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**BEFORE THE TORTURE INQUIRY AND RELIEF COMMISSION**

In re:  
Claim of Jaime Hauad

TIRC Claim No. 2011.025-H

AMENDED CASE DISPOSITION

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Adm. Code 3500.385(b), the Commission concludes by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review. This decision is based upon the Findings of Fact and Conclusions set forth below, as well as the supporting record attached hereto.

The Commission is nevertheless dismissing this claim without a referral to the Circuit Court of Cook County. It does so because of its determination today, in a separate Order, that it lacks jurisdiction over this claim because it does not involve an officer who was at the time of the alleged torture or previously had been a subordinate of Jon Burge.<sup>1/</sup>

Since the Commission cannot refer this matter to the Circuit Court, it chooses to exercise its power under 775 ILCS 40/45(d) to refer this matter to the State's Attorney of Cook County for review of this case to determine, *inter alia*, whether the State's Attorney should agree to a post-conviction petition that any statement from claimant's interrogation should be suppressed.

I. SUMMARY OF CLAIM.

Jaime Hauad was arrested on May 26, 1997, for questioning in a double murder of Maniac Latin Disciples on the evening of May 22, 1997. He was questioned on the 27<sup>th</sup> and 28<sup>th</sup> at Area Five of the Chicago Police Department. Hauad claims he was beaten, slapped, and held down while a paper cutter was used to cut off the edge of his shoes, with threats to cut off his toes. Hauad refused to sign a statement. Hauad claims that false exculpatory statements from before and after the alleged torture were fabricated by police and an Assistant State's Attorney. Hauad was convicted of the murders.

Counsel for Hauad have provided the following information with his claim:

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<sup>1/</sup> The Commission understands from counsel for Hauad that he will likely seek administrative review of a Commission conclusion that it lacks jurisdiction over non-Burge-related claims, under 775 ILCS 40/55. Because this matter was previously investigated by the commission staff and a determination in this case was previously issued by the Commission, and in order to facilitate administrative review, the Commission has decided to issue this Order, despite its concerns about jurisdiction.

- Lineup photos from a subsequent lineup on May 28 that show Hauad wearing different shoes and Javier DeJesus wearing what appear to be Hauad's shoes, with the tips cut off. (Exhibit C)
- Affidavits from DeJesus and Hauad's mother stating that Hauad switched the shoes with DeJesus in the second lineup, after which the shoes were delivered to his mother. (Exhibits D-E)
- An Affidavit from a witness and a summary of a proffer statement to the U.S. Attorney's Office from a second witness alleging that Nick Maroupoulos, was the murderer.<sup>2/</sup> Nick Maroupoulos also wrote letters to Hauad and his mother that suggest Hauad was innocent.<sup>3/</sup>

## II. FINDINGS OF FACT.

### Findings Relating to the Evidence Against Hauad at Trial:

1. At about 1:00 a.m. on May 22, 1997, Jason Goran and Jose Morales, were shot and killed outside 3151 West George in Chicago. Miguel Salgado, was injured in the same shooting. All three were allegedly members of the Maniac Latin Disciples. They had just left "WHOOOPS," a bar then located at 2853 N. Kedzie. (Police Supp. Rep.; Police Rep. At 23-31.) On May 26, 1997, Jamie Hauad was arrested and taken to Area 5 of the Chicago Police Department. (Police Rep. P. 50)
2. Hauad was convicted of the shooting at a jury trial in March 1999 (3/11/99 Tr. 124-25), and sentenced to two terms of life imprisonment without parole. The main evidence against Hauad was:
  - a. Luz Contreras saw a man on a bicycle outside her window. Shortly afterwards, she heard shots and looked out the window. She saw a man with a gun in his hand backing up. She later identified Jamie Hauad from photos and in a lineup.<sup>4/</sup> (3/9/99 Tr. 92-93, 98-99)
  - b. The surviving shooting victim, Miguel Salgado, testified that:

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<sup>2/</sup> See Hauad 4/30/13 Filing, Exhibits. A and B. Maroupoulos was convicted of a crime involving the Maniac Latin Disciples in the same area. 97 CR 1884301.

<sup>3/</sup> Counsel provided copies of what appear to be letters from Mr. Maroupoulos dated February 26, 1999, and November 5 and 6, 2000.

<sup>4/</sup> Contreras failed to provide information to police shortly after the shooting, but testified she changed her mind after talking with her pastor. (Police Rep. p. 51)

- He didn't know Hauad, but identified Hauad's photo, and then picked him out in a lineup, and identified him in court. (3/11/99 Tr. 45-47, 53-54)
- After the lineup, Salgado told police that he saw Hauad enter WHOOPS with another man – around the time that Morales, one of the murder victims had an argument with “Little Bum” at the bar. Salgado saw Hauad talk to Little Bum, then saw Hauad and a man leave the bar at 12:30 a.m. (*Id.* at 45-49)
- Salgado testified he and the murder victims left the bar at 1 a.m. Salgado saw a man riding a bicycle, heard 4 shots, and fell to the ground. He heard footsteps and a car leaving from an alley. Salgado saw his companions were hit and returned to the bar, but was refused entry. He went to a nearby convenience store, made a phone call, and collapsed. (*Id.* at 43-52)<sup>51</sup>

c. A police officer, Julie Wlezien, testified that:

- Shortly after the shootings on May 22, she saw Hauad in a crowd of on-lookers, half a block from the bodies near George and Kedzie. (3/10/99 Tr. 111-14)
- She stopped a car driven by Hauad at 3:15 a.m. that same morning for a traffic violation, ultimately arresting him for driving without a license. David Ruiz (a/k/a Baby Bum) was in the passenger seat. Wlezien asked Hauad what he was doing in the crowd earlier. Hauad told her that he'd wanted to see if any of his “fellow gang bangers got shot.” (*Id.* at 114-20)
- Because Hauad had a pending warrant, he was sent to Cook County Jail. (*Id.* at 128)

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<sup>51</sup> Salgado's trial testimony was subject to impeachment because he had initially told different stories. Salgado denied in cross-examination that he had changed his story. (3/9/00 Tr. 70-76) However, he told a clerk at the convenience store and a police officer, Dan Sanchez, that he had seen three or four people dressed in black get out of a maroon smaller car, walk towards the victims, and start shooting. (Police Report p.30) Officer Sanchez testified – as a defense witness – that Salgado first said that he hadn't seen anything and didn't know which gang shot him, before describing the car and the alleged shooters. (3/10/99 Tr. 154-56)

Salgado's reliability is also somewhat undercut by his admission that he had 10 drinks and 9 beers that evening, and that he was so drunk he didn't feel the bullet. (3/9/99 Tr. 66-69)

- d. Police officer John Mosquera testified that when Hauad was arrested on May 26, he spontaneously said that his “heart was clear because he was at the County at the time the s\_\_\_ happened.” When asked “what s\_\_\_?” Hauad didn’t respond. (*Id.* at 28-29)
- e. Detective Dan Engel testified he interviewed Hauad on the 27<sup>th</sup>. Hauad told Engel he was in the Cook County Jail on the 21<sup>st</sup>-23<sup>rd</sup>. Hauad told Engel he was sure he’d been arrested at noon on the 21<sup>st</sup> taking his younger brother to kindergarten in his mother’s car. Hauad claimed not to know a shooting had taken place at George and Kedzie. (*Id.* at 40-43)
- f. Assistant State’s Attorney Lorraine Scaduto testified that she interviewed Hauad at Area Five on May 27. She met him at 1 p.m., then interviewed him at 4 p.m., and around 4:45 or 5 p.m. (*Id.* at 86-88, 92)
  - The first thing Hauad said in the 4 p.m. interview was that he had nothing to do with the shootings. He had been locked up in Cook County Jail, and had been arrested on either Tuesday or Wednesday at noon, picking up his little brother from kindergarten in his mother’s car. (*Id.* at 90-91)
  - Hauad changed his story, saying he was driving “Little Bum’s” car and Little Bum’s brother was with him. He said he was arrested in daylight. (*Id.* at 91)

Hauad exercised his right not to testify at trial. (3/10/99 Tr. 147-49) There was no physical evidence tying him to the shootings.<sup>6/</sup> The prosecutors argued that Hauad’s false statements were evidence of his consciousness of guilt; that he lied police to cover up that he committed the murders. (3/11/99 Tr. 24-26)

Findings Related to Additional Evidence About Hauad’s Claim:

3. Prior to trial, Hauad’s lawyer filed a motion to suppress his statements to the police and the Assistant State’s Attorneys. The hearing on the motion was in late 1998.

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<sup>6/</sup> Contreras described the man she saw with the gun at 1 a.m. as wearing a different shirt than the one that Hauad was wearing at the time of his arrest at 3:15 a.m. on May 22. (3/9/99 Tr. 113-14)

a. Hauad testified that:

- He was arrested on the evening of May 26, 1997, by officers Echevarria and Moscari. He had met Officer Echevarria many times before.<sup>7/</sup> (12/7/98 Tr. 62-64)
- He knew his *Miranda* rights, but was not given them by the officers. He invoked his right to silence, because he wanted his lawyer present. He did not speak to the arresting officers except to say he wanted a lawyer. (*Id.* at 63-66)
- Detective Dan Engel and other officers questioned him at an interrogation room at Area Five, where he was handcuffed to a ring in the wall. Engel smacked him, grabbed him, pushed him against the wall, to get him to confess to the murders. Another officer grabbed Hauad by the neck and pushed him against the wall. Hauad complained that his handcuff was too tight, but the officers refused to loosen it.<sup>8/</sup> (12/7/98 Tr. 68-71)
- He asked ASA Lorraine Scaduto for his lawyer. Scaduto went in and out, and the detectives were in the room in between, screaming at him. (*Id.* at 72-74)
- Detectives gave him papers to sign and he was told he could go home if he signed, but he refused. The police did not allow him to read the papers. (*Id.* at 75)
- Hauad was taken to the lockup on the evening of the 27<sup>th</sup>. He did speak with a Detective and ASA on the 27<sup>th</sup> before he was taken to the lockup. (*Id.* at 76)
- He spoke with Detective Engel and ASA Hodge on the 28<sup>th</sup>. He said that he had not eaten since his arrest, and that he had not had a McDonald's (contrary to ASA Hodge's testimony). (*Id.* at 76-77)<sup>9/</sup>

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<sup>7/</sup> Hauad said at his interview with Commission staff that he had known Echevarria since he was 13 or 14, that Echevarria had said for years he would put Hauad away when he turned 17, and that this was the first time he'd seen Echevarria since turning 17 in February, 1997.

<sup>8/</sup> In his interview with Commission staff, Hauad said that Officers Engel, Medianowski, Echevarria, and Vergara hit him.

<sup>9/</sup> The Commission is missing pages 78-80 of this transcript.

Hauad did *not* testify that the tips of his shoes had been cut while they were on his feet. He did *not* testify that he had been threatened that if he did not confess, his toes would be cut off. (No such allegations were raised at the motion or at trial.)

