BEFORE THE TORTURE INQUIRY AND RELIEF COMMISSION

In re:

Claim of Darryl Christian

TIRC Claim No. 2011.004-C

FILED

JUN 13 2012

DOROTHY BROWN
CLERK OF CIRCUIT COURT

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 June 24, 1989, Claimant Darryl Christian ("DC") telephoned the Chicago police and ambulance from his stepmother's[1] home, and related that he had come to the house and discovered that she had been stabbed to death.

2. Area 2 Detectives Michael J. Cummings and Lawrence Nitsche were among the personnel responding to the scene[2]. While at the scene, DC was questioned regarding his activities prior to discovering the body. After being told that the people he mentioned did not support his account, DC was taken to Area 2 of the Chicago Police Department.

3. During the questioning of DC at Area 2, the Detectives screamed and yelled at DC, and Cummings struck DC very hard in the face. DC was also threatened with further beatings if he did not agree to confess.

4. DC eventually signed a three page confession written by an Assistant State's Attorney ("ASA"), a copy of which is attached as Exhibit A.

[1] Although the confession repeatedly refers to the victim as DC's "mother", apparently because he referred to her and regarded her as such, in fact she was his stepmother.

[2] Although Jon Burge had been transferred from Area 2 to Area 3 the year before, Cummings and Nitsche had worked at Area 2 while Burge was there.

5. DC was later indicted for the murder of his stepmother in the Circuit Court of Cook County in case no. 89 CR 15497.

6. DC filed a written motion to suppress his confession before trial alleging that he was struck and confessed as a result. Although he swore to the contents of the motion, his attorney did not call DC as a witness at the hearing on the motion, nor did the attorney present any other witnesses or evidence in support of the motion. The ASA testified for the prosecution that within a period of 45-60 minutes after arriving at Area 2, he:

a. Was briefed by the detectives about the case;

b. Interviewed DC, who orally confessed;

c. Wrote up the confession from memory because he had not taken any notes of his initial interview with DC; and

d. Reviewed the written confession with DC, and it was corrected and signed. (Transcript of Proceedings dated August 16, 1990 attached hereto as Exhibit B)

7. Since the motion to suppress was heard, the following evidence has emerged:

a. In 1990 the Office of Professional Standards of the Chicago Police Department concluded after an internal investigation that there had been systemic abuse at Area 2 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 with the Department of Police after finding him guilty of abusing Andrew Wilson at Area 2 in 1982.

c. In 2002 Chief Cook County Criminal Court Judge Paul Biebel 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 other cases which lead us to believe that the claimants were abused". (Report of the Special State's Attorney at 16) On the occasion of the Report's release, the Special State's Attorney stated that he believed the abuse was an "ongoing" practice, and had occurred in approximately half of the 148 cases which were investigated. (Remarks by Special State's Attorney on July 19, 2006, as reported in the Chicago Tribune on July 20, 2006, attached as Exhibit C)

8. At trial the prosecution's case against DC, apart from the confession[3], was very weak[4]. There were no eyewitnesses to the offense. The murder weapon was not recovered. The only physical evidence of note was a pair of gym shoes recovered from under the front porch, which had a small amount of blood on the outside of the left heel. Although the serology analysis was able to classify it as human blood, it was not identified as the blood of either the victim or DC. The shoes were not even identified as those of DC, other than through the confession. DC did not testify at trial and the defense presented no evidence on his behalf.

9. There are major inconsistencies between the confession and other evidence in the case. For example, the confession does not even mention the gym shoes. The confession states that DC stabbed the victim one time, but the report of the Medical Examiner's Office states that she was stabbed 24 times. The confession states where the murder weapon was supposedly left but the police did not recover the knife[5], even though the confession was made only about 14 hours after the murder allegedly occurred.

10. There are other problems with the prosecution's case. The police took custody of the clothes DC was wearing at the house, but there was no blood on them[6] even though the victim was stabbed 24 times and there was testimony she was discovered lying in a pool of blood. The clothes were not even introduced at the trial. There was no blood or glass[7] in the victim's car, although the confession states that DC drove the car afterward to the spot where he said he threw the knife. There was also no blood on the glass from the basement window.

11. At the sentencing hearing, when DC spoke for the first time in the entire case, he challenged the prosecution's motive theory [8] by stating that he had not been angry or argued with the victim, and in fact had paid for her funeral and burial expenses himself. Although that statement was not investigated or corroborated at the time, the TIRC investigation has revealed that DC did pay the sum of $2,198.00 for funeral and burial expenses, as set forth in Exhibit D.[9]

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[3] The Appellate Court opinion in DC's direct appeal noted that "[t]he strongest evidence against defendant was his signed statement". (Unpublished Order of First District Appellate Court in People v. Christian, Case No. 1-91-0785, dated January 21, 1993, at 5)

[4] The TIRC is not finding that DC is necessarily factually innocent of the offense, only that the weakness of the case against DC gave added incentive to coerce a confession to bolster that case.

