

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of Anthony Jakes

TIRC Claim No. 2011.035-J

CASE DISPOSITION

Pursuant to 775 ILCS 40/40(c) and 2 Ill. Adm. Code 3500.385(b), it is the decision of the Commission that, by a preponderance of the evidence, there is sufficient evidence of torture to conclude that the Claim is credible and merits judicial review for appropriate relief. This decision is based upon the Findings of Fact and Conclusions set forth below, as well as the supporting record attached hereto.

Findings of Fact

1. On September 16, 1991, Claimant Anthony Jakes ("AJ"), 15 years of age, was arrested around noon by CPD officers and then interrogated by Chicago Police Detectives Michael Kill and Kenneth Boudreau at the Area 3 Violent Crimes Unit at 39th and California.
2. The Commander of the Violent Crimes Unit was Jon Burge, whom Kill and Boudreau worked under.
3. After arriving at Area 3, AJ was interrogated by Kill and Boudreau over a period of 16 hours. During the course of this interrogation AJ was slapped, punched, beaten and kicked. He sustained injuries to his back, stomach, knee, elbow, and ribs. Kill also threatened to throw AJ out the window, and Kill stated that he was close to the Latin Kings gang and AJ's family would be "jumped on" by the Kings if AJ refused to talk. As a result of the coercion and threats AJ signed a 4 page confession to a murder, written by an Assistant State's Attorney, a copy of which is attached as Exhibit A. At 4:30 a.m. on September 17, AJ, a juvenile, had been in custody without a parent, guardian, or lawyer for over 16 hours.
4. At his initial court appearance on September 18, 1991, photographs were taken pursuant to court order which AJ testified depicted bruising to his stomach area, back, and left ribs, as set forth in Exhibit B. According to AJ, they also showed injuries to his elbow and right knee.¹
5. AJ was later indicted for murder and attempted armed robbery in the Circuit Court of Cook County in case no. 92 CR 5073.
6. Before trial AJ filed a motion to suppress his confession based upon physical coercion. AJ testified in support of the motion and the photographs were introduced.

¹ Despite extensive efforts, including subpoenas issued to the Clerk of the Circuit Court, the State's Attorney's Office, and the Public Defender's Office, TIRC has not been able to locate the photographs.

The prosecution introduced the testimony of Kill and Boudreau, who denied any mistreatment and, to explain AJ's injuries, claimed that AJ told them that he had been in a gang fight² on September 15th. A doctor from the Audy Home testified, based upon his notes, that he interviewed AJ on September 18 and did not observe any recent injuries at that time, nor did AJ say anything about being beaten by the police. The motion was denied based primarily upon the finding of the judge that Kill and Boudreau were more credible than AJ.

7. The following evidence was not presented at the hearing on the motion to suppress:
 - a. In 1990, the Office of Professional Standards of the Chicago Police Department concluded after an internal investigation that there had been systematic abuse at Area 2 under the command of Jon Burge for over 10 years. The Report was not released publicly until 1992.
 - b. On November 12, 1991, Jon Burge was suspended, and on February 11, 1993 the Police Board of the City of Chicago separated him from his position as a Commander of Police after finding him guilty of abusing Andrew Wilson at Area 2 in 1982. In 2010 Burge was found guilty of perjury and obstruction of justice for lying and denying any knowledge of, or participation in, the torture of suspects in police custody. He was sentenced to 54 months' imprisonment.
 - c. In 2002 Judge Paul Biebel, Presiding Judge of the Cook County Criminal Court, appointed a Special State's Attorney to investigate allegations of torture by police officers under the command of Burge at Areas 2 and 3 to determine if any criminal prosecutions were warranted. Although the 2006 Report concluded that the statute of limitations barred any criminal prosecutions, the Report found that "[t]here are many [] cases which lead us to believe or suspect that the claimants were abused." (Report of the Special State's Attorney at 16) The Report also noted that, since Burge abused suspects at Areas 2 and 3 while he was Commander of the Unit, "[c]ommon sense compels the conclusion that those who worked for him would not be concerned about their own mistreatment of prisoners, if their commander mistreated them". (*Id.* at 12) It has been reported that Kill has invoked his Fifth Amendment privilege against self-incrimination when asked about abuse of certain suspects.
 - d. TIRC records, attached as Exhibit C, indicate that Kill has been accused of abuse and coercion by approximately 20 other individuals. Included is the case of Ronald Kitchen, who confessed but was later exonerated. Kill has stated under oath in a deposition that he obtained confessions in about 90% of the murder cases he worked, for a total of about 1500 confessions, and that in 90% of those 1500 cases defendants filed motions to suppress "based upon