- b. Officer Echevarria testified that he had met Hauad 20-30 times. He denied making a statement about getting Hauad. He testified that Hauad volunteered "I know my heart is clear because I was in the County when that s\_\_\_ happened." (11/13/88 Tr. 13-19)
- c. ASA Lorraine Scaduto testified to three conversations with Hauad on the afternoon of the 27<sup>th</sup> at Area Five. He did not complain about his treatment. He did not make a written statement. He did not ask for a lawyer. (*Id.* at 27-34)
- d. Detective Engel denied mistreatment of Hauad. (12/7/98 Tr. 19-20) He testified that when Hauad was interviewed on the 28<sup>th</sup>, Hauad said his mother had engaged an attorney, but that Hauad wanted instead to talk to the Assistant State's Attorney. (*Id.* at 33)
- e. Former ASA Karen Hodge spoke with Hauad three times on the 28<sup>th</sup>, beginning at 5:30 a.m. She testified that Hauad saw his mother before the interview, and told her his mother had engaged an attorney, but Hauad said he wanted to speak with ASA Hodge. (*Id.* at 41-43) At the end of their third conversation, Hauad asked to speak to his lawyer, so she left. (*Id.* at 45) Hodge saw no signs of mistreatment, and Hauad made no complaints. (*Id.* at 46-47) When questioned about how Hauad knew his mother had contacted an attorney since he was in custody, ASA Hodge testified:

A. His mother came down, and I think she brought him some shoes, if I am not mistaken. She brought him something.

She came down. [. . .] He said he saw his mother and she brought him something. [(*Id.* at 58-59)(emphasis added).]

The motion to suppress was denied.

- 4. Despite testifying at the motion to suppress because the State's Attorney's Office said it wanted to use the statements made to her, ASA Hodge was *not* called to testify at trial.<sup>10/</sup> In her written description of her interview of Hauad, Hodge reported:

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<sup>10/</sup> ASA Hodge was an Assistant United State's Attorney in Washington, D.C., at the time of the suppression hearing and the trial. According to newspaper reports, she died in 2000.

- Hauad claimed that he was at his mother's home with his girlfriend on the night of the 21<sup>st</sup>, leaving with "Baby Bum" at 1 a.m. on the morning of the 22<sup>nd</sup>. Hauad said he rode around with Baby Bum until he was stopped by police at 3:30 a.m.
  - Hauad knew the victims, and denied shooting them. He didn't like Morales but was a friend of Goral.
  - Hauad said that he could not have been at Whoops because he was underage, and the police lied when they said he was at the scene after the shooting. He also said it was dark in the area and nobody could be identified without a spotlight.
  - Hauad said he had originally told police that he was at the County Jail at the time of the shooting because he was confused about the dates. (Hodge Memo to Sheehan of 5/28 interview, in files produced by original defense counsel)
5. In his claim to the Commission and a subsequent interview, Hauad has raised allegations of police misconduct in addition to those raised in his motion to suppress:
- a. After the initial lineup at Area 5, Detective Daniel Engel threatened to cut off Hauad's toes if Hauad did not give a confession. On 4-5 occasions Hauad's feet were placed into an office-grade paper cutter. One officer would hold Hauad's feet under the blade of the cutter while Engel lowered the blade onto his shoes, pressing the blade into the tops of the shoes.<sup>11/</sup> This resulted in a series of gashes across the tops of the shoes, and one was cut all the way through.<sup>12/</sup> (Recorded interview at approx. 7:40-8:40; 10:10-11:00; 11:30-12:25)
  - b. Hauad said that in his heart he did not believe the police would cut his toes off, and he refused to confess. (*Id.* at 11:00-11:20)
  - c. Police officers who came in the room laughed at the condition of Hauad's shoes. (*Id.* at 13:30-13:45)
  - d. Before Hauad was placed into a second lineup, an officer removed Hauad's shoes from his feet and took the shoes. When Hauad walked into the hall to go to the second lineup, he saw the shoes and put them on. At that point, the front section of the shoes had been severed completely, removing all signs of the damage from the paper cutter. The photos in Exhibit B depict the shoes in the condition in which Hauad says he received them after their return. ( )

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<sup>11/</sup> In describing the cutting to the Commission staff, Hauad was prompted to say that his legs were being held down for the shoe tips to be cut.

<sup>12/</sup> The photos of the current conditions of the shoes, Exhibit B, appear to show two shoes cut all the way through. The photo of the second lineup, Exhibit C, is less clear, but appears to show one shoe cut all of the way through, and the other shoe at least partially cut.

- e. Hauad put the shoes back on and proceeded to the second lineup. At the second lineup, Hauad saw that Javier DeJesus was also appearing in the lineup. Hauad knew DeJesus from the neighborhood and had seen him in the station during the two days Hauad was held at Area 5. Hauad thought DeJesus would soon be released because Hauad knew DeJesus was only charged with disorderly conduct. (*Id.* at 17:20-18:10)
  - f. Before the second lineup took place Hauad switched shoes in the lineup room with DeJesus. Hauad asked DeJesus to wear Hauad's shoes and then take Hauad's shoes to his mother upon DeJesus's release. (*Id.* at 13:45-14:15)
  - g. Hauad said that he did tell an Assistant State's Attorney about the shoes, and that he had been beaten and choked in an attempt to get a confession. (*Id.* at 24:00-24:30)
  - h. Hauad also told Commission staff (incorrectly) that he did not testify at his motion to suppress. He said that he did not notice that the claim about the shoes was not brought out in court. Hauad said that he was routinely high on marijuana at the jail and when he came to court. He says he was innocent and had a private attorney, so he did not take his case seriously until the jury found him guilty. (*Id.* at 21:45-23:50)
  - I. Hauad said that the same officers had charged him with a different murder, for which he was acquitted.<sup>13/</sup> (*Id.* at 32:30-33:00)
6. There is photographic evidence that appears to confirm that Hauad's shoes were damaged and were switched with DeJesus.
- a. Pictures of this initial lineup are attached as Exhibit A. In the top photo Hauad is sitting at the extreme left wearing white Fila gym shoes and the tips are not damaged. The bottom photo shows the "F" logo on the tips, and an extra black shoelace in the shoe on the right foot.
  - b. Exhibit C consists of photos of the second lineup. DeJesus is sitting in the middle position wearing the white Filas that Hauad had on in the first lineup,<sup>14/</sup> but now