[5] There is a question whether the police even tried to recover it. Although the police testified at trial that they did, none of the police reports document any attempt to do so.

[6] Although DC could have changed his clothes after committing the stabbing, the confession makes no mention of this.

[7] The confession states that DC broke a window in the basement to make it look like an intruder committed the murder.

[8] The confession states that DC stabbed the victim because he was angry that she wanted him to move out since he "did not do housework that she thought he should do".

[9] Although it could be argued that DC paid out of guilt and remorse for what he had done, this is a very large sum of money in 1989 for somebody in DC's economic situation who was in jail to boot. It seems highly unlikely that

12. DC presented a version of the same coercion claim he has made with the TIRC in his first *pro se* Post-Conviction Petition filed in 1994, arguing that the use of an involuntary confession violated due process and that his confession was contradicted by other evidence in the case. The Petition was denied on procedural grounds without reaching the merits of the argument.

13. DC presented the claim again more fully in his second *pro se* Petition filed in 2003, citing the OPS Reports and the decision of the Illinois Supreme Court in People v. Patterson and the Appellate Court in People v. Cannon. DC's *pro se* Petition was later supplemented by a Petition filed by appointed counsel, but these were also dismissed on procedural grounds without an evidentiary hearing and without reaching the merits of the claim.

Conclusions

1. This Claim exhibits many of the standard characteristics of coerced, false confession cases. The confession itself is very cursory in nature: it only totals three pages, including the advice of rights, and only a little over one page even relates to the facts of the case. The testimony of the ASA concerning the manner in which the confession was obtained is far from convincing. The confession omits any reference to important facts, such as the gym shoes, and conflicts with others, such as the number of times the victim was stabbed.

2. The prosecution's case without the confession is almost nil. There were no eyewitnesses. There was no physical evidence other than the gym shoes, and the small amount of blood on them was not linked to either the victim or DC. There was no blood on DC's clothing.

3. The quality of DC's legal representation was very poor. For no apparent reason, DC did not testify at the hearing on the motion to suppress and no other evidence was introduced, so other than cross-examination there was nothing presented to support the motion. DC did not testify at trial and no evidence was introduced on his behalf. There is no indication that any investigation was conducted to discover exculpatory evidence, such as the funeral home information. This was obtained over 20 years later, indicating that a contemporary investigation would likely have produced additional exculpatory evidence.

4. DC has consistently asserted his coercion Claim from the time of his motion to suppress, which was filed in February of 1990, through his present filing with the TIRC in May, 2011.

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somebody who had done what DC was convicted of doing would be bothered so much by guilt and remorse that he would pay a funeral bill of that amount.

5. For all the reasons set forth above and in the Findings of Fact, the Claim is credible based upon a preponderance of the evidence, and merits judicial review for consideration of appropriate relief.

Dated: June 13, 2012

Cheryl Starks
Chair
Illinois Torture Inquiry and
Relief Commission

FILED
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DOROTHY BROWN
CLERK OF CIRCUIT COURT

EXHIBIT A:

Darryl Christian's Statement

People #29

P. 1 OF 3

D

STATEMENT OF

DARRYL CHRISTIAN

Taken 24 JUNE 89 At 1400 HR.

At AREA 2 POLICE FACILITY

Present ASA DAVID FISCHER,

DET. MICHAEL CUMMINGS

CD

This statement taken regarding the STABBING DEATH of LOTTIE ADDISON which occurred on 23 JUNE 89 at 1533 E. 76TH A. at 2330 HR.

I understand I have the right to remain silent and that anything I say can be used against me in a court of law. I understand that I have the right to talk to a lawyer and have him present with me during questioning, and if I cannot afford to hire a lawyer one will be appointed by the court to represent me before any questioning. Understanding these rights, I wish to give a statement.

X Darryl Christian

I ALSO TOLD DARRYL THAT I'M AN ASSISTANT STATE'S ATTORNEY, A LAWYER WHO WORKS FOR THE CHICAGO POLICE AND NOT HIS LAWYER. DARRYL SAYS HE UNDERSTANDS BOTH THIS AND HIS RIGHTS AND WILL TELL US WHAT HAPPENED. THE FOLLOWING IS A SUMMARY OF WHAT DARRYL TOLD US:

DARRYL SAID THAT HE'D BEEN DOWN THE BLOCK WATCHING TV WITH HIS FRIENDS WHEN HE DECIDED TO GO HOME. HE WENT TO HIS HOME AND GOT INTO AN ARGUMENT WITH HIS MOTHER; SHE

ASA David Fischer
Darryl Christian
Det. Michael Cummings

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WANTED HIM TO LEAVE BECAUSE HE DID NOT DO HOUSEWORK THAT SHE THOUGHT HE SHOULD DO. DARRYL SAID THAT HE REFUSED TO LEAVE, AND THE ARGUMENT CONTINUED. HIS MOTHER WENT INTO THE KITCHEN AND GOT A LARGE KNIFE; SHE THEN CAME BACK TO WHERE THEY'D BEEN ARGUING. DARRYL TOOK THE KNIFE FROM HIS MOTHER, STABBED HER ONCE WITH IT, AND PUSHED HER AWAY. SHE FELL TO THE FLOOR, AND THE KNIFE WAS DROPPED BESIDE HER.

