jurisdiction of TIRC was expanded on July 29, 2016, Mr. Garrett's claims became eligible for review.

²⁹⁷ *Id.* at *11.

²⁹⁸ See Ex. 7, *People v. Garrett*, 658 N.E.2d 1216, 1218 (Ill. App. Ct. 1 Dist. 1995).

²⁹⁹ *Id.*

³⁰⁰ See Ex. 10, *State v. Garrett*, No. 92 CR 25695-01, 2001 WL 36043595 (Ill. Cir. Ct. 2001) (Tr. Order).

³⁰¹ Ex. 13, Petition for Post-Conviction Relief, *People v. Garrett*, Def. Trial Mot., 2001 WL 36037833 (Ill. Cir. Ct. 2001).

³⁰² Ex. 10, *State v. Garrett*, No. 92 CR 25695-01, 2001 WL 36043595 (Ill. Cir. Ct. 2001) (Tr. Order).

³⁰³ *Id.* at 6.

³⁰⁴ Ex. 15, *Garrett v. Illinois*, 541 U.S. 998, 124 S. Ct. 2038 (Mem.)(2004).

³⁰⁵ Ex. 13, Mot. for Leave to File Successive Pet. For Post-Conviction Relief at 1, filed Feb. 16, 2005.

³⁰⁶ See Ex. 13, Petition for Post-Conviction Relief at 2–3, filed Feb. 16, 2005.

³⁰⁷ Ex. 16, Letter from Mr. Garrett, dated Aug. 24, 2016.

During his TIRC interview, Mr. Garrett alleged that on October 13, 1992, shots were fired between 9:00 AM and 9:05 AM while he was standing in front of the Cabrini Green housing projects at 1160 North Sedgwick Street.³⁰⁸ Mr. Garrett alleged that while he was standing in front of 1160 North Sedgwick Street later that afternoon, the police asked to talk to him, handcuffed him, and put him in the back of the squad car.³⁰⁹ Mr. Garrett alleged that Mr. Borges ran out of the building at 1150 North Sedgwick Street and said, "You got the wrong guy, he was with me,"³¹⁰ referring to Mr. Garrett.

Mr. Garrett alleged that the police still took Mr. Garrett to an interrogation room in Area 6, Western and Belmont police station, and handcuffed him to a wall.³¹¹ Mr. Garrett alleged that he was handcuffed to a ring on the wall the entire time he was questioned,³¹² which was over 24 hours.³¹³ Mr. Garrett alleged that he was not read his Miranda rights.³¹⁴ He further alleged that Detectives Zuley and Murray questioned him and offered him a more lenient sentencing deal if he confessed to the murder of Dantrell Davis.³¹⁵

Mr. Garrett alleged that he was forced to sleep on a row of 3 or 4 chairs in the interrogation room while he was handcuffed to the wall.³¹⁶ Mr. Garrett alleged that he was not able to lie flat or given a blanket, and he slept very little as a result of these circumstances.³¹⁷ Mr. Garrett alleged that he was not given any breakfast or other food or drink during the time he was in custody,³¹⁸ and that he was only allowed to use the restroom once during his entire time in the interrogation room.³¹⁹

Mr. Garrett alleged that when he did not confess, Detective Zuley shook his head and said that Mr. Garrett would "sign it one way or another."³²⁰ Mr. Garrett alleged that suddenly thereafter, two Caucasian men in plain clothes came in, grabbed his leg, and started beating the spot that contained a rod and two screws.³²¹ Mr. Garrett alleged that these men were both about 6'4 and weighed 200 to 250 pounds, and that they beat him for about 20 minutes using a rubber hose and a phone book.³²² Mr. Garrett alleged that while they were beating him, they told him to confess to the murder.³²³ When asked about the discrepancy in testimony regarding the items used in the beatings—i.e. the addition of a phonebook to his testimony—Mr. Garrett stated that he had always talked about a phone book in addition to a rubber hose.³²⁴

³⁰⁸ Ex. 3, TIRC Interview Tr. ¶¶ 27–28.

³⁰⁹ *Id.* at ¶¶ 31–33.

