



ROSARIO MARIN  
Secretary  
State and Consumer Services Agency  
Chairperson  
JOHN CHIANG  
State Controller  
Board Member  
MICHAEL A. RAMOS  
San Bernardino County District Attorney  
Board Member  
KAREN MCGAGIN  
Executive Officer

Regarding Penal Code section 4900 claims records:

Please note that in the case of David Allen Jones, a Proposed Decisions and Addendum to Proposed Decision have been provided, but that neither was adopted by the Board. Rather, the Board voted to allow the claim in part in the amount of \$74,600. The minutes from the Board's March 15, 2007, meeting are provided as a reference to this decision.

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7 **BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**  
8 **OF THE STATE OF CALIFORNIA**

9  
10 In the Matter of the Claim of:

11 **David Allen Jones**

12 Claim No. G549272  
13

**Proposed Decision**

**(Penal Code § 4900 et seq.)**

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15 Pursuant to California Code of Regulations, title 2, section 617.6, and upon agreement of the  
16 parties, a hearing on the written record was held by Jennevee H. de Guzman, Hearing Officer, who  
17 was assigned to hear this matter by the Executive Officer of the Victim Compensation and  
18 Government Claims Board (Board).

19 Attorney Glen E. Tucker represented claimant David Allen Jones (Jones).

20 Deputy Attorneys General Lee Seale and Michael Farrell represented the California  
21 Department of Justice, Office of the Attorney General (AG).

22 **Procedural History**

23 In February of 1993, the Los Angeles County District Attorney charged Jones with the murders  
24 of Crystal Cain, Tammy Christmas, Debra Williams, and Mary Edwards (counts I through IV). Jones  
25 was also charged with forcibly raping Sharon Mosley (count V). Following a jury trial, Jones was  
26 acquitted of the charge in count I. The jury, however, convicted Jones of the lesser-included charge of  
27 voluntary manslaughter in counts II and III and second-degree murder in count IV. Jones was  
28 convicted as charged in count V. Jones was sentenced to state prison for a total of 36 years to life. On  
29 September 9, 1996, the California Court of Appeal affirmed Jones' convictions in full.

1 On March 3, 2004, the District Attorney filed a petition for writ of habeas corpus requesting that  
2 the court vacate and dismiss Jones' convictions in counts II, III, and IV based on DNA evidence. The  
3 Los Angeles County Superior Court granted the motion. Jones' conviction and sentence for the rape  
4 remained unchanged, and he was ordered released for his time served as to the rape count. Jones  
5 was released on March 5, 2004.

6 On December 17, 2004, Jones' rape conviction was also vacated under *Brady v. Maryland*<sup>1</sup>  
7 because the prosecution failed to disclose Mosley's rap sheet. The Prosecution refiled the rape count,  
8 but Mosley had died in the meantime. The Prosecution ultimately dismissed the case after the court  
9 ruled that Mosley's prior testimony could not be used at retrial.

### 10 Factual Summary

11 On December 29, 1992, at approximately 10:00 p.m., Sharon Mosley walked by the home of  
12 Jones' mother. Jones, who appeared drunk, was on the porch and asked Mosley for a cigarette. When  
13 she reached for one, he grabbed her around her neck in a headlock chokehold. Jones dragged her to  
14 the backyard, threatened to kill her, and stated, "[g]ive me some pussy." Mosley became weak. She  
15 struggled, but could neither breathe nor scream. At one point, she tried unsuccessfully to stab him with  
16 a knife that she carried. Mosley became dizzy and stopped fighting back. Jones then raped her.

17 At one point Mosley, clothed only in a bra, asked Jones to lower his pants because his belt  
18 buckle "was sticking into her." When Jones did so, Mosley kicked him and ran for help. Jones' mother,  
19 Mary Fowler, opened the front door of her home. Mosley ran inside the house and collapsed on the  
20 floor. Mosley then told Fowler that she had just been raped in the backyard. Jones entered the house  
21 and asked who was lying on the floor. Fowler answered, "[t]hat's the girl you raped in the backyard,  
22 that you attacked." Fowler told Jones to leave because the police were on their way. Fowler gave  
23 Mosley some clothes and dropped her off at a hospital. Mosley left some personal belongings in the  
24 backyard.