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<sup>13/</sup> Hauad was acquitted of the September 1996 murder of Sokari Aton and the shooting of David Gonzalez in case number 97 CR 17682 on February 16, 2000. He had been charged on July 9, 1997. Hauad's counsel has advised Commission staff that Hauad was identified by a witness from a photo on March 3, 1997, more than two months before the events in issue in this claim, but Hauad was not charged with the other murder until more than a month after his arrest on the double murder at issue in this Claim. The Commission staff has not reviewed the police reports or testimony in the acquittal, and has not confirmed that the same officers were involved.

<sup>14/</sup> Note the extra black shoelace in the right shoe.

the tips are missing.<sup>15/</sup> The bottom photo in Exhibit C shows Hauad wearing other shoes.

- c. DeJesus signed an Affidavit dated October 8, 2002 (Exhibit D), stating that he did switch shoes as stated by Hauad, and that he then was released. He subsequently delivered the shoes to Hauad's mother. Hauad's mother, Annabel Perez, signed an affidavit dated April 25, 2013, stating that she received the shoes from DeJesus and later delivered them to Hauad's trial attorney.<sup>16/</sup>
7. Hauad's trial attorney, Richard Mottweiler, filed a motion to suppress Hauad's statement, but he made no mention of the gym shoe claim. When questioned about this case by TIRC staff, Mottweiler stated that:
- a. he had no specific recollection of any conversation with Hauad about the shoes;
  - b. his general practice would be to include something like that in a motion to suppress, if mentioned by the client; and
  - c. he thought he had possession of the gym shoes at one time, but it may have been after the trial.
8. Counsel for Hauad have submitted a memorandum arguing that the likely murderer was another Maniac Latin Disciple named Nick Maroupoulos, who they say was convicted of a shooting in the same neighborhood in the same time frame.<sup>17/</sup> Attachments included:
- a. A letter from the U.S. Attorney's Office dated January 17, 2013, stating that in an August 2, 2001 proffer interview, a witness told the FBI that he saw Nick Maroupoulos shoot Goral, Morales, and Salgado. (Letter attached as Ex. A to Hauad 4/30/13 Filing.) According to the letter's summary of the interview:
    - The witness had been drinking at Whoops on the night of the shooting with the victims when Nick Maroupoulos entered the bar. The witness saw Nick Maroupoulos display a gun and say "I'm going to take care of my business," which the witness interpreted as a warning that Nick Maroupoulos was going to shoot Goral, Salgado, and Morales, and the witness should leave.
    - The witness left the bar with Individual Y, got into a car, and circled so they were facing northbound on Kedzie at George.

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<sup>15/</sup> The "F" logo on the tip of each shoe is no longer there.

<sup>16/</sup> The Commission has been advised that the gym shoes are now in possession of Hauad's counsel.

<sup>17/</sup> Nick Maroupoulos was convicted of a crime with a 1997 Circuit Court case number, 97 CR 1884301.

- The witness and Individual Y saw Nick Maroupoulos pull a hooded sweatshirt over his head, then shoot Goral, Salgado, and Morales on George.<sup>18/</sup>
- b. An affidavit of David Ruiz a/k/a Baby Bum, dated Dec. 6, 2012 (Exhibit F to Hauad 4/30/13 Filing), which said that:
- On May 22, he picked up Jaime Hauad in his car between 1 and 2 a.m. at Rockwell and LeMoyne, and that Hauad said Hauad had heard someone had been shot at Kedzie and George Streets. They drove past the intersection, but did not stop because of the police presence.
  - Ruiz was picked up by Detective Majenowski [sic] and his partner on May 28, 1997, driven to the police station at Grand and Central, and told that Ruiz needed to give a statement putting Hauad in his car at 2:30 or 3 a.m. on May 22. Majenowski [sic] threatened to make Ruiz a suspect if he did not give the statement, then took Ruiz to the ASA.
  - There was a power struggle in the Maniac Latin Disciples at the time. Individual Y was the Chief of the west side group. Within a few weeks of the shooting, Individual Y confessed to Ruiz that Individual Y had ordered the killing of Goral and Jose Morales, and that Nick Maroupoulos had done the killing; that two other Maniac Latin Disciples were in the car with X; and that Hauad was not present or involved in the shooting.
- c. Copies of three letters that are apparently from Nick Maroupoulos:<sup>19/</sup>
- A Feb. 26, 1999 letter to Hauad in which Nick Maroupoulos said he wanted to see Hauad in jail, but he had been advised not to “considering,” and he also could apologize for everything, but it wouldn’t help.

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<sup>18/</sup> A copy of this proffer letter was sent to the State’s Attorney’s Office. An Assistant State’s Attorney from the Conviction Integrity Unit advised TIRC staff on May 2 that no action was currently being taken on the case and the ASA had no further information.

