



Chicago Alliance Against Racist & Political Repression
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March 26, 2020

Hon. J. B. Pritzker
Governor, State of Illinois
207 Statehouse
Springfield, IL 62706

Dear Gov. Pritzker,

We write to ask that you use the powers of your office to provide long overdue justice to Gerald Reed, IDOC ID N32920, whose deteriorating health in incarceration puts him at extreme risk due to the COVID-19 pandemic. Reed is currently in the Northern Reception and Classification Center (NRC) at Stateville Correctional Center. He has heart failure with preserved ejection fraction, and late last year while awaiting a decision regarding a new trial at Cook County jail he had a heart attack.

Reed was wrongfully convicted 29 years ago based on a confession extracted through torture by subordinates of Chicago Police Commander Jon Burge. His conviction was vacated on December 18, 2019 by Judge Thomas V. Gainer, who ordered that he be given a new trial and that his tortured confession be suppressed. The case was assigned to Judge Thomas J. Hennelly, who for 14 months entertained arguments by the state that Judge Gainer's order only applied to Reed's verbal statements to Police (in which he said he was innocent) and not to his written confession. Judge Hennelly grossly exceeded his authority and reversed Judge Gainer's order, directing that Reed be returned to the Department of Correction to serve a life sentence without possibility of parole.

We are appealing to you in your unique capacity as Governor to immediately release Gerald Reed because recent judicial decisions in his case have been conducted outside the rule of law and in denial of his rights to due process, leaving him and his family with no other recourse. Although Reed is appealing Judge Hennelly's order, his physical medical condition does not give him the lengthy time such appeals typically require for resolution.

In 2012, the Illinois Torture Inquiry and Relief Commission (TIRC) granted Gerald an evidentiary hearing for his torture claim when X-rays surfaced of the femur that had been broken during his interrogation by detectives. The vote was 8-0. It was on the basis of the TIRC's decision that Judge Gainer held an evidentiary hearing over the course of 6 years that ultimately led him to vacate Reed's conviction. Reed was transferred to Cook County jail, where he awaited a decision by Judge Hennelly, who only had two alternatives under Judge Gainer's

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order: drop the charges and indictment of Reed and release him or proceed with a second trial.

Instead, on February 14, 2020, by judicial fiat Judge Hennelly overturned Judge Gainer's prior ruling, ignoring the decision of the TIRC and the irrefutable physical evidence on which that decision was based, sending Reed back to prison for life. The decision by Judge Hennelly was unprecedented and illegal, overturning the ruling of his predecessor -- a judge of equal standing. A motion to reconsider was filed with Judge Hennelly by Reed's lawyers on March 18 of this year, accompanied two days prior by an amicus brief from the Illinois Association of Criminal Defense Lawyers.

Gerald Reed is among the population most vulnerable to succumbing to the coronavirus. The extensive damage from the torture he sustained in 1990 has resulted in multiple long-term health conditions, including heart failure and continuing pain from the injuries suffered at the hands of police, which still are un-repaired. He is confined to the use of a wheelchair. These conditions have been seriously exacerbated by the past 30 years of incarceration.

Reed waited 26 years for partial corrective surgery to his damaged leg, which is not completed. His particular underlying health conditions --including hypertension and heart disease -- put him at extreme risk for serious complications from COVID-19.

While awaiting a decision from Judge Hennelly in Cook County jail Reed contracted flu, which developed into pneumonia as a result of his compromised immune system. He was in a coma for two days. He subsequently recovered, but remains extremely vulnerable the longer he is incarceration, especially now.

Following Judge Hennelly's February 14th ruling, Gerald was transferred to the NRC without his medical records or medications (or any list of his prescriptions). He has already passed out while in NRC custody and suffered episodes of muscle spasm and shaking since arriving there.

We ask that you immediately pardon and release Gerald Reed in order to protect his life. Reed will be able to reside in the community after release and has an extensive support system. His medical conditions can be managed outside of hospitalization. Reed's mother, Armanda Shackelford, can care for and house him in a clean and safe environment that protects him from avoidable exposure to the virus.

We also wish to make you aware of certain irregularities, biases, and conflicts of interest that we believe contributed to this history in which Reed has been denied due process and contributed to this grave miscarriage of justice:

- 1) As noted, the judge assigned to Gerald Reed's case after Judge Gainer retired was Associate Judge Thomas Hennelly. The Special Prosecutor assigned to the case was Robert Milan, who asked that Hennelly send Gerald back to prison, despite the fact that his original conviction was overturned. Hennelly complied with Milan's request on February 14, 2020.
- 2) Both Milan and Hennelly were prosecutors for the Cook County State's Attorney's office. Hennelly became Chief Deputy of the Special Prosecutions office, where his boss at the time

was Robert Milan, the Special Prosecutor in Reed's case. The fact that Milan had been Hennelly's boss was never flagged when Hennelly was assigned Reed's case.

