

BEFORE THE TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of Jaime Hauad

TIRC Claim No. 2011.025-H

13 MAY 29 PM 2:10
CLERK OF THE CIRCUIT COURT
CRIMINAL DEPT.
DOROTHY BROWN
CLERK

FILED

CASE DISPOSITION

Pursuant to 775 ILCS 40/45(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 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 May 27, 1997, Claimant Jamie Hauad ("JH") was arrested for murder and taken to Area 5 of the Chicago Police Department.
2. After his arrival at Area 5 he was placed into a lineup. Pictures of this lineup are attached as Exhibit A. In the top photo JH 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.
3. After that lineup Detective Daniel Engel threatened to cut off JH's toes if JH did not give a confession. On 4-5 occasions JH's feet were placed into an office-grade paper cutter. One officer would hold JH's feet under the blade of the cutter while another officer lowered the blade onto his shoes, pressing the blade into and through the tops of the shoes. This resulted in a series of gashes across the tops of the shoes. Later, before he was placed into a second lineup, an officer removed JH's shoes from his feet and took the shoes. When JH got the shoes back, 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 JH received them after their return. JH put the shoes back on and proceeded to the second lineup.
4. When he got to the second lineup, JH saw that Javier DeJesus was also appearing in the lineup. JH knew DeJesus from the neighborhood and had seen him earlier in the station during the two days JH was held at Area 5. JH thought DeJesus would be

released after the lineup because JH knew DeJesus was not a suspect in the murder and was only charged with disorderly conduct. Before the second lineup took place JH switched shoes with DeJesus so that DeJesus could take JH's shoes to his mother upon DeJesus's release.

5. Exhibit C consists of photos of the second lineup. DeJesus is sitting in the middle position wearing the white Filas that JH had on in the first lineup¹, but now the tips are missing². The bottom photo in Exhibit C shows JH wearing DeJesus's shoes.
6. DeJesus was in fact released and he delivered the shoes to JH's mother, as set forth in Exhibit D. JH's mother later delivered them to JH's attorney, as set forth in Exhibit E.
7. The attorney filed a motion to suppress JH's statement but, even though he was or had been in possession of the shoes, he made no mention of the gym shoe claim.
8. After the motion to suppress was denied, JH was convicted in a trial at which the statement attributed to him was introduced against him. No physical evidence was introduced linking JH to the murders nor were there any eyewitnesses to the shootings. JH was sentenced to two terms of life imprisonment without parole.
9. The gym shoes are now in possession of the Bluhm Legal Clinic at Northwestern Law School.

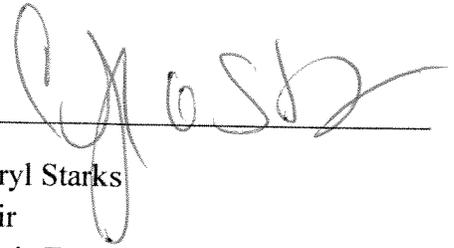
Conclusions

1. The photographs attached as Exhibits demonstrate by a preponderance of the evidence that this Claim is credible. The photographs of the first lineup clearly show JH wearing the undamaged Filas. The photographs of the second lineup unmistakably show DeJesus wearing the Filas JH had on at the first lineup, except now the tips are missing. The photographs of the shoes themselves show that the tips have been cleanly cut, rendering it extremely unlikely that JH could have cut them with a knife or other sharp object smuggled into the police station.
2. The record is devoid of any other explanation for the condition of the shoes, or any other reason why the tips of the shoes would be damaged.
3. The prosecution's case against JH was not strong, creating an incentive to coerce a statement.
4. Therefore, this Claim merits judicial review for appropriate relief.

¹ Note the extra black shoelace in the right shoe.

² The "F" logo on the tip of each shoe is no longer there.

DATED: May 20, 2013

A handwritten signature in black ink, appearing to read "Cheryl Starks", is written over a horizontal line.