<sup>19/</sup> Counsel also provided a copy of a police report of a witness who heard gun shots on May 22 and saw two cars drive away at a high rate of speed north bound in the east alley of Kedzie. (Exhibit C to Hauad 4/30/13 Filing) One was a red four-door car, possibly a Toyota. Attached documents show that Nick Maroupoulos owned a maroon two-door Toyota. (Exhibit E to Hauad 4/30/13 Filing)

Counsel also attached an Agreed Order for Post-Conviction Ballistics Testing in the Hauad case, entered by the trial judge and agreed to by the State’s Attorney’s Office, on April 25, 2013. (Exhibit B to Hauad 4/30/13 Filing) The Agreed Order directed ballistics testing on the bullets and cartridge cases that were collected as evidence in the Goral/Salgado/Morales case, with the handgun collected as evidence in the Nick Maroupoulos case. After being asked by Commission staff, counsel for Hauad advised staff that the testing was negative, and that a link between the gun and the bullets and cartridges had not been confirmed.

- A Nov. 5, 2000 letter to Hauad’s mother, suggesting that what happened to Hauad was the worst thing that ever happened to Nick Maroupoulos.
  - A Nov. 6, 2000 letter to Hauad, in which Nick Maroupoulos says that a “n\_\_” took care of some “nation business,” and that “you got caught up for some s\_\_ you didn’t even do or know about.” It suggests that Hauad was in the “wrong place at the wrong time.” Nick Maroupoulos said he didn’t look after Hauad and his family because he was locked up shortly after Hauad.<sup>20/</sup>
9. In April, 2003, Salgado provided an Affidavit recanting his testimony against Hauad. In the Affidavit, Salgado said he never saw Hauad the night of the shootings. (Exhibit E hereto.)

#### IV. WEIGHING OF EVIDENCE.

Neither Hauad’s version of events nor that of the prosecution is completely persuasive.<sup>21/</sup>

- A. There are substantial reasons to doubt the credibility of Jaime Hauad. These include:
- (I) The credibility of Hauad’s claim of torture concerning the shoes is undercut by his failure to mention it when he testified at his motion to suppress, or in his appeal.<sup>22/</sup>
  - (ii) The reliability of Hauad’s memory is undercut by his statement to TIRC staff on June 14, 2012 that he did not testify at his motion to suppress or trial. He did testify at his motion to suppress. (12/7/98 Tr. 62 *et seq.*)<sup>23/</sup>

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<sup>20/</sup> Court records reflect affidavits from Hauad’s family and then-girlfriend filed in a post-conviction proceeding saying that Hauad was at home during the shooting. Judge Sacks discounted these in his post-conviction ruling, dated April 1, 2005, suggesting that family alibi evidence that was not raised at trial is generally given little weight. (There was also an affidavit from a bartender saying he didn’t see Hauad, who was 17 at the time, in the bar that night.)

<sup>21/</sup> The Commission recognizes that there are often inconsistencies in witness’ perception of and/or testimony about events that can occur when all witnesses are being truthful.

<sup>22/</sup> It was not mentioned by Hauad in any filing prior to his filing a federal habeas petition in 2003 and a state post-conviction proceeding in 2005. Both of these were denied on procedural grounds.

<sup>23/</sup> In addition, Hauad’s medical intake record at the Cermak Health Services at Cook County Jail, dated May 29, would not corroborate a claim of a substantial beating. Hauad signed the record, which did not describe any ongoing symptoms. (Record among materials produced by original defense counsel.)

- (iii) It is difficult to credit Hauad's testimony concerning various details of his interrogation and statements against not just the testimony of the police officers, but also as against the two Assistant State's Attorneys.
- (iv) Hauad alleges that the police testified to fabricated statements he did not make, as well as a coerced statement. If the police were going to invent or coerce statements, they would seem to have an incentive to invent confessions – or at least statements placing the defendant at the crime scene at the time of the crime – rather than merely false exculpatory statements.<sup>24/</sup>

B. There are also substantial reasons to question the version of events told by the police and accepted at the suppression hearing and at trial. These include:

- (I) The photographic evidence of damage to Hauad's shoes as of the time of the second lineup is compelling. It is very unlikely that Hauad had access to a knife or any other tool that could have cut the tips of his shoes.<sup>25/</sup>
- (ii) The total evidence against Hauad was not strong.
- (iii) There is some evidence that the crime may have been committed by Nick Maroupoulos, as discussed in Paragraph 8 above.
- (iii) While it is possible that Hauad told police officers on May 26 that he was in jail at the time of the shooting on May 22, it is an unlikely alibi since (a) it was within the prior week, (b) Hauad would know there were records disproving it, and (c) Hauad had been arrested on the morning of May 22, within hours *after* the shooting, by an officer he knew.
- (iv) While there was ample evidence placing Hauad in the neighborhood around the time of the shooting, Ms. Contreras, the only person who said Hauad had a gun, did not cooperate with detectives the first time she was interviewed.<sup>26/</sup>
- (v) The descriptions of the events surrounding the shooting by the surviving victim, Miguel Salgado, have been wildly inconsistent.

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<sup>24/</sup> Believing Hauad's story also implies that no police officer noticed the shoe switch when it occurred during the second lineup or noticed the change after the lineup, despite Hauad's report of the repeated comments on the condition of his shoes by police officers prior to the second lineup.

<sup>25/</sup> It appears unlikely the photos were retouched (though an expert has not reviewed them).

