



**STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION REGULAR MEETING
July 19, 2017, 3:00 p.m.**

James R. Thompson Center
100 W. Randolph Street, Meeting Room 9-040
Chicago, Illinois 60601

MINUTES

PRESENT:

Commissioners

Acting Chairwoman Marcie Thorp
Commissioner Marilyn Baldwin
Commissioner James Mullenix
Commissioner Robert Loeb
Alternate Commissioner Futterman
Alternate Commissioner Stephen Thurston

Staff on dais

Rob Olmstead (Executive Director)
Michelle Jenkins (Staff Attorney)
Cindy Burke (Administrative Assistant)

I. Call to Order/Members Present

On July 19, 2017, at 3:01 p.m., Commissioner Marcie Thorp reported she would chair the meeting due to Chairman Starks' absence. There were no objections. Acting Chairman Thorp called the meeting of the Illinois Torture Inquiry and Relief Commission (TIRC or Commission) to order. A quorum was established consisting of the following commissioners who were present: Commissioners Thorp, Baldwin, Loeb, Mullenix and Alternate Commissioners, Futterman and Thurston. Executive Director, Robert Olmstead, Staff Attorney, Michelle Jenkins and Administrative Assistant, Cindy Burke were also present.

II. Approval of Minutes

Acting Chairwoman Thorp called for a motion to approve the open-session draft minutes of the

May 17, 2017, regular meeting. Commissioner Thurston made a moved to approve the minutes as written, and Commissioner Baldwin seconded the motion. The minutes for the March meeting were unanimously approved.

III. Chief Financial Officer's Report

Executive Director Robert Olmstead reported for Dr. Ewa who was not present at the meeting. Olmstead reported that a state budget was passed but due to state financial constraints, the passing also came with a 5% reduction.

IV. Executive Director's Report

Executive Director Robert Olmstead reported new developments in the Commission. He reported that Cindy Burke joined the Commission staff a month ago and introduced her, reporting that she has grant writing experience and has brought forward several ideas for additional funding sources.

Olmstead reported that with the expansion of the Commissions jurisdiction, the Commission now has approximately 419 claims pending, all but 70 of which were not within the Commission's jurisdiction under the previous statute. In addition, there are 12 to 15 applicants who tried to submit claims after the first statute's deadline and were turned away. Those claims will now be revived.

Olmstead introduced Ben Gillig, a law school graduate and Public Interest Law Initiative (PILI) fellow working for the Commission for the summer. He thanked Gillig and PILI for their invaluable assistance.

Director Olmstead noted that some cases have been delayed due to subpoena responses, and that legal options for enforcing subpoenas would be discussed in closed session. He also reported that there are a number of cases where transcripts of court proceedings either cannot be found or were never transcribed to begin with. To obtain these, the Attorney General has filed a motion on behalf of TIRC before Criminal Court Presiding Judge Leroy Martin to have transcripts provided to the Commission at a free or reduced rate.

V. Discussion/Approval of Letter to Judiciary & Other Parties RE: Waiting for TIRC Action in Post-Conviction Petitions.

Acting Chairman Thorp introduced the next agenda item. Staff Attorney Jenkins distributed to Commissioners a draft letter by Director Olmstead and a document from Commissioner Futterman suggesting changes to the draft.

Olmstead highlighted that the letter was drafted due to a practice which has sprung up in the courts with regards to claimants who, in addition to having a claim with the Commission, also have post conviction petition with the courts. In some cases, Olmstead said, courts were delaying review of the postconviction petitions until completion of TIRC's formal inquiry.

Olmstead noted that this is most likely being done to avoid duplicate hearings or contrary opinions. However, he said, courts may not be aware of Section 55(a) of the TIRC Act, which

mandates that “a claim of torture asserted through the Commission shall not adversely affect the convicted person’s rights to other post-conviction relief.” Olmstead requested approval of the letter, which advises the judiciary and other parties of the existence of section 55(a) of the Act.

Commissioner Futterman strongly agreed with the letter but made suggestions for strengthening some of the wording to make clear the Commission felt such delays were in conflict with Section 55(a). Commissioner Baldwin, Loeb, Thorp and Mullenix discussed the wording, and Commissioner Futterman’s suggested changes were adopted.