DARRYL SAID THAT HE THEN LEFT THE HOUSE, RETURNED FOR A WHILE TO HIS FRIEND'S HOUSE DOWN THE STREET, AND THEN WENT WALKING. HE RETURNED TO THE HOUSE HE'D SHARED WITH HIS MOTHER AROUND ~~[illegible]~~ 9th DCDA mtg. AND TOOK HER CAR FOR A RIDE, THROWING THE KNIFE HE'D STABBED HER WITH INTO WEEDS AT 76TH ST. AND SOUTH CHICAGO. DARRYL ALSO BROKE A WINDOW AT THE HOUSE AND THEN CALLED THE CHICAGO POLICE.

ASA [illegible]
Darryl Christian
Det. [illegible]

DARRYL IS 33 YEARS OLD AND RECEIVED HIS G.E.D. IN THE UNITED STATES ARMY. HE READS, WRITES, AND SPEAKS ENGLISH. DARRYL HAS BEEN WELL TREATED WHILE IN POLICE CUSTODY. DET. CUMMINGS HAS GIVEN HIM CIGARETTES AND LUNCH AND COFFEE. NO ONE HAS THREATENED DARRYL NOR PROMISED HIM ANYTHING IN RETURN FOR THIS STATEMENT. DARRYL APPEARS AND SOUNDS FREE FROM ALCOHOL AND DRUGS AND TELLS US THAT HE IS IN FACT SOBER AND IN CONTROL OF HIS THOUGHTS AT THIS TIME. DARRYL HAS TOLD US THAT HE IS SORRY ABOUT WHAT HAPPENED BETWEEN HIMSELF AND HIS MOTHER LAST NIGHT.

ADA [illegible]

[illegible]

[illegible]

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EXHIBIT B:

Transcript of Proceedings dated August 16, 1990

STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,	)	
vs.	)	No. 89 CR 15497
DARRYL CHRISTIAN.	)	Charge: Murder

REPORT OF PROCEEDINGS had at the hearing of the above-entitled cause, before the Honorable RALPH REYNA, Judge of said court, on Thursday, the 16th day of August, A.D., 1990.

PRESENT:

HON. CECIL A. PARTEE,
State's Attorney of Cook County, by:
MS. ELIZABETH RIVERA,
Assistant State's Attorney,
appeared for the People;

HON. RANDOLPH N. STONE,
Public Defender of Cook County, by:
MR. KENDALL HILL,
Assistant Public Defender,
appeared for the Defendant.

Cecilia Peterson, CSR,
Official Court Reporter
Circuit Court of Cook County
Criminal Division

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THE CLERK: People of the state of Illinois versus Darryl Christian. Sheet 14, line 25.

THE COURT: With regard to Darryl Christian, he is here on defense' motion to suppress the statement. Is state ready.

MS. RIVERA: Yes, your Honor.

THE COURT: Defense ready?

MR. HILL: Yes, your Honor.

THE COURT: Bring him out.

MR. HILL: Your Honor, I tender to you a sworn statement by Mr. Christian, swearing to the motion.

MS. RIVERA: Judge, just for the record I note this affirmation is separate from the motion. I would just inquire from the defendant whether he read the motion that precedes that separate sheet and whether or not that's what he is swearing to.

THE COURT: All right. Mr. Christian ---

Do you want to swear him in.

(Affiant duly sworn.)

THE COURT: Mr. Christian, you did in fact read the motion?

THE DEFENDANT: Yes, sir.

THE COURT: And it's true and correct?

THE DEFENDANT: Yes, sir.

MS. RIVERA: Judge, at this time people would call to testify Mr. David Fischer. He will be testifying by affirmation, Judge.

(Witness duly affirmed.)

DAVID FISCHER,

called as a witness by the People, having been first duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY

MS. RIVERA:

Q Sir, please state your full name and spell your last name?

A My name is David G. Fischer, F-i-s-c-h-e-r.

Q What is your occupation, Mr. Fischer?

A I'm an attorney.

Q By whom are you employed?

A Cook County state's attorneys office.

Q How long have you been employed by the Cook County State's Attorneys office?

A Nearly five years.

Q Calling your attention to June 24, 1989, what division of the state's attorney's office were you in?

A At that time I was assigned to the felony

review unit.

Q Are you an attorney duly licensed to practice law in Illinois?

A I am.

Q On that date, June 24, 1989, did you receive an assignment a little before 1:30 p.m.?

A Yes, I did.

Q What was that assignment?