Cheryl Starks
Chair
Illinois Torture Inquiry and
Relief Commission

EXHIBIT A:

Photos of First Lineup

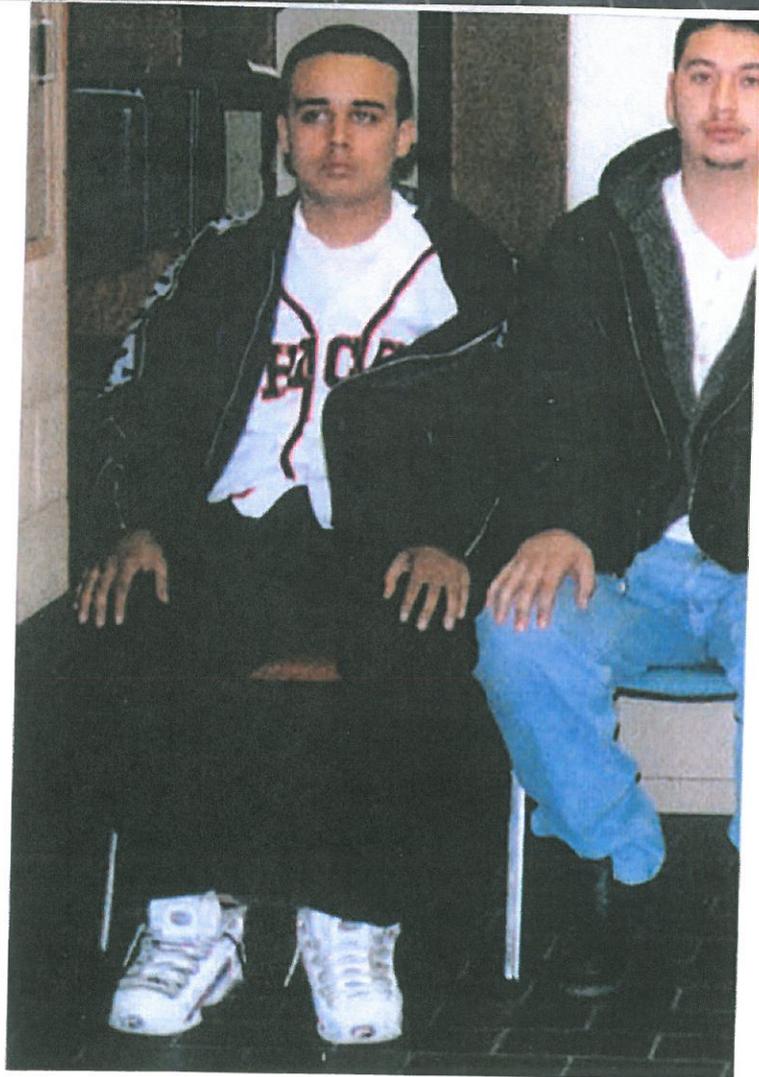


EXHIBIT B:

Photos of Gym Shoes JH wore to Second Lineup





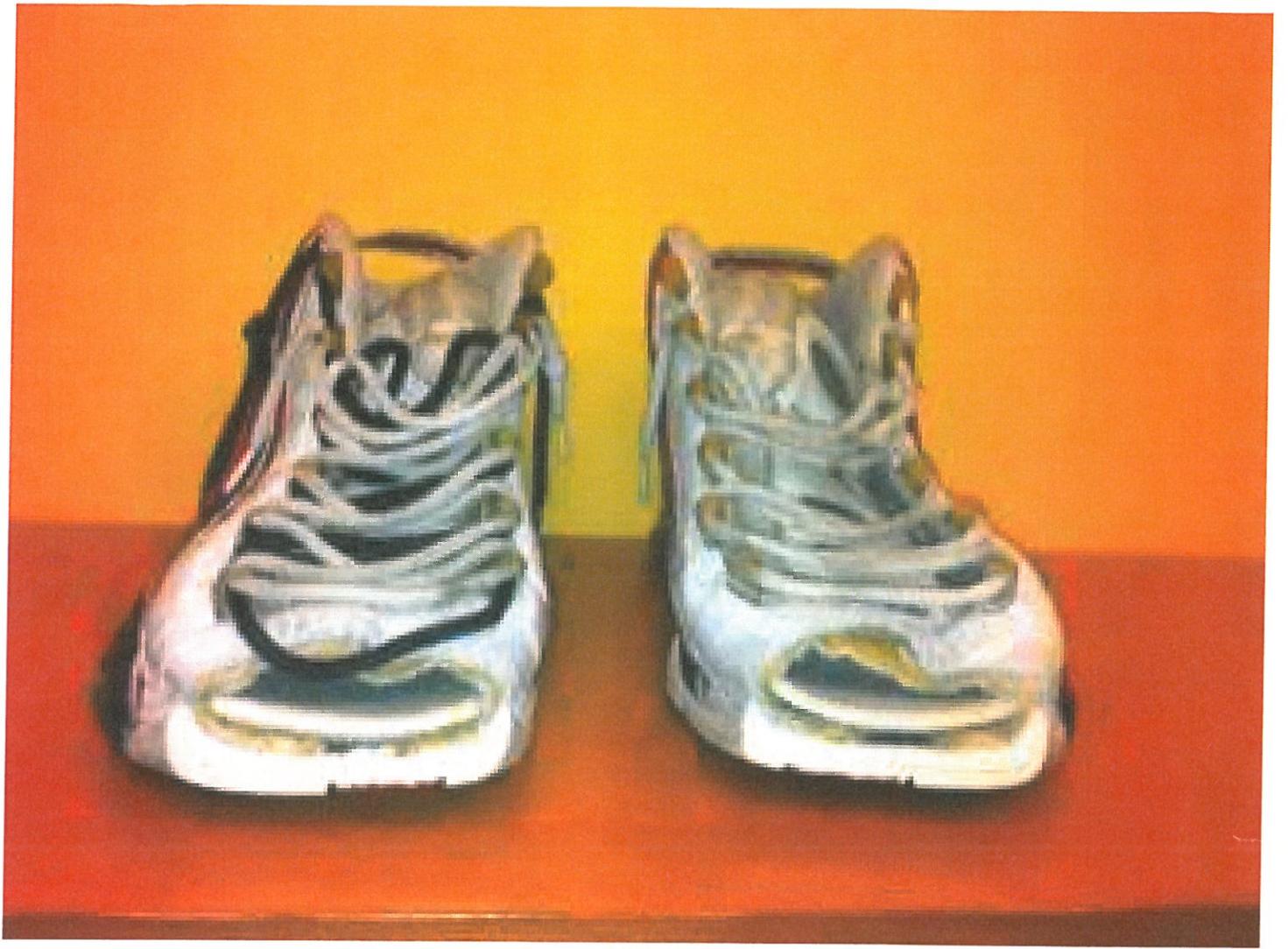


EXHIBIT C:

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

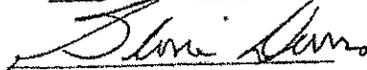
7. The conversation with Jaime Hauad as well as the exchange of gym shoes took place prior to the police lineup that Jaime Hauad was placed within.

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 8th day of Oct 2002


Notary Public

Respectfully Submitted

/s/ 
Javier DeJesus

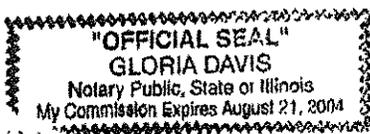


EXHIBIT E:

Affidavit of Annabel Perez

Jaime had told him: that a police officer had cut the gym shoes upon threatening him with "cutting off his toes if he did not cooperate and tell."

8. I kept the shoes in my possession for only a few days, after which time and I delivered them to Jaime's then attorney, Richard Mottweiler. In July 2002, I requested that he return the shoes to me and on October 9, 2002 Mr. Mottweiler brought them to me. They remained in my possession, safely stored away in a bag in my home.
9. On July 27, 2011 at 1:01pm I brought the shoes to the Bluhm Legal Clinic at Northwestern University at 375 E. Chicago Avenue in the City of Chicago. There I gave them to Adolfo Gomez. The shoes remain in their possession.

I have reviewed this statement and had the opportunity to make all of the corrections, changes and additions that I desired. AR

I make this statement of my own free will; I have not been threatened or pressured in any way. I have not been made any promises or received anything at all in exchange for this statement. I make this statement only because I wish the truth to be known. AR

Arvid Page
Signature

4/25/13
Date

SUSCRIBED AND SWORN TO BEFORE ME

On 4/25/13, 2013

J. Cowles
Notary Public