A motion was made by Commissioner Loeb and seconded by Commissioner Mullenix to approve the letter with Futterman’s amendments. All voting Commissioners and Alternate Commissioners unanimously approved the motion.

VI. Claims

Ben Gillig presented the staff’s recommendations for Summary Dismissals.

1) Gorgis, Ninos (2017.514-G)

Mr. Gillig noted that Mr. Gorgis had not shown he was subjected to conduct constituting torture. Olmstead asked if there were any audience members who would like to speak on behalf of the claimant. There were no individuals who spoke.

A motion was made by Commissioner Mullenix and seconded by Commissioner Loeb to approve the recommendation of the Summary Dismissal for Ninos Gorgis. An individual voice vote was taken. All voting Commissioners and Alternate Commissioners unanimously approve the motion and summarily dismissed the claim.

2) Rhoden, Lawrence (2017.493-R)

Gillig noted that Mr. Rhoden had not alleged conduct constituting torture. Executive Director Olmstead asked if there was anyone in the audience who wanted to speak on behalf of the claimant. There were none.

A motion was made by Commissioner Thurston and seconded by Commissioner Baldwin to approve the recommendation for the Summary Dismissal for Lawrence Rhoden. An individual voice vote was taken. All voting Commissioners and Alternate Commissioners unanimously approved the motion and summarily dismissed the claim.

3) Patton, Bernard (2017.448-P)

Gillig’s presentation noted that Mr. Patton did not allege that he was personally subjected to torture, but rather that a witness, Michael Johnson, had been subjected to torture. Director Olmstead noted that family of Michael Johnson (David Johnson and his mother Joan Johnson) were present.

Joan Johnson, the mother of Michael Johnson, addressed the Commission and described the impact of torture on her son, despite the fact that he was not charged or convicted in connection with Patton’s case. Olmstead noted that Michael Johnson has a claim with the Commission which will be addressed at another time. He stressed that the Commission does not condone torture of any kind but that the Commission is also bound by the statute in what

is considered as a claim, which does not include the torture of a witness.

A motion was made by Commissioner Loeb and seconded by Commissioner Baldwin to approve the recommendation for the Summary Dismissal for Bernard Patton with a slight change in wording. An individual voice vote was taken. All voting Commissioners and Alternate Commissioners unanimously approved the amended recommended determination and summarily dismissed the claim.

VII. Public Comment

Barbara Portee, from Las Vegas addressed the Commission. She noted that she is the sister of claimant Ezra Upshaw, who has been incarcerated since 1974 and filed a claim with the Commission in September 2016. She asked for an update on the status of his claim. Olmstead noted that Mr. Upshaw's claim is relatively new and reviewed the Administrative Rules that outline the order of how claims will be addressed. He invited Ms. Portee to call him personally to discuss further and gave her the Commission's phone number.

VIII. CLOSED SESSION under Section 2(c)(21) of the Open Meetings Act for Semi-Annual Review of Closed-Session Minutes

Acting Chair Thorp called for a motion to move to closed session to discuss potential litigation and potential release of past closed-session minutes. A motion was made by Commissioner Mullenix and seconded by Commissioner Thurston to move into closed session at 3:59 p.m. The motion unanimously passed.

IX. Final Action on Closed Session Item(s)

The Commission returned to Open Session at 4:24 p.m. Acting Chairman Thorp noted that in the Closed Session the Commission discussed the continuing need to keep confidential all closed session minutes not yet released. In accordance with that discussion, Thorp call for a motion to keep confidential all closed session minutes with the exception of that portion of the September 17, 2014 dealing with the Mark Maxon claim because that claim has been resolved.

Commissioner Loeb so moved and Commissioner Thurston seconded his motion. The motion passed unanimously on a voice vote.

X. Adjournment

A motion was made by Commissioner Baldwin and seconded by Commissioner Mullenix to adjourn the meeting at 4:26 p.m. The Commission voted unanimously to adjourn.

Respectfully Submitted,

Cindy Burke
Administrative Assistant