³¹⁰ *Id.* at ¶¶ 34–36.

³¹¹ *Id.* at ¶¶ 38–41.

³¹² *Id.* at ¶¶ 372–74.

³¹³ *Id.* at ¶¶ 120–23.

³¹⁴ *Id.* at ¶¶ 157.

³¹⁵ *Id.* at ¶¶ 41–49.

³¹⁶ *Id.* at ¶¶ 122–25, 167–70.

³¹⁷ *Id.* at ¶¶ 171–76.

³¹⁸ *Id.* at ¶¶ 129–30, ¶¶ 155–57.

³¹⁹ *Id.* at ¶¶ 158–59.

³²⁰ *Id.* at ¶¶ 95–99.

³²¹ *Id.* at ¶¶ 49–54, ¶¶ 79–80.

³²² *Id.* at ¶¶ 76–78, ¶¶ 341–43.

³²³ *Id.* at ¶¶ 53–54.

³²⁴ *Id.* at ¶¶ 341–45.

Mr. Garrett alleged that after the beatings, Detectives Zuley and Murray and Mr. LeFevour came in with a typed-up confession Statement and asked him to sign it,³²⁵ but when he did not, they left and the same two Caucasian men came in and started beating him again until he agreed to sign the confession.³²⁶ Mr. Garrett alleged that this second beating lasted about 10 to 12 minutes, and Mr. Garrett only signed the confession because he was tired of getting beaten.³²⁷ Mr. Garrett further stated that he would not have signed the confession if he was not beaten, and that he does not even talk in the manner in which the Statement was written.³²⁸ Mr. Garrett alleged that Detective Zuley subsequently congratulated him on his confession, saying that he "did a good thing."³²⁹ Mr. Garrett alleged that he signed this confession about a day and a half to two days after he was initially brought into custody.³³⁰

Mr. Garrett mentioned he never received his trial transcripts and had been trying to get them since 1995, but he had access to a heavily redacted police investigative file.³³¹ Mr. Garrett alleged that he had not heard of Detective Zuley's history of torturing suspected criminals until around the year 2000.³³²

Pattern and Practice Evidence/Credibility Considerations

Detective Zuley was highly involved in Mr. Garrett's case: he was the arresting officer, key trial witness, and Grand Jury witness. Detective Zuley also has a well-founded and expansive history of committing torture that spans four decades, both in his capacity as an interrogator in Guantánamo Bay and a detective in Chicago.

Detective Zuley's History of Torture

Over the past few decades, information has come to light regarding various acts of torture committed by Detective Zuley, both in his capacity as an interrogator in Guantánamo Bay, and a detective in Chicago. The reports revealed an extensive record of Detective Zuley "abusing suspects until they confessed to crimes that they [had not] committed."³³³ In 2015, an investigation revealed that from 1977 to 2007, Detective Zuley committed acts of police brutality while interrogating suspects that resulted in at least one wrongful conviction, with many other cases thrown into doubt.³³⁴ The Guardian reported that Detective Zuley's tactics have included shackling suspects to police walls through eyebolts for hours at a time, accusations of planting evidence in high-profile murder cases, threatening to harm family members during interrogations to gain

³²⁵ *Id.* at ¶¶ 414–18.

³²⁶ *Id.* at ¶¶ 55–60.

³²⁷ *Id.* at ¶¶ 406–10.

³²⁸ *Id.* at ¶¶ 114–16.

³²⁹ *Id.* at ¶¶ 60–61.

³³⁰ *Id.* at ¶¶ 122–25.

³³¹ *Id.* at ¶¶ 309–17.

³³² *Id.* at ¶¶ 421–24.

³³³ Ex. 17 Ben Taub, *Guantánamo's Darkest Secret*, The New Yorker, (April 15, 2019), <https://www.newyorker.com/magazine/2019/04/22/guantanamos-darkest-secret>.