- 3) Robert Milan is the former prosecutor who sat with police and personally interviewed and took confessions from the Dixmoor Five, a group of teens who were subjected to hours of intimidation before falsely confessing to rape and murder. Though wrongfully convicted, all five were exonerated years later on the basis of DNA evidence found at the scene, which came from a known serial rapist.¹
- 4) Because of conflicts of interest that tainted the entire prosecutor's office under former State's Attorney Richard Devine – who had personally represented Commander Jon Burge – the Court decided to assign the Burge cases to a Special Prosecutor. This fell to Robert Milan. But Milan had served as Chief Deputy of the entire prosecutor's office under Devine. As a result, Presiding Judge Leroy Martin took the Burge cases away from Milan in 2019 and reassigned them back to Kim Foxx's office – but not Gerald Reed's case, as Martin argued that case was too far along and assigning a new prosecutor would cause further delays.²
- 5) During their time as prosecutors, Hennelly and Milan worked together to keep Aaron Patterson on death row even after ample evidence of his torture by Detective Jon Burge came to light.³ Patterson was eventually exonerated and granted a full pardon by former Governor Ryan because the evidence showed that Milan and Hennelly had built a case that rested entirely on a false confession.
- 6) Hennelly's pattern of denying police torture is well documented, including in the case of Kevin Murray. Like Gerald Reed, Murray was convicted on the basis of a forced confession. Commenting on Murray's claim of being tortured CPD Detective Kriston Kato, then ASA Hennelly told the *Chicago Tribune* in 1993, "You are getting a parade of murderers who come in and say Kato is a beater...It's a lot of nonsense."⁴ The Illinois Torture Inquiry and Review Commission disagreed and upheld Murray's torture claim in 2017.⁵
- 7) In 2002, a CPD detective blew the whistle on Kato to Internal Affairs, documenting how he elicited a false confession from a suspect in a rape case, hitting the homeless man with such force that the whistleblower thought the man would likely die from the blow.⁶ To date, five

¹ Cook County State's Attorney letter to 60 Minutes, accessed at <http://www.documentcloud.org/documents/539779-alvarezletter.html>

² <https://chicago.suntimes.com/2019/12/6/20998979/gerald-reed-trial-double-murder-jon-burge>

³ *Tortured by Blue: The Chicago Police Torture Story*, Bloomington: Balboa Press, 2019

⁴ "Under Siege," *Chicago Tribune*, February 4, 1993, quoting Hennelly. Accessed at <https://www.chicagotribune.com/news/ct-xpm-1993-02-04-9303175553-story.html>

⁵ <https://www2.illinois.gov/sites/tirc/Documents/2017.5.16%20Murray%20FINAL%20DISPOSITION.pdf>

⁶ "Police insider said Chicago detective beat confession from rape suspect," accessed at <https://www.chicagotribune.com/news/ct-daley-center-rape-cop-whistleblower-met-20150708-story.html>

murder convictions based on confessions Kato obtained have been overturned because of torture evidence.⁷

- 8) We note as well that, when he applied to become a judge in 2005, Judge Hennelly did not disclose on his judicial application that he was directly involved in a Batson violation during his time as a prosecutor (in the case of *People v. Walls*).⁸
- 9) A Batson violation is a severe violation of constitutional rights that involves removing all of the non-white jurors from a jury to ensure an all-white jury. In the murder trial of Johnny Walls and Chris Byrd, Hennelly and his partner John “Jack” Hynes kicked off all but one of the black jurors in the case for no reason other than their race.⁹
- 10) The Illinois Appellate Court, First Division, Fifth District overturned the murder conviction in the case of Walls and Byrd because it found that Hennelly and his partner’s actions constituted a Batson violation.¹⁰
- 11) Hennelly and Hynes were required to disclose this fact when applying to become judges. Judge Hynes was the subject of an Attorney Registration and Disciplinary Commission (ARDC) investigation after the *Chicago Tribune* reported that he failed to disclose the violation.¹¹
- 12) Hennelly never disclosed this fact when applying to become a judge, something noted by the Chicago Council of Lawyers in their evaluation of him: “The Council is troubled, however, that [Hennelly] determined that it was not necessary to disclose on his judicial evaluation application that he was involved earlier in his career in a case where a Batson violation was found by a reviewing court.”¹² Hennelly was never investigated for this failure to report and was elected to the bench in 2005.

In closing, we take this moment to say that Gerald’s case provides a window onto all the other cases involving police torture survivors – in one way or another, they all are being tortured by their continued unjust incarceration. The TIRC, appointed by you, the governor, has found they were tortured and granted them the opportunity to have evidentiary hearings and due process. However, in many cases, this due process turns out to be a prolongation of their torture. In Reed’s case – taking six years between 2012 and 2018 for an evidentiary hearing and then another year in Cook County jail,

⁷ <https://www2.illinois.gov/sites/tirc/Documents/2017.5.16%20Murray%20FINAL%20DISPOSITION.pdf>

⁸ *People v. Walls*, Appellate Court of Illinois, First District, Fifth Division. September 30, 1991. Accessed at <https://www.ileagle.com/decision/1991845581ne2d2641797>.

⁹ *Ibid.* See also “New Judge Has Record of Jury Bias,” *Chicago Tribune*, November 5, 1999, speaking about John Hynes, Hennelly’s partner on the case. Accessed at <https://www.chicagotribune.com/news/ct-xpm-1999-11-05-9911050375-story.html>

¹⁰ *People v. Walls*, Appellate Court of Illinois, First District, Fifth Division. September 30, 1991. Accessed at <https://www.ileagle.com/decision/1991845581ne2d2641797>

¹¹ “Accused judge gets surprising support”, *Chicago Tribune*, June 28, 2001.

¹² *A Directory of State Judges in Chicago, Ninth Edition*, The Chicago Council of Lawyers, 2011, p. 79.

from December 2018 to February 2020, while Judge Hennelly conducted his own discovery -- this process has devolved into a flagrant violation of the 8th amendment of the United States Constitution.

Thank you for all you have done to ease the scourge of unjust incarceration in the state of Illinois. And thank you for listening to this most urgent appeal to intervene and save an innocent man's life.

Sincerely yours,

Frank Chapman

Jazmine Salas

Regina Russell

Souzan Naser

Nadine Naber, Mamas Activating
Movements for Abolition and Solidarity

Community Renewal Society

Chicago Torture Justice Center

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