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

8  
9 In the Matter of the Claim of:  
10 **Susan Mellen**

**Proposed Decision**  
**(Penal Code § 4900 et seq.)**

11 **Introduction**

12 This claim for compensation as an erroneously convicted person was decided based on the  
13 written record by considering all the evidence submitted to date and without a hearing. Jasmine  
14 Turner-Bond was assigned to this matter by the Executive Officer of the California Victim  
15 Compensation and Government Claims Board (Board). Susan Mellen (Claimant) was represented by  
16 Deirdre O'Connor, attorney at law. The California Department of Justice, Office of the Attorney  
17 General (AG), was represented by Larenda Delaini.

18 In this matter, the trial court granted Claimant's writ of habeas corpus, making a finding of  
19 innocence by a preponderance of the evidence pursuant to Penal Code section 1485.55, subdivision  
20 (b). According to Penal Code section 1485.55, subdivision (d), when the trial court makes such a  
21 finding, the Board shall, without a hearing, recommend to the Legislature that an appropriation be  
22 made and the claim paid pursuant to Penal Code section 4904. Therefore, it is recommended that the  
23 Claimant receive compensation pursuant to Penal Code section 4900 et seq. in the amount of  
24 \$597,200.00 for being wrongfully imprisoned for 5,972 days.

25 **History**

26 On July 21, 1997, a homeless man living in a vacant house owned by the Claimant's mother  
27 was attacked with a hammer and killed. His body was transported to San Pedro, dumped in an alley  
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1 and set on fire. This house was a known drug house frequented by drug users and gang members.  
2 On the property was a separate house, the back house, in which the Claimant and her two children  
3 lived until February 1997, five months prior to the murder. Implicated in this murder were three people,  
4 including Claimant. Claimant was arrested on August 25, 1997, for first degree murder.

5 On June 5, 1998, Claimant was convicted of first degree murder and the jury found true the  
6 special circumstance allegation that she tortured the victim, and she was sentenced to life in prison  
7 without the possibility of parole. The conviction was affirmed by the California Court of Appeals on May  
8 5, 2000. The California Supreme Court denied Claimant's Petition for Review on August 16, 2000.  
9 Claimant filed a petition for writ of habeas corpus in federal court which was denied on August 23,  
10 2003.

11 On September 18, 2014, Innocence Matters filed a petition for writ of habeas corpus asserting  
12 that Claimant was factually innocent, had been convicted entirely on false testimony, and received an  
13 unfair trial when the trial prosecutor withheld exculpatory evidence and the trial defense attorney failed  
14 to provide effective representation.

15 On October 10, 2014, the Los Angeles District Attorney's Office conceded the merits of  
16 Claimant's habeas petition. On November 21, 2014, the Los Angeles County Superior Court granted  
17 Claimant's writ of habeas corpus and reversed her conviction pursuant to Penal Code section  
18 1485.55, subdivision (b), on the grounds that she had conclusively established her innocence of the  
19 charges for which she had been convicted.

### 20 21 **Determination of Issues**

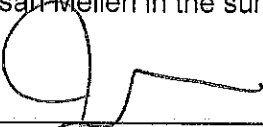
22 A finding of factual innocence from the court under Section 851.86 of the Penal Code is  
23 sufficient grounds for payment of compensation of a Penal Code section 4900 claim. If the provisions  
24 of Section 861.865 or 1485.55 apply in any claim, the California Victim Compensation and  
25 Government Claims Board shall calculate the compensation for the claimant pursuant to Section  
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1 4904 and recommend to the Legislature payment of that sum.<sup>1</sup> The claimant needs to show no more  
2 than the court's declaration of his or her factual innocence for the Board to recommend to the  
3 Legislature that compensation be paid under Penal Code section 4900 et. seq.

4 On November 21, 2014, based on evidence submitted in Claimant's petition for habeas  
5 corpus, Claimant proved that she neither committed the murder for which she was accused nor  
6 contributed to her arrest for which she was convicted and sentenced to life without the possibility of  
7 parole. Information in her petition for writ of habeas corpus shows that Claimant's conviction was  
8 based on the lies of an unreliable informant, the sole witness at trial, who fabricated a confession and  
9 attributed this confession to the Claimant. Moreover, exculpatory evidence was never shared with the  
10 Claimant's defense counsel. In addition, eyewitness testimony established that Claimant was not  
11 present during the crime and did not participate in the crime. The Los Angeles County District  
12 Attorney's Office conceded the merits of Claimant's petition. The Los Angeles County Superior Court  
13 granted Claimant's petition for writ of habeas corpus and overturned her 2000 conviction. The court  
14 went on to find Claimant factually innocent pursuant to Penal Code section 1485.55.

15 Claimant was incarcerated for 5,972 days. It is recommended to the Legislature that an  
16 appropriation be made to pay the claim of Susan Mellen in the sum of \$597,200.

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18 Date: December 15, 2014

  
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Jasmine Turner-Bond  
Hearing Officer  
California Victim Compensation and  
Government Claims Board

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<sup>1</sup> Pen. Code, § 4902, subd. (a).