³³⁴ See Ex. 6, Spencer Ackerman, *Guantánamo Torturer Led Brutal Chicago Regime of Shackling and Confession*, Guardian (Feb. 18, 2015, 11:01 AM), <https://www.theguardian.com/us-news/2015/feb/18/guantanamo-torture-chicago-police-brutality>. For further details of Detective Zuley's pattern and practice of misconduct, see Ex. 23, Successive Petition for Post-Conviction Relief in *People of the State of Illinois v. Lee Harris*, No. 89 CR 26697.

leverage, and threats of the death penalty if a suspect did not confess.³³⁵ The first of these accusations bear a striking similarity to those Mr. Garrett has recounted in his testimony.

Of those who have accused Zuley of torture, perhaps the most famous is Mohamedou Ould Slahi, who reported that Zuley was the leader of his interrogation at Guantánamo Bay. A Senate Armed Services Committee report confirms Zuley's authorship of a memo outlining the use of police dogs to maximize Slahi's stress, and further independent reporting identifies Zuley as the author of Slahi's overall enhanced interrogation plan that was personally approved by Defense Secretary Donald Rumsfeld.³³⁶ The plan called for hooding, sensory deprivation, sleep deprivation, up to 20 hours of interrogation at a time, pouring cold water on Slahi's head, using dogs during interrogation, forcing him to wear humiliating signs, strip-searching him, denying him the opportunity to pray, playing stress-inducing music, subjecting him to disorienting strobe lights, shaving his head, forcing him to bark and perform dog-like tricks, and interrogating him in a room devoid of any stimuli save audio speakers and "an eyebolt in the floor."³³⁷ At the time, Detective Zuley was working as a military contractor for the Navy under the moniker Captain Collins.³³⁸ Detective Zuley was reported to have first tortured Mr. Slahi psychologically. The interrogation plan that Detective Zuley was involved in had the stated aim to "replicate and exploit the Stockholm Syndrome," in which kidnapped victims come to trust and feel affection for their captors.³³⁹ Slahi reported that Detective Zuley first showed him a forged letter stating that Mr. Slahi's mother would be transferred to Guantánamo Bay and implying that she would be raped if he did not confess.³⁴⁰ It was reported that twelve days later, a group of men in riot gear, accompanied by a German shepherd, stormed into Mr. Slahi's cell, beat him, covered his eyes, ears, and head, threw him into the back of a truck and then loaded him onto a speedboat.³⁴¹ Mr. Slahi reported he was driven around for three hours and every few minutes he was forced to swallow salt water, he was beaten, he was covered in ice, and then he was beaten again as soon as the ice melted.³⁴² By the time the boat ride was over, Mr. Slahi reported he was bleeding from his ankles, mouth, and wrists, and seven or eight of his ribs were broken.³⁴³ Mr. Slahi eventually made the decision to confess to Detective Zuley in order to protect himself and his family from further

³³⁵ *Id.*

³³⁶ Committee on Armed Services Report, United States Senate, "Inquiry into the Treatment of Detainees in U.S. Custody," November 20, 2008. 137, fn. 1059; *see also* Taub and Ackerman articles, Exs. 6 and 17.

³³⁷ Committee on Armed Services Report, 135-143.

³³⁸ Ex. 17, Ben Taub, *Guantánamo's Darkest Secret*, The New Yorker, (April 15, 2019), <https://www.newyorker.com/magazine/2019/04/22/guantanamos-darkest-secret>.

³³⁹ *See id.*

³⁴⁰ *Id.*; Ex. 18, Jess Bravin, *'Imagine the Worst Possible Scenario': Why a Guantanamo Prosecutor Withdrew From the Case* (Feb. 11, 2013), <https://www.theatlantic.com/national/archive/2013/02/imagine-the-worst-possible-scenario-why-a-guantanamo-prosecutor-withdrew-from-the-case/273013/>.

³⁴¹ *See* Ex. 17, Ben Taub, *Guantánamo's Darkest Secret*, The New Yorker, (April 15, 2019), <https://www.newyorker.com/magazine/2019/04/22/guantanamos-darkest-secret>; Ex. 18, Jess Bravin, *'Imagine the Worst Possible Scenario': Why a Guantanamo Prosecutor Withdrew From the Case* (Feb. 11, 2013), <https://www.theatlantic.com/national/archive/2013/02/imagine-the-worst-possible-scenario-why-a-guantanamo-prosecutor-withdrew-from-the-case/273013/>.