25 LAPD sex crimes investigator Alexander Moreno investigated the rape and discovered a  
26 woman's glove, a hair band, and some socks in the backyard. On January 4, 1993, Jones was  
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29 <sup>1</sup> *Brady v. Maryland* (1963) 373 U.S. 83.

1 interviewed by Investigator Moreno. Jones waived his *Miranda*<sup>2</sup> rights and admitted that he had raped  
2 Mosley.

3 Following his interview regarding the rape, Jones was interviewed several more times regarding  
4 the homicides. Jones was twice interviewed by LAPD robbery-homicide detective Fred Miller regarding  
5 the Christmas, Williams, and Edwards homicides; Jones denied murdering any of the three women.  
6 Jones, however, admitted to having received oral sex from these women. Jones further admitted to  
7 having argued with all three women afterwards and to placing them in a chokehold, but that all the  
8 women were still breathing when he left them. Detective Miller and Jones then participated in a walk-  
9 through of the events at an elementary school.

10 Detective Manske, as well as some other detectives, later interviewed Jones regarding the Cain  
11 homicide. Jones admitted to having received oral sex from Cain in an alley near the school, but denied  
12 causing any injuries to Cain. Jones explained that after Cain performed oral sex, she asked him for  
13 more money. Jones refused and she became angry. Jones stated that he placed her in a chokehold to  
14 calm her down. Jones stated that she was still breathing when he left her and that he had covered her  
15 with a blanket. Detective Manske and Jones went to the crime scene, and it was determined that  
16 Cain's body had been found exactly where Jones had left her. At trial the evidence of the rape was  
17 used to show the existence of a *modus operandi* common to all the crimes.

18 Jones was convicted on April 14, 1995. On May 3, 1995, Jones was sentenced as follows:  
19 Count II: the high-term of 11 years; Count III: 2 years, which was one-third of the mid-term; Count IV:  
20 15 years to life; and Count V: high-term of 8 years. With respect to Count V, the sentencing judge  
21 found in aggravation the fact that the crime involved great violence. The judge stated, "[h]e choked the  
22 victim Sharon Mosley. She indicated that she was being smothered to the point where she could hardly  
23 breathe." The judge found in mitigation that Jones was "mildly retarded" and intoxicated, but found that  
24 the aggravating factors outweighed the factors in mitigation.

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29 <sup>2</sup> *Miranda v. Arizona* (1966) 384 U.S. 436.

## Findings

A preponderance of the evidence supports the following findings:

1. On April 14, 1995, Jones was convicted of two counts of voluntary manslaughter, one count of second-degree murder, and one count of forcible rape.
2. Based on exculpatory DNA evidence, Jones' convictions for the two counts of voluntary manslaughter and one count of murder were vacated on March 4, 2004.
3. Jones was subsequently released from custody on March 5, 2004.
4. Jones was properly sentenced to the high-term of 8 years for the rape conviction.
5. At the time of their murders, three of the victims had been strangled and two had been severely beaten.
6. Jones assaulted and choked three of the homicide victims into unconsciousness prior to their murders.
7. Jones forcibly raped Sharon Mosley after placing her in a chokehold.
8. With respect to the rape charge, the sentencing judge found in aggravation the fact that the crime involved great violence.

## Determination of Issues

Penal Code section 4903 establishes the requirements for a successful claim for an erroneously convicted felon. The claimant must prove: (1) that the crime with which he was charged was either not committed at all, or, if committed, was not committed by him; (2) that he did not by any act or omission on his part, either intentionally or negligently, contribute to the bringing about of the arrest or conviction for the crime; and (3) that he sustained a pecuniary injury through his erroneous conviction and imprisonment. If the claimant meets his burden of proof, the Board shall recommend to the legislature that an appropriation of \$100.00 per day of incarceration served subsequent to conviction be made for the claimant. (Pen. Code, § 4904.) The claimant has the burden of proving his innocence by a preponderance of the evidence. (*Diola v. Board of Control* (1982) 135 Cal.App.3d 580, 588, fn 7.)