² Boudreau conceded that AJ did not say that any blows were struck during this alleged "fight". (Transcript of Proceedings dated December 2, 1992, at B84-85)

allegations of unnecessary use of physical force”. People v. Gray, No. 1-04-0868 (Unpublished Order of First District Appellate court dated December 16, 2005 at 9-10, 24)

- e. TIRC records, attached as Exhibit D, indicate that Boudreau has been accused of abuse and coercion by approximately 35 other individuals. Boudreau was involved in the cases of Harold Hill and Peter Williams, each of whom confessed but was later exonerated.
- 8. At trial the prosecution’s case against AJ, apart from the confession, was very weak.³ There were no eyewitnesses to the shooting, and there was no physical evidence linking AJ to the offense. Apart from the confession, the only evidence linking AJ to the crime was the testimony of Gus Robinson, a/k/a “Snake”, who had two prior felony convictions and received dismissal of a criminal charge in return for his testimony⁴ that AJ ran into him shortly before the shooting and asked him to participate in a robbery.
- 9. AJ’s confession, which states that he acted as a lookout while Arnold Day, a/k/a “Little A”, did the shooting conflicts with the statement of Day, which makes no mention of AJ, a lookout, or any accomplice⁵. No weapon was recovered from either Day or AJ.
- 10. AJ raised his coercion claim in a post-conviction petition, which was dismissed but is now on appeal before the First District Appellate Court.

Conclusions

- 1. AJ’s Claim qualifies for summary referral pursuant to 2 Ill. Adm. Code 3500.370 in that:
 - a. AJ has consistently claimed since his initial court appearance to have been tortured in the manner alleged in his TIRC Claim;
 - b. His Claim is strikingly similar to other claims of torture contained in the Reports of the Chicago Police Department’s Office of Professional Standards, and the Report of the Special State’s Attorney, regarding their investigation of Jon Burge and police officers under his command;
 - c. The officers accused are identified in other cases alleging torture; and
 - d. The Claim is consistent with the Office of Professional Standards’ findings of systematic and methodical torture at Area 2 under Jon Burge.
- 2. The Claim also exhibits many of the standard characteristics of a coerced, false confession case:

³ The TIRC is not finding that AJ is necessarily factually innocent of the offense, only that the weakness of the evidence against AJ gave an incentive to coerce a confession to bolster the case against him.

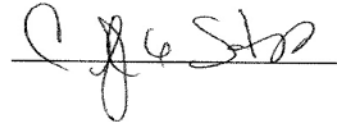
⁴ “Snake” failed to appear pursuant to subpoena and a contempt citation was necessary to secure his testimony.

⁵ Day’s confession was witnessed by Boudreau. Day was acquitted by a separate jury. People v. Jakes, No. 1-04-1388(Unpublished Order of First District Appellate Court dated December 28, 2006 at 12)

- a. The confession, handwritten by an Assistant State's Attorney, is very cursory in nature with less than 3 pages devoted to the facts of the shooting;
 - b. The prosecution's case without the confession is almost nil, with no physical evidence implicating AJ and no eyewitnesses to the shooting;
 - c. AJ's confession contradicts that of his codefendant, Arnold Day, who contended that his confession was coerced also by Boudreau and who was acquitted.
3. While the complaints of physical abuse and coercion against the accused officers are allegations and not judicial findings, they are nevertheless relevant in deciding whether abuse occurred in a specific case. People v. Patterson, 192 Ill.2d 93, 114-15, 735 N.E.2d 616 (Ill.Sup.Ct. 2000); People v. Cannon, 293 Ill. App.3d 634, 640, 688 N.E.2d 693 (1 Dist. 1997); People v Cortez Brown, 90 CR 23997 (Transcript of Proceedings dated May 22, 2009 at 8, Ruling by Judge Crane) (evidence against Burge subordinates of abuse in cases other than Brown's was "staggering" and "damning")
4. While invocation of the 5th Amendment is not an admission of guilt, in a civil proceeding such as this a negative inference can be drawn from that fact. 2 Ill. Adm. Code 3500.375 (g).

DATED: July 25, 2013

*AMENDED: March 24, 2014



Cheryl Starks
Chair
Illinois Torture Inquiry and
Relief Commission