³⁴² Ex. 17, Ben Taub, *Guantánamo's Darkest Secret*, The New Yorker, (April 15, 2019), <https://www.newyorker.com/magazine/2019/04/22/guantanamos-darkest-secret>. *Accord* Ex. 20, Jason Meisner, *Retired Chicago detective focus of British newspaper investigation*, Chicago Tribune (Feb. 20, 2015), <https://www.chicagotribune.com/news/ct-guardian-guantanamo-chicago-detective-met-20150220-story.html>.

³⁴³ Ex. 17, Ben Taub, *Guantánamo's Darkest Secret*, The New Yorker, (April 15, 2019), <https://www.newyorker.com/magazine/2019/04/22/guantanamos-darkest-secret>.

abuse and harm.³⁴⁴ A polygraph test Mr. Slahi sat for about two months later, in which he denied everything he had previously confessed, showed no signs of deception.³⁴⁵

Detective Zuley's conduct during his tenure as a detective in Chicago contains multiple allegations with a similar pattern to the allegations of both Mr. Slahi and Mr. Garrett: physical and mental torture that led to a confession. Benita Johnson, for example, who is currently serving a 60-year murder sentence, told The Guardian that she confessed after being tortured by Detective Zuley mentally and physically,³⁴⁶ with Detective Zuley using her family as leverage by telling her she would never see her children again if she did not confess to murder, and then threatening her with the death penalty if she did not confess.³⁴⁷

Similarly, Andre Griggs reported that he was "shackled to the wall for hours" while he was coerced by Detective Zuley to confess to the 1994 killing of Renee Rondeau.³⁴⁸ Detective Zuley also threatened Mr. Griggs with the death penalty.³⁴⁹

Another person convicted of murder, Lee Harris, initially was Detective Zuley's informant in an investigation until Detective Zuley charged Mr. Harris with the crime itself.³⁵⁰ Like Mr. Garrett, Mr. Harris lived in the Cabrini Green housing projects.³⁵¹ It was reported that Detective Zuley pressed Mr. Harris to sign a confession and said he would "take care of him," insinuating a more lenient sentence, if he confessed.³⁵² Mr. Harris insists he never signed a confession, and was not read his Miranda rights.³⁵³

One of Detective Zuley's most infamous cases of alleged police brutality involves Lathierial Boyd, an African American man wrongfully convicted of murder in 1990 and who served 23 years in prison as a result.³⁵⁴ Mr. Boyd stated that Detective Zuley was motivated by racism, telling him, "No nigger is supposed to live like this," after Detective Zuley searched his expensive loft.³⁵⁵ Mr. Boyd was exonerated in 2013 after prosecutors re-examined the evidence

³⁴⁴ Ex. 18, Jess Bravin, *'Imagine the Worst Possible Scenario': Why a Guantanamo Prosecutor Withdrew From the Case* (Feb. 11, 2013), <https://www.theatlantic.com/national/archive/2013/02/imagine-the-worst-possible-scenario-why-a-guantanamo-prosecutor-withdrew-from-the-case/273013/>.

³⁴⁵ Ex. 17, Ben Taub, *Guantánamo's Darkest Secret*, The New Yorker, (April 15, 2019), <https://www.newyorker.com/magazine/2019/04/22/guantanamos-darkest-secret>.

³⁴⁶ See Ex. 6, Spencer Ackerman, *Guantánamo Torturer Led Brutal Chicago Regime of Shackling and Confession*, Guardian (Feb. 18, 2015, 11:01 AM), <https://www.theguardian.com/us-news/2015/feb/18/guantanamo-torture-chicago-police-brutality>.

³⁴⁷ Ex. 19, Spencer Ackerman, *Evidence from Chicago detective's cases re-examined for multiple exonerations*, Guardian (Feb. 19, 2015, 12:32 PM) <https://www.theguardian.com/us-news/2015/feb/19/evidence-chicago-detective-richard-zuley>.