In reaching its determination of the merits of the claim, the Board may consider the following, but the following will not be deemed sufficient evidence to warrant the Board's recommendation that the claimant be indemnified in the absence of substantial independent corroborating evidence that

1 the claimant is innocent of the crime charged: (1) claimant's mere denial of commission of the crime  
2 for which he was convicted; (2) reversal of the judgment of conviction on appeal; (3) acquittal of  
3 claimant on retrial; or (4) the failure of the prosecuting authority to retry claimant for the crime. (Cal.  
4 Code Regs., tit. 2, § 641.)

5 Jones argues that he was incompetent to stand trial and suggests that perhaps he would  
6 never have been sentenced because "a lack of competence would mean a lack of trial and thus no  
7 sentencing for Mr. Jones." Jones further argues that the "failure to conduct a competency hearing . . .  
8 should be considered in any analysis," of his claim for indemnity. This argument is without merit. A  
9 claim of indemnity pursuant to Penal Code section 4900 necessarily revolves around the issue of  
10 either factual innocence or whether a claimant contributed to his arrest or conviction. Whether or not  
11 Jones was competent to stand trial does not alter the fact that he raped Mosley. Therefore, it is  
12 determined that the issue of Jones' competence to stand trial is irrelevant to a claim of indemnity.  
13 (Pen. Code, § 4903; *Ebberts v. State Board of Control* (1978) 84 Cal.App.3d 329, 335 [claimant found  
14 not guilty by reason of insanity was not erroneously convicted within the meaning of Penal Code §  
15 4900].)

16 In the instant case it is clear that the homicides for which Jones was imprisoned did occur.  
17 Based on DNA evidence the prosecutor apparently concluded that Jones was not the killer. Thus, the  
18 matter before the Board is whether Jones contributed to his own arrest or conviction. Even if he did  
19 not commit the crimes, he is not eligible for compensation if his actions contributed to his arrest or  
20 convictions.

21 The forensic evidence from the murder investigations indicates that at the time of their  
22 murders, three of victims had been strangled and two of the victims had been severely beaten.  
23 Jones acknowledged that he assaulted and choked three of the homicide victims into  
24 unconsciousness prior to their murders. These acts, each of which constituted the crime of felony  
25 battery<sup>3</sup>, were enough of a contribution to the decision to place him under arrest and subsequently  
26 bar him from compensation.

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29 <sup>3</sup> Penal Code section 243(d).

1 In addition, a preponderance of the evidence clearly shows that he committed the rape of  
2 Sharon Mosley. Because that crime was committed in the vicinity of the homicides and in a manner  
3 similar to the homicides, it is clear that his volitional act of raping Sharon Mosley contributed to his  
4 arrest for the homicides. Further, because he committed the rape, evidence about the rape was  
5 available at his trial to show *modus operandi*, which contributed to his conviction for the homicides.

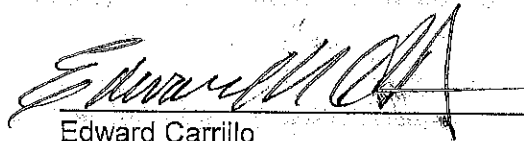
6 Penal Code section 4903 requires that the claimant introduce evidence in support of his claim  
7 and provides that the Attorney General may introduce evidence in opposition thereto. In its response  
8 to Jones' application, the Attorney General recommended that Jones be awarded compensation for  
9 time served beyond the sentence for the rape conviction. However, because Jones made multiple  
10 contributions to his arrest and conviction for the murders, it is determined that he has not satisfied the  
11 statutory requirements for compensation.

12 Based on the foregoing, Jones' application for compensation should be denied.

13 **Order**

14 Jones' claim under Penal Code sections 4900 *et seq.* is denied.

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16 Date: September 12, 2006



17 Edward Carrillo  
18 Hearing Officer  
19 Victim Compensation and  
20 Government Claims Board  
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7 **BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**  
8 **OF THE STATE OF CALIFORNIA**  
9

10 In the Matter of the Claim of:

11 **David Allen Jones**

12 Claim No. G549272  
13

**Addendum to Proposed Decision**

**(Penal Code § 4900 et seq.)**

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15 David Allen Jones filed a claim under Penal Code section 4900, *et seq.* Following a hearing  
16 on the written record, a proposed decision recommending denial of the claim was submitted to the  
17 Board at its meeting on October 19, 2006. Jones' attorney, Glen E. Tucker, appeared at the Board  
18 meeting and addressed the Board.