A I was to go to Area 2 Violent Crimes, Chicago Police Facility and speak to Detective Michael Cummings.

Q Where is Area 2 Violent Crimes located?

A 727 East 111th.

Q Did you proceed to Area 2 Violent Crimes?

A I did.

Q What time did you arrive at Area 2 Violent Crimes?

A Just before 1:30.

Q When you arrived at Area 2 Violent Crimes did you see or speak to anyone?

A When I got in the building I spoke to Detective Cummings.

Q After you spoke to Detective Cummings what did you do?

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A I read some paperwork that he had.

Q After that what did you do?

A I had a conversation with the person involved in the case.

Q All right. Where did this conversation take place?

A In an interview room on the second floor at Area 2.

Q And this case, was it a case involving the stabbing death of Lonnie Addison which occurred on June 23, 1989 or June 24, 1989?

A That's right.

Q What was the name of this person that you spoke to at that time?

A Darryl Christian.

Q Do you see Darryl Christian in court today?

A I do.

Q Would you point to that person and indicate something that person is wearing?

A The gentleman in the white shirt sitting next to Mr. Hill.

MS. RIVERA: indicating for the record in court identification of Defendant, Darryl Christian.

THE COURT: Record will so indicate.

BY MS. RIVERA:

Q Mr. Fischer, when you first saw the defendant where was he located?

A He was sitting on a bench that spans the width of that room.

Q In that interview room, correct?

A Right.

Q When you first saw him were you alone or with someone else?

A Detective Cummings was with me.

Q When you first saw him did you say anything to him?

A I did.

Q What did you say?

A "Good afternoon. My name is Dave Fischer. I'm from the state's attorney's office."

Q What did you say then?

A "That means I'm a lawyer. But I'm a lawyer who works with the police and I'm not here to represent you."

Q Did you ask him anything else after that?

A I asked him if he understood that he said yes, he did.

Q After that what did you say?

A I said I'm going to advise you of your rights. And I did.

Q And how did you do that, Mr. Fischer?

A From my memory.

Q And what exactly did you say to defendant?

A First thing I said was, "Do you understand you have a right to remain silent?"

Q What did he say when you asked that?

A He said he did.

Q Then what did you say?

A I said, "Do you understand anything you might say here could be used against you in court?"

Q Did you ask him if he understood that?

A Yes, I did.

Q What did he say?

A He understood.

Q What did you say next?

A "Do you understand you have a right to have a lawyer here with you when any of these conversations are taking place?"

Q And what did he say?

A He said he understood he had that right.

Q Then what did you tell him?

A "Do you further understand that if you don't

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have the money to pay for a lawyer that a lawyer would be appointed to represent you and you would not have to pay him for his services?"

Q Did you ask him if he understood that?

A I did.

Q What did he say?

A He said he understood.

Q Did you ask him anything else after that, Mr. Fischer?

A I said, "Knowing the nature of the case and understanding that I'm not your lawyer do you want to talk to me about the case at all?"

Q What did he say?

A He said he would.

Q Did you then have a conversation, oral conversation with the defendant, Darryl Christian?

A I did.

Q And approximately, if you can estimate, how long did that conversation take, Mr. Fischer?

A About a quarter of an hour.

Q Approximately fifteen minutes?

A That would be right.

Q And after that, at the end of that statement, after he gave you that statement did you

explain anything to him or tell him anything further?

A At the end of the conversation I asked the defendant if he would be willing to have a statement summarizing what he had just told me and Detective Cummings.

Q Did you explain to him what kind of statement?

A I explained to him there could either be a handwritten statement where I would draft a summary of what he had told me and also explained the court reported statement.

Q What did the Defendant say when you explained to him the taking of handwritten and court reported statements?

A He said he'd give a handwritten statement.

Q Did you explain to him what a court reported statement was?

A Yes. I explained what a court reporter is and how it would take place.

Q After the defendant told you he would be willing to give you a handwritten statement what did you do?

A I excused myself from the interview room.

Q When you left the interview room where was

Detective Cummings or what did Detective Cummings do?

A Detective Cummings waited until I walked out the door and then closed the door behind us. He came out with me.

Q What did you do then when you exited the room?

A I went to an empty desk in the detective division work area there, took some forms out of my briefcase and began to write down a summary of what Mr. Christian had just told us.

Q What form did you use?

A A common state's attorney's form. It's got a heading regarding the statement. There's a Miranda Rights section in the center and blank lines at the bottom for the actual narrative.

Q Did you in fact write down a summary of what the defendant had told you previously?

A Yes, I did.

Q Approximately what time did you begin to write that statement the defendant had given you?

A About 2:00 o'clock.

Q After you finished that what did you do?

A After I finished the statement I told Detective Cummings that I wanted to speak with the

defendant again. Detective Cummings undid the door and the two of us then went back in and I showed the statement to Mr. Christian.

Q And when you showed the statement to Mr. Christian did you ask him to do anything?