³⁴⁸ *Id.*

³⁴⁹ *Id.*

³⁵⁰ *Id.*

³⁵¹ Ex. 21, Spencer Ackerman, *How Chicago police condemned the innocent: a trail of coerced confessions*, Guardian, (Feb. 19, 2015, 12:33 PM) <https://www.theguardian.com/us-news/2015/feb/19/chicago-police-richard-zuley-abuse-innocent-man>.

³⁵² *Id.*

³⁵³ *Id.*

³⁵⁴ Ex. 6, Spencer Ackerman, *Guantánamo Torturer Led Brutal Chicago Regime of Shackling and Confession*, Guardian (Feb. 18, 2015, 11:01 AM), <https://www.theguardian.com/us-news/2015/feb/18/guantanamo-torture-chicago-police-brutality>.

³⁵⁵ *Id.*

in his case and discovered that Detective Zuley "ignored Mr. Boyd's ironclad alibi, planted evidence implicating him in the shooting and elicited false testimony" from a victim to point to Mr. Boyd as the perpetrator.³⁵⁶ A common link between the cases of Mr. Garrett, Mr. Slahi, Ms. Johnson, Mr. Griggs, and Mr. Harris is that there was no genuine physical evidence linking any of them to the crimes to which they eventually confessed.³⁵⁷

Complaints against Detective Zuley

Pursuant to the Illinois Torture Inquiry and Relief Commission Act, 775 ILCS 40/40(d), a subpoena was sent to the Custodian of Records at the Chicago Police Department requesting all complaint registers, complaint logs, and any other disciplinary investigations, including the complaints and investigative files themselves, in each case, relating to Detective Zuley. The Chicago Police Department responded with 14 Complaint Register ("CR") files, many of which are relevant to Mr. Garrett's claim.

Many of these CR files demonstrate Detective Zuley's pattern of allegations of searching private property without cause or permission. Though this is not directly comparable to Mr. Garrett's claims, these allegations demonstrate Detective Zuley's alleged willingness to violate proper police protocol, constitutional restrictions on police power, and the checks and balances in place to prevent any sort of abuse of police authority. For instance, Phyllis Dewitt alleged that Detective Zuley and three other white male officers entered her house with neither a search warrant nor permission and aggressively questioned her daughter about the whereabouts of her boyfriend in regards to a murder investigation, at one point demanding, "Just tell me where the fucking bastard is."³⁵⁸ Similarly, there was an allegation in the CR that Detective Zuley and two other plain-clothed officers entered and searched the complainant's office without a search warrant or the complainant's permission and refused to identify themselves upon request.³⁵⁹ This also lends credence to the theory that the police in Mr. Garrett's case may have used plain-clothed officers to beat Mr. Garrett.

In addition, many of these CR files involve allegations of malicious and belligerent conduct on the part of Detective Zuley that is in line with Mr. Garrett's testimony and Detective Zuley's history of torture. For example, in two complaints against Detective Zuley, complainants noted that Detective Zuley was belligerent and used profanity when conducting an investigation.³⁶⁰ More relevant to Mr. Garrett's case, shortly before Mr. Garrett's trial, Detective Zuley was alleged to have written an unauthorized investigative report concerning a homicide and then to have disseminated it to the media, creating a bias in the case.³⁶¹ The related investigation by the police department sustained the complainant's allegations that Detective Zuley made a false report and that he sent an unsigned confidential investigative report to the media, which was then the subject

³⁵⁶ See Ex. 20, Jason Meisner, *Retired Chicago detective focus of British newspaper investigation*, Chicago Tribune (Feb. 20, 2015), <https://www.chicagotribune.com/news/ct-guardian-guantanamo-chicago-detective-met-20150220-story.html>.

³⁵⁷ Ex. 19, Spencer Ackerman, *Evidence from Chicago detective's cases re-examined for multiple exonerations*, Guardian (Feb. 19, 2015, 12:32 PM), <https://www.theguardian.com/us-news/2015/feb/19/evidence-chicago-detective-richard-zuley>.