19 At the Board meeting the Board received information that a settlement had been reached  
20 between Jones and the City of Los Angeles arising out of a civil complaint against the City of Los  
21 Angeles alleging police misconduct. On October 4, 2006, the City of Los Angeles had settled six civil  
22 actions alleging misconduct by the Los Angeles Police Department, one of which was filed by Jones.  
23 The amount of Jones' settlement was \$720,000.00. This was new information not available at the  
24 time of the hearing. The Board deferred its decision and referred the matter back to the hearing  
25 officer to obtain further information about the settlement.

26 The hearing officer requested additional information from Jones relevant to the civil  
27 settlement. Additional documents were received on October 25, 2006. On November 27, 2006, the  
28 hearing officer, Mr. Tucker (counsel for Jones) and Sr. Assistant Attorney General Michael P. Farrell  
29 participated in a telephone conference to further discuss the documentation and the issue of Jones'

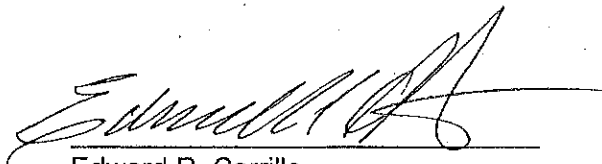


1 contribution to his arrest and conviction. No additional analysis or information regarding the Attorney  
2 General's recommendation was provided.

3 The actual terms of the civil settlement are confidential and therefore no evidence was available  
4 to the Board of police misconduct other than the additional documentation submitted by Mr. Tucker.  
5 The hearing officer reviewed the documents submitted and again carefully reviewed the transcripts and  
6 audio tapes of the investigative interviews conducted by the detectives. The hearing officer found no  
7 facts that would alter the proposed decision previously submitted to the Board.

8 Having received no additional persuasive relevant evidence, the recommendation of the hearing  
9 officer to deny the claim remains unchanged.

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11 Date: February 28, 2007



12 Edward R. Carrillo  
13 Hearing Officer  
14 Victim Compensation and  
15 Government Claims Board  
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# California Victim Compensation and Government Claims Board

## Open Meeting Minutes

March 15, 2007, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Rosario Marin, Secretary, State and Consumer Services Agency, in the Sacramento River Room, 400 R Street, Sacramento, California, on Thursday, March 15, 2007, at 10:07 a.m. Also present were Board members Richard J. Chivaro, Deputy Controller, acting for and in the absence of John Chiang, Controller; and Michael A. Ramos, San Bernardino District Attorney.

Board staff present included Karen McGagin, Executive Officer; Tom O'Connor, Chief Deputy Executive Officer; and Kathleen Andleman, Chief Counsel. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

### **Item 1. Minutes of the February 22, 2007, Board Meeting**

The minutes of the February 22, 2007, Board Meeting were adopted.

### **Item 2. Public Comment**

The Board opened the meeting for public comment. No public comment was offered.

### **Item 3. Executive Officer's Statement**

The Executive Officer gave her report to the Board, which included a number of upcoming events and activities the VCGCB would participate in recognition of National Crime Victims' Rights Week, April 22-28, 2007. The year's theme is "Victims' Rights: Every Victim. Every Time." The VCGCB will also provide outreach to increase awareness of the Victim Compensation Program. The Executive Officer reported the following information:

- The VCGCB will participate in a number of events and activities at the local, state, and national level including our annual march to the Capitol on April 23 and related events being held on the west steps of the Capitol in recognition of Victims' Rights Week.
- The VCGCB has several outreach projects underway including: VCGCB's website to include a victims' rights banner in April; distribution of media tool kits to our county partners; thanks to the State Controller and his Personnel/Payroll Services Division, a message will be included on state payroll warrants issued in April; the Department of Personnel Administration's Employee Assistance Newsletter will include a Victims' Rights Week announcement; and VCGCB posters in English and Spanish are in 60 bus shelters in high crime areas in Los Angeles County.
- VCGCB will cosponsor a symposium hosted by the Capital Center for Government Law and Policy at the University of the Pacific McGeorge School of Law on March 20-21. The Symposium on "Crime Victims' Rights – The Third Wave" will focus on looking to future developments in the victims' rights movement.
- VCGCB will rollout CaRES to two pilot Joint Power counties, Sacramento and San Joaquin. San Bernardino County will also be included in the pilot. VCGCB technical and program staff have met with county Joint Power staff to assess technology needs and coordinate the pilot projects.
- VCGCB staff attended the ninth annual march and vigil of the Carole Sund/Carrington Memorial Reward Foundation's Vigil of Hope on March 10.
- Victim Compensation Program Advisory Committee Meeting was held on March 14 in Sacramento.

- Will attend the California Summit for Safe Communities on March 19. Discussion topics will include issues surrounding the release and placement of high-risk sex offenders.
- Patrick Dorais is the new Deputy Executive Officer of the Fiscal Services Division.
- Kathleen Andleman, Chief Counsel, accepted a new position at CalSTRS.

#### **Item 4. Contract Report**

The Executive Officer delivered the Contract Report to the Board. No action required.

#### **Government Claims Program**

#### **Item 5. Consent Agenda (Nos. 1- 462)**

Gary Coopridner, claimant, G562029, number 181 on the consent agenda, provided comment.

The Board voted to adopt the staff recommendations for numbers 1 through 405, with the exception of numbers 342 and 345 which were continued.

#### **Item 6. Riverside County Sheriff's Office** **G559433-G559435**

Donna Corbin appeared on behalf of the Department of Corrections and Rehabilitation.

The Board voted to adopt the staff recommendation to allow the claims in the total amount of \$1,371.95 to be paid pursuant to Government Code section 13928 (legislative pay).

#### **Item 7. Placer County Sheriff's Office** **G562140-562145**

The Board voted to adopt the staff recommendation to allow the claim in the total amount of \$8,933.79 to be paid pursuant to Government Code section 13928 (legislative pay).

#### **Item 8. Applications for Discharge From Accountability for Collection**

The Board voted to adopt the staff recommendation to approve applications for discharge from accountability for collection of debts totaling \$222,863,392.64.

#### **Item 9. Myron Howard** **G55681**

The Board voted to adopt the staff recommendation to deny the claim.

#### **Item 10. David Allen Jones** **G549272**

Glen E. Tucker, attorney, appeared on behalf of David Allen Jones.

The Board voted to allow the claim in part in the amount of \$74,600.

#### **Victim Compensation Program**

The Board commenced the Victim Compensation Program portion of the meeting at 11:11 a.m.

**Item 11. Consent Agenda (Nos. 1- 4)**

The Board voted to adopt the staff recommendations.

**Item 12. Requests for Reconsideration (Nos. 5 - 15)**

The Board voted to adopt the staff recommendations to deny the requests for reconsideration.

**Item 13. Reconsiderations Following Board Action on a Proposed Decision  
Recommendations: Deny (Nos. 16A-18)**

The Board voted to adopt the staff recommendations to deny reconsiderations.

**Item 14. Proposed Decisions Following Failure to Appear  
(Nos. 19- 41)**

The Board voted to adopt the proposed decisions with the exception of number 27 which was continued.

**Closed Session**

Pursuant to Government Code sections 11126(c)(3) and 11126(e), the Board adjourned into Closed Session with the Board's Executive Officer, Chief Deputy Executive Officer, and Chief Counsel at 11:12 a.m. to deliberate on the proposed decisions, numbers 42 through 95, and to confer with and receive advice from counsel regarding pending litigation.

The Board reconvened into open session at 11:19 a.m.

**Open Session**

The Board voted to adopt the proposed decisions, numbers 42 through 95, with the exception of numbers 61 and 74 which were continued.

**Adjournment**

The Board meeting adjourned at 11:20 a.m.

Karen McGagin  
Executive Officer

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I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of April 19, 2007, at Sacramento, California.

Date: April 19, 2007

By: \_\_\_\_\_

Board Liaison

(Affix Seal here)