A I had previously established that he had a GED, but I felt it was still best that he would read some of it aloud. So I had him read from the top where the heading begins down through the Miranda section aloud.

Q And did he in fact read it out loud for you?

A He did.

Q After he finished reading toward the Miranda section what did you ask him to do?

A Well at the bottom of the little segment there where the Miranda warnings are there's a blank line. And I asked him if he would sign there acknowledging that he had also had those same rights in print.

Q And did he in fact sign that right?

A He took a pen and he signed it.

Q After he signed that what did you ask him to do?

A I asked him to just read the rest of the

statement to himself silently.

Q Did he in fact do that?

A He did.

MR. HILL: Objection. Your Honor.

THE COURT: Sustained.

BY MS. RIVERA:

Q Did you observe him going through the statement?

A The statement, my memory is, took more than one page. And I did see him take the first page, turn it over and look at it for a time. He sat it down, picked up the other page and looked at it.

Q When he got to the second page what happened?

A He told me that there was an error in a time. I think I had written 9:30 and he said it was 5:30 or the other way. In any event it was a mistake and he said it should be corrected.

Q When he told you that what did you do?

A I took my pen and struck the mistake and put in the correct time and told him that since it was a correction that all three of us had to initial it.

Q And did you initial it?

A Myself, Detective Cummings and

Mr. Christian all put our initials on the piece of paper near the scratch out and insertion.

Q And what happened then?

A He continued to the end of the statement.

Q At the end of the statement did he say anything to you?

A He said that there were no other corrections to make other than the one with the time.

Q And after the defendant finished with the statement what happened?

A All three of us signed it on each page of the statement.

Q And approximately what time was it when you had finished with the statement, Mr. Fischer, when you had finished reviewing the statement, if you recall?

A It would have been between say 2:15 and 2:30.

Q Mr. Fischer, at any time did you or Detective Cummings or anyone in your presence strike the defendant?

A No.

Q At any time did you or Detective Cummings or anyone in your presence use any type of physical coercion on the defendant?

A No.

MS. RIVERA: May I approach the witness, your Honor.

THE COURT: Surely.

BY MS. RIVERA:

Q Mr. Fischer, showing you what has previously been marked People's Exhibit 1, for identification, I will ask you to look at that.

Do you recognize that?

A Yes, I do.

Q What do you recognize it to be?

A This is a photostatic copy of the statement that I wrote in connection with this case.

Q And is that copy in substantially the same condition or does it depict substantially the same condition as the statement when you took it from the defendant on June 24 of 1989?

A Yes, it does.

Q And what is reflected on each of the three pages?

A In the margin on the first page there's my signature, the defendant's signature and Detective Cummings's signature. On the second page again -- in the left Hand margin, my signature, the defendant's

signature and Detective Cummings' signature. Then on the last page where the narrative ends there's my signature, Mr. Christian's signature and Detective Cummings's signature.

Q Is there anything else on the second page and on the first page?

A On the first page there's the defendant's signature at the bottom of the Miranda section, and on the second page is the correction that I spoke about where I wrote 5:30 and the defendant told me it should be 9:30.

Q All of those times you observed the defendant sign the statement, is that correct?

A That's correct.

Q Mr. Fischer, at any time did you see the defendant eating anything?

A Yes.

Q What did you see him eating?

A He was eating a lunch from McDonalds.

Q And did you ask him -- strike that.

After you exited the -- after you finished taking the statement did you speak to the defendant again at any time?

A Yes, I did.

Q When was that?

A After the signatures were on the statement Detective Cummings and I were leaving the room.

Q And what happened then?

A I waved Detective Cummings away a short distance and I went with my head back in the room and I said thank you and good-bye to Darryl and then I left.

Q At any time did you ask him how he had been treated?

A Yes, I did.

Q And when did you ask him how he had been treated?

A Both before the taking of the statement and again as I was leaving. I said, "Is everything all right?" He said yes.

MS. RIVERA: No further questions, your Honor.

THE COURT: Cross examination.

CROSS EXAMINATION

BY

MR. HILL:

Q Mr. Fischer, you say that you arrived there at approximately 1:30?

A That's right.

Q Where was -- where did you arrive from? Where did you come from?

MS. RIVERA: Objection as to relevance, your Honor.

THE COURT: Overruled. He can answer.

THE WITNESS: I had gone to my home for lunch and I was at my home when the assignment came.

BY MR. HILL:

Q How far is that from Area 2?

A It's close.

Q Now, what time was it that you received the call?

A It would have been 1:00 o'clock or shortly thereafter.

Q Now, when you arrived at 1:30 Mr. Christian was in the interview room?

A When I arrived there I didn't see him at first. When I first saw him he was in an interview room.

Q Was he handcuffed?

A No.

Q Was there anyone in there besides Mr. Christian?

A No. He was there alone.

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Q Now, when you went in what time was it when you went in the interview room?

A The first time, about 1:45.