³⁵⁸ See Ex. 11, Summary of Complaints against Det. Richard Zuley [CR 200233].

³⁵⁹ See *id.*, [CR 243223].

³⁶⁰ See *id.*, [CR 215288, CR 263875].

³⁶¹ See *id.* [CR 203655].

of unauthorized news reporting.³⁶² This demonstrates Zuley's use of the media similar to the parading of Mr. Garrett before television cameras after his confession, an act not only attested to by Mr. Garrett but documented on a video recording in TIRC's possession.

The investigative records concerning Detective Zuley also portray a history of allegations of Detective Zuley flagrantly violating proper police procedures and behaviors. For example, a police department investigation sustained allegations that Detective Zuley disobeyed a direct order from his Commander to not involve himself in a specific homicide investigation,³⁶³ and interfered with another jurisdiction's investigation.³⁶⁴ Similarly, Zuley was identified as an officer owing more than \$400.00 in unpaid parking tickets to the city of Chicago.³⁶⁵ Additionally, complainant Penny Williams alleged that Detective Zuley and other officers illegally searched and detained her in a public shopping mall.³⁶⁶ Furthermore, a complaint brought by three friends of Detective Zuley's sons—John Spaw, Anthony Carev, and Oscar Martinez—alleged that the three of them were approached by Detective Zuley's son Sean who offered them a ride in Detective Zuley's police car.³⁶⁷ After this incident, Detective Zuley arrested the three of them for Criminal Trespass to Vehicle but selectively omitted Sean Zuley's name from the case report.³⁶⁸ The three complainants alleged that they were taken to an interview room at the police station,³⁶⁹ and when the other officers left the room, Detective Zuley entered and began to hit Mr. Spaw across the face, chest, and body while calling him a "motherfucker, a pussy, and a jerk."³⁷⁰ The three complainants alleged that Detective Zuley then punched Mr. Carev on the body and stated, "I told you motherfucker, stay away from my property," and next went to Martinez and hit him "about the body" and took his baseball cap and tore it. The related investigation by the police department sustained these allegations of physical abuse by Detective Zuley against Mr. Spaw, Mr. Carev, and Mr. Martinez.³⁷¹ Detective Zuley's conduct towards his own son's friends lends credence to Mr. Garrett's testimony that he was also physically abused in police custody with input from Detective Zuley.

Some of the complaints within the CR files are strikingly similar to those alleged by Mr. Garrett. For example, complainant Placido LaBoy alleged that he was placed into police custody by Detective Zuley without any physical evidence of his crimes and without a search warrant or arrest warrant.³⁷² Like Mr. Garrett alleges, Mr. LaBoy alleged he was transported into an interrogation room in the Violent Crimes unit at Area 5 of the Chicago Police Department, and he was handcuffed to a wall in an interrogation room for approximately eight hours.³⁷³ Like Mr. Garrett alleges, Mr. LaBoy also alleged that Detective Zuley expressly and intentionally denied his request to contact an attorney.³⁷⁴ Mr. LaBoy further alleged that Detective Zuley forced the

³⁶² *Id.*

³⁶³ *See id.*, [CR 209355].

³⁶⁴ *Id.*

³⁶⁵ *See* Ex. 11, [CR 276049].

³⁶⁶ *See id.*, [CR 196515].

³⁶⁷ *See id.*, [CR 203147].

³⁶⁸ *Id.*

³⁶⁹ *Id.*

³⁷⁰ *Id.*

³⁷¹ *Id.*

³⁷² Ex. 11, [CR 174337].