<sup>26/</sup> In addition, there was an arguable inconsistency between her description of the manner and direction by which the gunman left the area and the description given by Miguel Salgado. (3/9/99 Tr. 43-45; 93-95)

- (vi) One of the detectives who Hauad claims beat him was Joseph Miedzianowski.<sup>27/</sup> Miedzianowski was arrested in December 1998 and convicted on federal racketeering and drug charges. Information from Miedzianowski's prosecution reportedly included descriptions of Miedzianowski torturing suspects, planting evidence, fixing cases, taking protection money from gang leaders, and cooperating with leaders of certain gangs, including the Maniac Latin Disciples.<sup>28/</sup>
- C. On balance, the Commission concludes that there is substantial evidence that Hauad's shoes were intentionally cut by police officers while he was in police custody, in an attempt to coerce a confession, and that the case merits judicial review.<sup>29/</sup>
- D. There is some evidence to suggest that Hauad may be innocent of the crime for which he was convicted.<sup>30/</sup>

## V. CONCLUSIONS.

1. Despite the existence of some issues concerning Hauad's credibility, discussed above, the photographs attached as Exhibits demonstrate by a preponderance of the evidence that this Claim is credible and merits judicial review. The photographs of the first lineup clearly show Hauad wearing the undamaged Filas. The photographs of the second lineup unmistakably show DeJesus wearing the Filas that Hauad had been wearing at the first

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<sup>27/</sup> Documents confirm that Miedzianowski was one of the detectives who worked on the case. *See generally, e.g.,* "Former cop crossed line, destroyed it; He vacationed with drug dealers, sold them arms, talked too much," *Chicago Tribune*, 2003 WLNR 15408196 (Jan. 19, 2003); "Cop on tape fixing cases: Feds Tampering may involve at least 50 suspects," *Chicago Sun-Times*, 2000 WLNR 10667991 (May 19, 2000).

<sup>28/</sup> The sequence of events concerning the second murder charge against Hauad is also of some concern. If it is true that Hauad was identified as the shooter in the Aton/Gonzalez shooting prior to his arrest for the May 1997 murders, the timing of his questioning and charging in each murder bears additional scrutiny. In addition, his acquittal in the Aton murder/Gonzalez shooting, if the same officers testified, may carry some weight in evaluating the nature of the charges in the current claim. Nevertheless, the Commission has not investigated the circumstances of the Aton/Gonzalez acquittal, and does not rely upon it.

<sup>29/</sup> ASA Hodge's testimony that Hauad's mother brought new shoes doesn't entirely fit with other versions of events. Hodge's testimony raises the possibility that somehow Hauad or his mother thought that Hauad could frame the police for torture during the interrogation and that she therefore brought in the cut shoes prior to the second lineup. It seems unlikely that either had that much foresight. It also seems unlikely that the police would allow shoes to be brought into the lockup without being inspected.

On the other hand, if the police had cut Hauad's shoes and they were temporarily removed and placed in the hall, it would make sense that Hauad asked his mother to bring shoes. However, neither Hauad nor his mother have made such a claim. It is also possible that ASA Hodge had heard there was a problem with Hauad's shoes, and her testimony about Hauad's mother bringing new shoes to Hauad was a failure of memory. The questions about this testimony need not be resolved to recommend re-evaluation of this case.

<sup>30/</sup> The Commission does not express a view as to whether Hauad was innocent of the crime.

lineup, except that the tips were missing. The photographs of the shoes themselves show that the tips have been cleanly cut, rendering it unlikely that Hauad could have cut them with a knife or other sharp object smuggled into the police station.

2. As discussed above, the prosecution's case against Hauad was not strong, creating an incentive to coerce a statement.
3. Despite its finding that this Claim merits judicial review, the Commission has decided to deny the claim for lack of jurisdiction, for the reasons stated in the Order issued today.<sup>31/</sup>
4. The Commission chooses to exercise its power under 775 ILCS 40/45 to refer this matter to the State's Attorney of Cook County for review of this case to determine, *inter alia*, whether the State's Attorney should agree to a post-conviction petition by the claimant that claimant's statement should be suppressed, given the evidence of improper conduct while defendant was in police custody.

AS AMENDED -  
DATED: June 18, 2014



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Cheryl Starks  
Chair  
Illinois Torture Inquiry and  
Relief Commission

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<sup>31/</sup> The Commission requests a prompt judicial resolution of the scope of its jurisdiction to guide its resolution of other cases.