Q And when you went in there you went in there with Detective Cummings?

A Yes.

Q Now, when you went in there with Detective Cummings did you -- you informed him that you were a lawyer with the state's attorney's officer?

A That's correct.

Q And in fact you told him you were a lawyer working with the police officers, is that correct?

A That's correct.

Q Now, you said that you advised Mr. Christian of his Miranda Rights, is that correct?

A That's correct.

Q How did he respond?

A They were verbal responses. I don't remember if it was yes or I understand but they were verbal responses.

Q Now you say that the conversation lasted approximately 15 minutes?

A That's right.

Q Now, after that conversation you left the

interview room?

A Yes.

Q Who left with you?

A Detective Cummings.

Q And did you -- what time was it when you went back in the interview room?

THE COURT: This is after the handwritten statement?

MR. HILL: No, before.

THE WITNESS: Which time are you referring to?

BY MR. HILL:

Q What time was it that you went back in after you wrote the summary?

MS. RIVERA: I'm sorry, Judge. I didn't hear that. After he wrote the summary?

BY MR. HILL:

Q Yes. What time was it?

A Would have been ten after 2, quarter after 2.

Q When you went in you went in with Detective Cummings?

A That's right.

Q When was he served McDonalds?

A It would have been -- it must have been

right around 1:30 because Detective Cummings was also eating lunch from McDonalds when I --

Q When you arrived?

A I can't remember if it was the moment I arrived, but I remember Detective Cummings was eating lunch from McDonalds as well.

Q You said when you left after having him sign the statement that you left. And did Detective Cummings walk out in front of you?

THE COURT: Which time?

MR. HILL: When he finally --

THE WITNESS: I'm not sure which time you're speaking of, Mr. Hill.

BY MR. HILL:

Q After you wrote the statement you walked out of the interview room, right, after you had him sign the statement?

A Right.

Q You walked out of the interview room, is that correct?

A Right.

Q Did Detective Cummings walk out before you or after you?

A He would have followed me because it was his

responsibility to handle the door lock. I don't touch the door locks.

Q Did he lock the door?

A He had his hand on the knob. And I made a gesture like this for him to go a short distance away, a waving gesture with the backside of my hand. And then I spoke briefly to the defendant and then gestured to Detective Cummings to come back. And then he shut the door and locked it.

Q How far away from the door was the detective when he walked away.

A Maybe from myself to where the judge is sitting. Maybe a couple of feet farther than that.

MS. RIVERA: Indicating for the record a distance of...

THE COURT: 10,12 feet.

MS. RIVERA: 10,12 feet.

BY MR. HILL:

Q Now, when you spoke to him while the detective was away you simply asked him was everything all right?

A I said thank you and good-bye and then I said, "Has everything been all right?"

Q Now, you don't have any personal knowledge

of what happened to Darryl Christian before you arrived, isn't that correct?

A My only personal knowledge is based on the actual time I spent with him.

Q Now, when you said, "Thank you. Good-bye. Has everything been all right?" That took a matter of seconds, isn't that correct?

A Very short, yes.

Q Say about 10, 20 seconds?

A Well, I suppose I could reenact it here and we could time it with a clock. I can't give you a figure in seconds.

Q Now, was there ever -- while you were at Area 2 Violent Crimes were there ever any other officers in the room with you and Darryl Christian besides Detective Cummings?

A No. Each time I was with him it was with Mike Cummings.

Q Now, you took out, when you wrote the statement you took out -- you went and used some prewritten forms by the state's attorney's office, prepared by the state's attorney's office?

A I got them from the supply cabinet in felony review.

Q Did you ever ask Mr. Christian did he want to write out his statement on his own?

A It's not -- as far as I know that's not something that's done in the felony review procedure. I have always written the statement and tendered it for review, correction and signature.

Q I'm sorry. Maybe I'm not asking the question correctly. Did you ever tender to Mr. Christian some paper and pen so he could write the statement out on his own?

A No.

Q You were there approximately from the time you arrived to the time that you left about an hour and fifteen minutes?

A Well I was actually at Area 2 longer than that, but I had finished this case by that time.

MR. HILL: No additional questions, your Honor.

MS. RIVERA: May I have a second, your Honor?

THE COURT: Surely.

REDIRECT EXAMINATION

BY

MS. RIVERA:

Q Mr. Fischer, at any time did you observe any type of injuries on the defendant?

A No.

Q Did he ask you at any time for any medical attention?

A No.

MS. RIVERA: I have nothing further, Judge.

RECROSS EXAMINATION

BY

MR. HILL:

Q Was Mr. Christian wearing a shirt?

A Yes, he was.

Q Did you ask him to remove the shirt?

A No.

Q Did you happen to do any -- take any notes in this case besides this statement that you took?

A No.

MR. HILL: No further questions.

MS. RIVERA: Nothing further, your Honor.

THE COURT: Thank you. You may step down.

THE WITNESS: Thank you, your Honor.