³⁷³ *Id.*

³⁷⁴ *Id.*

plaintiff to change into an outfit that matched the description of a perpetrator given by a key eyewitness to bias a line-up test.³⁷⁵ Moreover, Mr. LaBoy alleged that Detective Zuley conspired with prosecutors and perjured himself at trial in order to get Mr. LaBoy convicted.³⁷⁶

Another complaint against Detective Zuley is similar to Mr. Garrett's allegations. David Dwayne Toles alleged that in 1989, Detective Zuley coerced him into giving perjured testimony at Lee Harris's trial concerning the murder of Dana Feitler.³⁷⁷ Mr. Toles claimed that two Chicago police detectives, including Detective Zuley, beat him in the basement of Cook County Jail before forcing him to falsely testify.³⁷⁸ Mr. Toles stated that he had never known or seen Mr. Harris before an interaction with Detective Zuley, who showed him a picture of Mr. Harris.³⁷⁹ Mr. Toles alleged that when he told Detective Zuley that he did not recognize Mr. Harris, Detective Zuley replied, "[W]ell, you about to get to know him."³⁸⁰ Mr. Toles alleged that he was then told to call the Chicago Police Department and instructed to state that Mr. Harris had told him he had committed the murder.³⁸¹ Mr. Toles alleged that Detective Zuley then met with Mr. Toles to give him further instructions, and threatened him by saying, "[T]hat's what you better do when you go back to the unit, understand?"³⁸² Mr. Toles alleged that Detective Zuley clarified that if Mr. Toles did not testify against Mr. Harris, the "ball would come back down" in his lap, seemingly insinuating Mr. Toles would become the suspect in the murder or another case.³⁸³

Standard of Decision

Section 40 of the Illinois Torture Inquiry and Relief Act permits the Commission to conduct inquiries into claims of torture.³⁸⁴

"'Claim of torture' means a claim on behalf of a living person convicted of a felony in Illinois asserting that he was tortured into confessing to the crime for which the person was convicted and the tortured confession was used to obtain the conviction and for which there is *some credible evidence* related to allegations of torture occurring within a county of more than 3,000,000 inhabitants."³⁸⁵

If five or more Commissioners conclude by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the case shall be referred to the Chief Judge of Circuit Court of Cook County.³⁸⁶ If fewer than five Commissioners conclude by a

³⁷⁵ *Id.*

³⁷⁶ *Id.*

³⁷⁷ Ex. 11, [CR 297079].

³⁷⁸ *Id.*

³⁷⁹ *Id.*

³⁸⁰ *Id.*

³⁸¹ *Id.*

³⁸² *Id.*

³⁸³ *Id.*

³⁸⁴ See 775 Ill. Comp. Stat. 40/40 (2009).

³⁸⁵ Ex. 775 Ill. Comp. Stat. 40/5(1) (2016) (emphasis added).

³⁸⁶ See 2 Ill Adm Code 3500.385(b) (2014).

preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the Commission shall conclude there is insufficient evidence of torture to merit judicial review.³⁸⁷

The Commission was not asked by the General Assembly to conduct full, adversarial, evidentiary hearings concerning the likelihood of torture, or even to make a final finding of fact that torture *likely* occurred. That remains the role of the courts. Instead, the Commission has interpreted Section 45(c) through its administrative rules as not requiring that it be more likely than not that any particular fact occurred, but rather that there is *sufficient* evidence of torture to merit judicial review.³⁸⁸

Conclusions

Mr. Garrett's his allegations of abuse have remained somewhat consistent for almost three decades. His allegations that he was physically threatened, beaten, not given food or a comfortable place to sleep, not allowed to use the bathroom, and not provided counsel have remained largely consistent throughout his testimonies at his Suppression Hearing, trial, appeals, petitions for post-conviction relief, and his TIRC claim and interview.

Certain aspects of Mr. Garrett's testimony and the record, however, do raise credibility issues for Mr. Garrett. For example, Mr. Garrett gave conflicting testimony as to the order of certain events and regarding his conversation with the paramedic. Mr. Garrett also newly described being beaten with a phone book in his TIRC claim form and interview, but this is not reflected earlier in his record, although he maintains he always referred to being beaten by both a rubber hose and a phone book. Mr. Garrett also could not remember the length of time he was beaten. Mr. Garrett's lack of clarity, however, can perhaps be attributed to the fact that he was being held in a windowless room without a clock during his interrogation and when he was asked about the incident at the Suppression Hearing and trial, it was approximately one year and three years, respectively, after the events in question. Mr. Garrett's written confession also states that he was treated fairly and was not threatened during the investigation, although one can conclude that such a response would likely be the result of the same torture and intimidation that led to his confession in the first place.