**EXHIBIT A:**

**Photos of First Lineup**

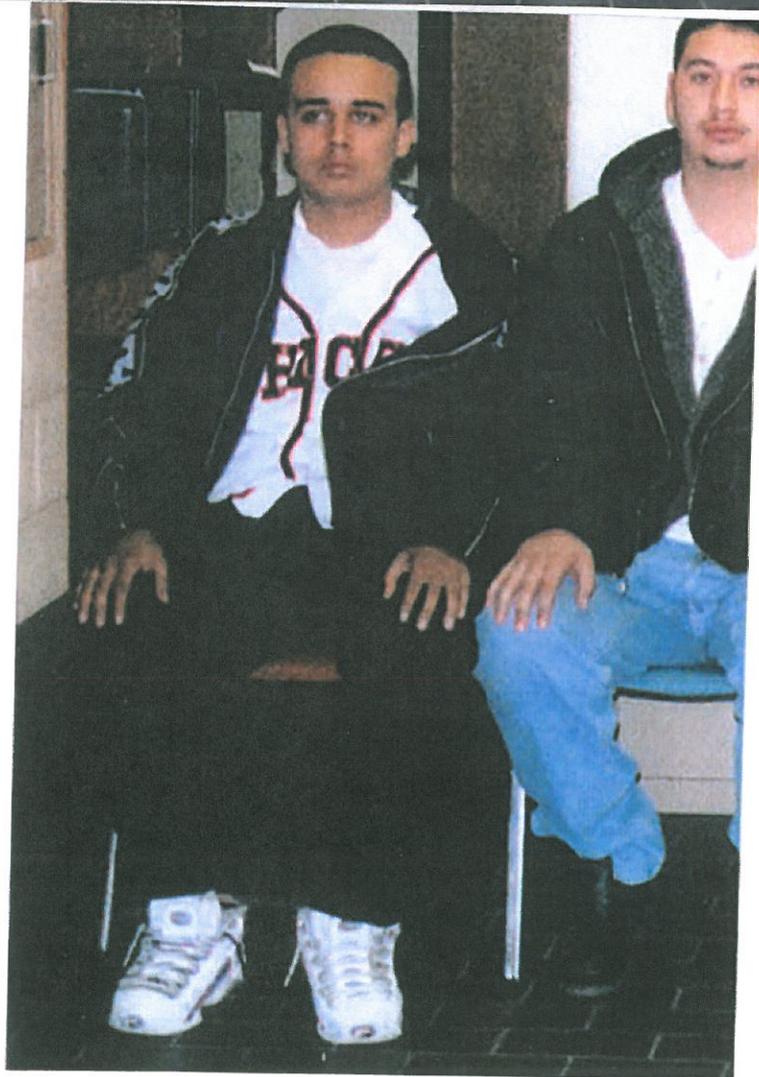


EXHIBIT B:

Photos of Gym Shoes JH wore to Second Lineup





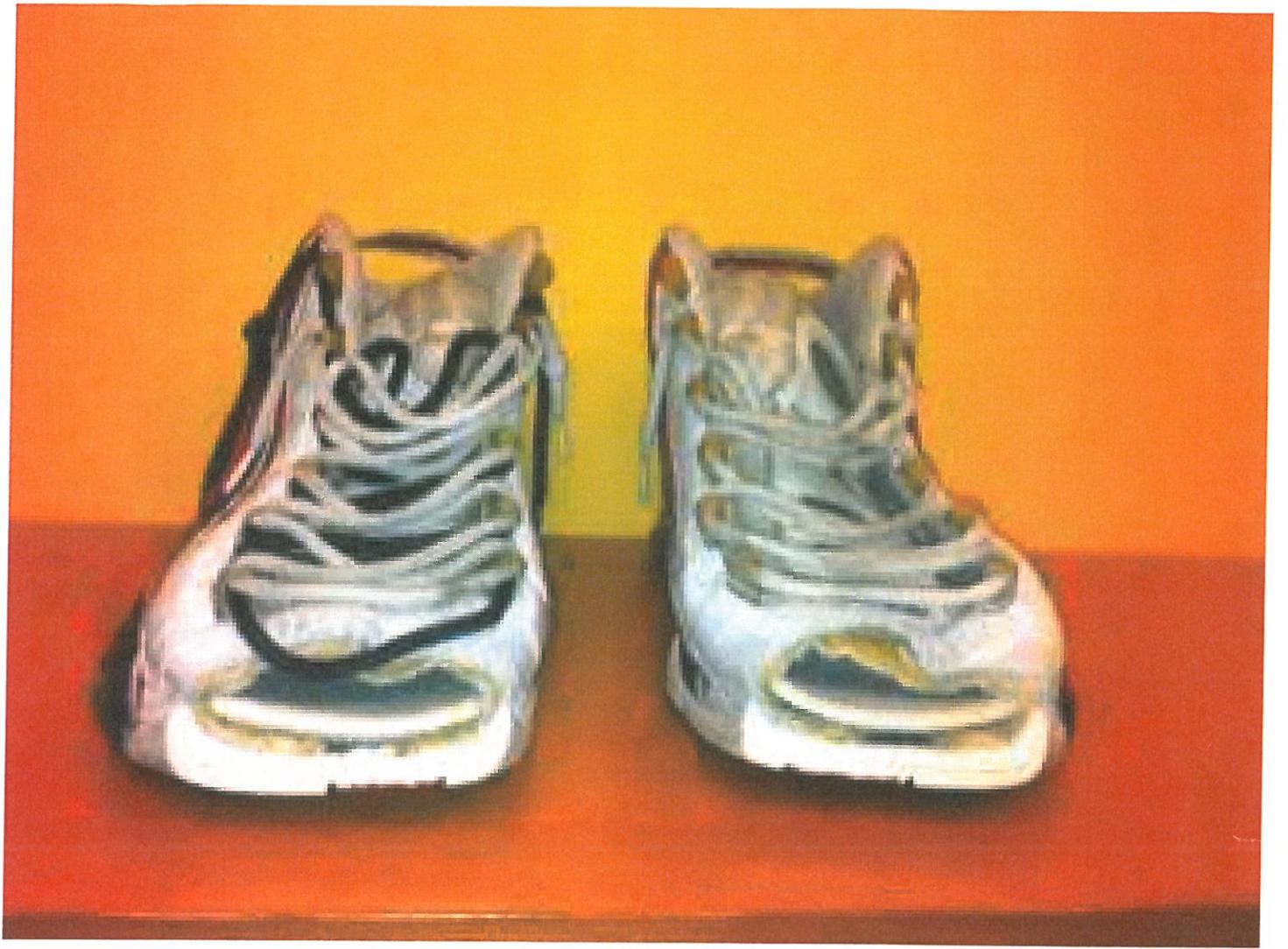


EXHIBIT C:

Photos of Second Lineup



EXHIBIT D:

**Affidavit of Javier DeJesus**

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS  
CITY OF CHICAGO )

AFFIDAVIT OF JAVIER DEJESUS

I, Javier Dejesus, swear under penalty of perjury and states as follows:

1. I am currently reside at 2234 North Lowell in the City of Chicago.
2. This affidavit is based upon my personal knowledge. I am available and competent to testify in a court of law or any other governing body pertaining to the statements made herein. I am voluntarily giving this affidavit without any promises or threats being made to me.
3. On or about May 27, 1997, I was arrested on a charge of disorderly conduct and taken to the police station located at Grand & Central Streets in the City of Chicago.
4. While at the police station, I saw Jaime Hauad and we knew each other from the neighborhood. Jaime Hauad informed me that the police was trying to frame him concerning a shooting where three people got shot.
5. Jaime Hauad had on a pair of Fila gym shoes that were white/red/navy blue in color. The gym shoes were damaged (cut) at the toe section. Jaime Hauad informed me that a police officer had cut the gym shoes upon threatening him with "cutting off his toes if he did not cooperate and tell".

6. Jaime Hauad asked me to exchange gym shoes with him and I agreed to do so. since Jaime Hauad wanted me to take the gym shoes to his mother and show her what the police had done to him and for her to get a lawyer. I gave Jaime Hauad my gym shoes which were a pair of black & red Scottie Pippen

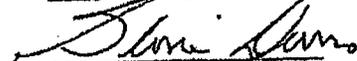
7. The conversation with Jaime Hauad as well as the exchange of gym shoes took place prior to the police lineup that Jaime Hauad was placed within.

8. After my release from jail, which I recollect being the same day or the following day, I went to the residence of Jaime Hauad's mother and gave her the gym shoes. I informed Jaime Hauad's mother that her son said the police abused him and cut the gym shoes upon threatening to cut off his toes if he did not cooperate and tell. I further related to the mother of Jaime Hauad that he wanted her to take the gym shoes to a lawyer and let the lawyer know what had occurred.

I, Javier DeJesus, declares that the above-mentioned declarations are true and correct in fact and substance.

Subscribed in my presence

this 8<sup>th</sup> day of Oct 2002

  
Notary Public

Respectfully Submitted

1st   
Javier DeJesus

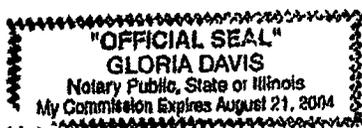


EXHIBIT E:

Affidavit of Miguel Salgado

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

AFFIDAVIT OF MIGUEL SALGADO

I, MIGUEL SALGADO, swears under penalty of perjury and states as follows:

1. I currently reside in the County of Cook. This affidavit is based upon my personal knowledge and observation. I am of legal age, available and competent to speak on all statements in this affidavit.
2. This affidavit is voluntarily given without any threats or promises being made to me.
3. I testified as a witness for the prosecution in the circuit court trial of Jaime Hauad. During my testimony, I never identified Jaime Hauad as the person who shot me or killed Jose Morales and Jason Goral.
4. I never testified or told police that Jaime Hauad was seen by me riding a bicycle at the time of the shootings.
5. Detective Daniel Engels told me that he believed I had arranged for the killing of Jose Morales and Jason Goral. I was taken to the old police headquarters (11th & State Street) by detectives to take a lie detector test. However, the examiner of the lie detector test did not conduct it.

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

AFFIDAVIT OF MIGUEL SALGADO

6. While in Whoops Sports Bar, Jose Morales did get into an argument with a guy who is unknown to me.
7. After the shooting stopped, as I was attempting to get up off the ground, I heard tires of a car screeching.
8. I was questioned by many law enforcement officers including Joseph Miedzianowski.
9. The police informed me that the shootings were gang related. I don't know whether the shootings were gang related or not. I do know that the shooting started from behind as the three of us (Jose Morales, Jason Goral and I) were walking eastbound on George Street.
10. I did notice after turning the corner at the intersection of Kedzie and George Streets heading eastbound on George Street, there was a vehicle parked on the north side of George Street with men sitting inside of the vehicle. Jaime Hauad was not sitting in the car.
11. I falsely stated that Jaime Hauad was inside of Whoops Sports Bar. I did not see Jaime Hauad at no time on May 21, 1997 or May 22, 1997, and not in Whoops Sports Bar.

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STATE OF ILLINOIS )  
COUNTY OF COOK ) SS

AFFIDAVIT OF MIGUEL SALGADO

12. After the shooting ceased, I noticed that Jason Goral was holding his face with his hands and screaming. I was holding Jose Morales and said to him that I was going for help. I ran back to Whoops Sports Bar, but the "Bouncer" would not allow me to seek help and told me to leave. I ran to a store called J.J. Peppers and telephone my mother. I remember telling my mother that I was shot. I was very disoriented, scared and just mentally and emotionally devastated.

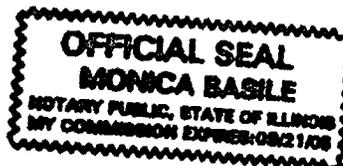
13. I was never contacted by the trial lawyer for Jaime Hauad before, during or after the circuit court trial of Jaime Hauad.

I, Miguel Salgado, declares that the statements made in this affidavit are truthful and correct.

Subscribed in my presence  
this 29 day of April of 2003

Monica Basile  
Notary Public

Respectfully Submitted  
Is/ Miguel Salgado  
Miguel Salgado



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