(Witness excused.)

MS. RIVERA: Judge, because of the time factor I think that's all the witnesses we can put on today.

THE COURT: Okay. When do you want to continue this to?

MS. RIVERA: Any time is fine with me, Judge. How is Mr. Hill's calendar?

MR. HILL: Your Honor, is it possible to do it in the -- is it possible to set it for the 26th, your Honor, of September?

THE COURT: Can you do it any sooner than that?

MR. HILL: The only possible way -- I will be on vacation from the 29th through the 10th of September. And I have got a couple of matters on the week of the 10th and week of the 17th.

THE COURT: We can do it on the 11th in case those matters do not go through on the 10th.

MR. HILL: How about the 12th?

THE COURT: That's fine. Hold on call to September 12. Motion to suppress statement commenced and continued to that date of September 12.

MS. RIVERA: Judge, I have two other matters set, motion Peter Scruggs, and bench Calvin Atwood. I anticipate we can do this quickly and early.

THE COURT: Okay.

(WHICH WERE ALL THE PROCEEDINGS HAD IN THE ABOVE-ENTITLED CAUSE.)

cap25

EXHIBIT C:

Article from Chicago Tribune on July 20, 2006 reporting remarks by Special State's Attorney's on July 19, 2006

Chicago Tribune

Medical Malpractice Free case review by a lawyer who is also a doctor. Chicago and suburbs chhlaw.com
Illinois Probate lawyer Over 30 years experience in probate administration and litigation www.chicagoprobate.com
IL Grandparent Visitation Learn about Grandparent Visitation from the attorney who wrote the law www.goldberg...
AdChoices

Change of Subject

OBSERVATIONS, REPORTS, TIPS, REFERRALS AND TIRADES

BY ERIC ZORN | E-mail | About | RSS

Thursday, July 20, 2006

The final word on cop torture lacks outrage

Share |

Dude, where's my adjectives?

Where's my "appalling"? My "unconscionable"? My "malignant"? My "degrading and offensive"?

For $6 million, I expected a far more vigorous use of the thesaurus than I heard during news conference Wednesday morning at which special prosecutors presented **the results** (.pdf) of a four-year investigation into allegations that Chicago police tortured suspects from the mid 1970s to the early 1990s.

Instead, the most memorable fragment of rhetoric from the event was chief deputy special state's attorney Robert Boyle's declaration, "We reflect in the report on what we believe was a bit of a slippage in the (Cook County) State's Attorney's Office at the time of the (Andrew) Wilson case."

Wilson killed two police officers in 1982 and was sadistically worked over during interrogations by an Area 2 police crew led by the now infamous Cmdr. Jon Burge. That beating ultimately proved a window into numerous others incidents, but information about it was brushed off at the time by then States Atty. and now Chicago Mayor Richard M. Daley.

A bit of slippage?

Yes. "We regretfully must say that we think that there was a bit of a slide in the State's Attorney's Office at that time," said Boyle, 69, who was an assistant Cook County state's attorney in the 1960s. "(We realized) full well the uncomfortable position that we would have felt if we were trying to make some judgments relative to procedures followed at the time of, and subsequent to, the questioning of someone who had, in cold blood, killed two young police officers...But I'm not going to do a harangue about it."

A brief harangue would have been nice, actually.

Some indignation. A bit of thunder about violations of the finest traditions of American justice.

Boyle and chief special prosecutor Edward Egan, 83, a former Appellate Court judge who was also a county prosecutor, led a team that spent nearly $6.2 million, interviewed more than 700 witnesses and found credible allegations that 75 suspects were abused by Chicago Police as part of an "ongoing" practice. They put together the most exhaustive and now final word on a pattern of misbehavior that created a scandal that tarnished local law enforcement worldwide.

And yet they somehow managed to make their presentation boring. In language and in tone, they sounded like a couple of Justice Department bureaucrats laying out a tax-fraud case.

"When you look at the conclusion it should be clear to you that we, as an office, have made the judgment that, at Area 2 and 3 starting in the mid `70s and into the very early `90s, that there was physical violence on parties in custody who were being questioned," Boyle intoned.

He did not use the word "torture" until the Q. & A. period following extended introductory remarks, when WLS Ch. 7 reporter Charles Thomas goaded him into it.

No one used the D-word—"disgrace"—until 80 minutes into the 90 minute news conference when the Tribune's Carlos Sadovi asked for an assessment of the legacy of Jon Burge, who was fired in 1993 and now lives in Florida.

"A disgrace," Boyle said. "Anybody who thinks that it's necessary to solve crime by abusing people to get confessions from them is a disgrace. And I think most policemen would agree with that."

The report is thorough and appropriately cautious about what can and can't be known for sure about events that happened long ago. It's persuasive in explaining why the statute of limitations "regrettably" prevents the state from indicting anyone.

But it fails as an effort to "put this to rest," as Boyle said the report had done. Without the language of anger, regret and even shame to surround the voluminous facts, the stain remains.