But what is indisputable, and cannot be overlooked in this case is the pattern and practice evidence against Detective Zuley, which weighs heavily in favor of Mr. Garrett's allegations. There are the lengthy and consistent histories of complaints against Detective Zuley regarding psychological and physical torture. Not only is Detective Zuley alleged to have tortured multiple other criminal defendants in Chicago, but highly credible U.S. Senate reports and media investigations identify him not only as a participant in, but the chief architect of the torture plan of

³⁸⁷ See 775 Ill. Comp. Stat. 40/45(c) (2009).

³⁸⁸ See 2 Ill. Adm. Code 3500.385(b)(1) (2014). In general, the approach the Commission has taken is akin to the concept of "probable cause." That is, there must be enough evidence that the claim should get a hearing in court. Note that the Commission is free to "find that it is more likely than not that [any] particular fact[] occurred." 2 Ill. Adm. Code 3500.385(b)(2) (2014). The Illinois Appellate Court has similarly framed the Commission's duties: "[T]he 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. . . . What the Commission did was analogous to finding that a postconviction petition could advance to the third stage." *People v. Christian*, 50 N.E.3d 1157, 1180 ¶ 95, 1181 ¶ 98 (Ill. App. Ct. 2016).

Guantánamo Bay detainee Slahi involving conduct so horrendous that it has been remarked upon by investigators as being “illegal, it was immoral, it was ineffective and it was unconstitutional.”³⁸⁹ A military prosecutor who was tasked with prosecuting the detainee Zuley tortured decided that the conduct visited upon Slahi had been so severe as to make the case unable to be prosecuted. “Cruel treatment like Slahi experienced meets the definition of cruel, inhumane and degrading treatment or punishment – they call it CID for short – a grave breach under common article three of the Geneva Conventions,” said Stuart Couch, a former Marine lieutenant colonel. “It’s unconscionable.”³⁹⁰

None of this evidence was presented to Judge Strayhorn at the suppression hearing and it may well have resulted in a different outcome. Thus, the pattern and practice evidence weighs heavily in favor of discrediting the detectives’ testimonies that Mr. Garrett’s allegations against them were untrue.

Significantly, certain of the complaints against Detective Zuley were for behavior that was similar to the kind alleged by Mr. Garrett, *e.g.*, profanity, physical threats, and beatings if a suspect did not confess or otherwise comply with police instructions. Additionally, no murder weapon was ever found, no gun powder residue was found on Mr. Garrett’s clothing, and a number of witnesses who police relied upon for identification of Mr. Garrett were never identified. This provided a strong incentive for Detective Zuley to obtain a confession in a “heater” case that was saturating the airwaves and newspaper front pages at the time.

The Commission acknowledges that Mr. Garrett suffers a credibility gap. Additionally, the Commission does not make a finding that torture more likely occurred than not in this instance. But it does find, by a large margin, that Mr. Garrett has met the standard called for in the statute that is necessary to refer this claim to court – that there is sufficient, credible evidence of torture meriting judicial review. Even given Mr. Garrett’s somewhat inconsistent complaints about the abuse (*i.e.* – the very late raised phonebook beating allegation), there is strong reason to distrust Detective Zuley’s accounts of what transpired in light of his incontrovertible pattern and practice history of allegations of torture. Moreover, Mr. Garrett’s early allegations of physical torture were made before the plethora of allegations and proof of Detective Zuley’s conduct in other matters came to light, lending them somewhat more credibility. Accordingly, there is sufficient evidence meriting judicial review of this case.

The Commission therefore concludes that there is sufficient evidence of torture to conclude by a preponderance of the evidence that the Claim merits judicial review and instructs its Executive Director to refer the claim to the Chief Judge of Cook County for further review.

Date: April 19, 2023

Bennett Kaplan
Substitute Chair for 4/19/2023 Meeting

³⁸⁹ See Ex. 22 - Spencer Ackerman, “Bad lieutenant: American police brutality, exported from Chicago to Guantanamo,” *The Guardian*, February 18, 2015.

³⁹⁰ *Id.*