"That's not my way," Boyle said afterwards when I asked why he and Egan had so pointedly refused to use such words as "systemic" to describe the police misconduct. "Maybe I'm not a good actor. My job is not to be passionate. My job is to follow a court order. I'm not a politician. I'm not up here to sway anyone. I said that people didn't do their jobs. Maybe if I'd had a little more passion and played some organ music behind me I would have been more effective."

Nah. But a sad song on a violin might have helped.

LINKS FROM THE TRIBUNE:

Report: Suspects tortured --Fired Chicago police commander Jon Burge and others tortured suspects, but can't be prosecuted.
- **What was Daley's role?**

EXHIBIT D:

Carter Funeral Chapels' Record of Funeral of Lottie Mae Addison

RECORD OF FUNERAL

81

7281

Yearly No. 155 Date of Entry JUN 24 1989

LOTTIE MAE ADDISON BLACK

☐ Married ☐ Single ☒ Widowed ☐ Divorced ☐ Husband ☐ Wife ☒ Widow or of JOSEPH, SR. (What Race) #2978 Age of Husband or Wife (If living) Years

1533 E. 76th PLACE

DARRYL CHRISTIAN

(or informant) served before #2978 3404

of War NO

OUSEWORK 320 18 9506 (Social Security Number)

HOME

AN 19 1906 73

MONROE, LOUISIANA

24 1989 1:30PM

D.O.A. JACKSON PARK

GEORGE MACHENRY

Mother ANNE FORD

10 1989 MON 1:30P.M.

CHAPEL

Milton Newton, JR.

PROT

(or U.S. or City or County) (Years) (Months)

MULTIPLE STAB AND INCISED WOUNDS

NANCY L. JONES

(or Coroner)

FRONTIER A

DAKRIDGE

RESTVALE-Pd.

Lot No. A Darryl 450.00

Grave No. 59 ? 45.00

Section No. A3

Block No. 4

Owner

800 6/23/89 8/06

Complete Funeral (except outlays) $	1999.00
Casket	✓
Burial Vault or Box (State Kind)	
Embalming Body (Name of Embalmer) D.A.C.	✓
Misc.	
Dressing Body, $ Underwear, $	
Suit or Dress (State Kind and Color) TX600	86.00
Slippers, $ Hose, $	
Folding Chairs, $ Tarpaulin, $	
Candelabrum, $ Candles, $	
Door Spray, $ Gloves, $	
Funeral Car, $ 82-O.S.P. Ambulance, $	✓
Limousines to Cemetery @ $ 44-B.P.	✓
Extra Limousines @ $	
Flower Car @ $	
Autos to R.R. or Air @ $	
Getting Remains from	
Taking Remains to	
Trip to Coroner's Inquest	
Misc.	
Removal Charges	✓
Procuring Burial Permit 613267 (State Number and District)	✓
10 Certif. Copies of Death Certificates No. (State Physician's or Coroner's)	28.00
Pall Bearer Service, $ Use of Chapel, $	
Gross Total for Sales Tax $	
Outlay for Lot	
Cremation	
Flowers, $ Palms, $ Matting, $	
Rental of Tent, $ of Temporary Vault, $	
Opening of Grave or Tomb	
Lining Grave, $ Lowering Device, $	
Outlay for Shipping Charges	
Clergymen, $ Pd Singers, $ Organist, $	✓
Railroad or Truck Tickets, $ Air Service, $	
Telegr., Phone, Cable or Radio Charges	
Cash Advanced	
Out of town Funeral Director's Charges	
Personal Service	✓
PROGRAMS 200	65.00
line Death Notices in Papers	
(Names of Newspapers)	
Sales Tax	31.00
Totaling Footing of Bill $	2209.00
Less JUL 07 1989 Darryl L.	2198.00
Balance $	11.00
Entered into Ledger, page or below.	

Misc.

Amount Paid	Balance	Date		Amount Paid	Balance

Martinez, Rosa

From: Carter Funeral Chapels [carterfuneralchapel@hotmail.com]
Sent: Tuesday, April 24, 2012 10:41 AM
To: Martinez, Rosa
Subject: RE: Attention: Office

This is the information requested re: Lottie Mae Addison, dec.
Mrs. Addison passed on June 24, 1989; services were held on July 10, 1989 in our chapel, with burial in Restvale Cemetery, Worth, IL.
The total for our services were $2198.00, the cemetery is not included in our bill. The bill was paid by her son Darryl Christian.

Sincerely,
Deborah A. Carter-Anthony

From: Rosa.Martinez@Illinois.gov
To: carterfuneralchapel@hotmail.com
Subject: Attention: Office
Date: Mon, 26 Mar 2012 17:20:21 +0000

If you have any questions please feel free to contact us at 312-814-4608

Thank you,

Rosa

Rosa Martinez
Torture Inquiry and Relief Commission
312-814-4608