

State of California

Memorandum

Department of Justice

1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 95834-2550

To : Government Claims
State Board of Control
P. O. Box 3035
Sacramento, CA 95812-3035

Date : February 24, 1997

Telephone: CALNET (8) 454-5397
(916) 324-5397
FACSIMILE (916) 324-5567

From : JANA OTT
Legal Analyst
Tort Unit

Jana Ott
Office of the Attorney General - Sacramento

Subject: RE: Board of Control Claim #G319960 - Kevin Lee Green

Recommendation: Allow

The Office of the Attorney General recommends this claim be allowed for \$10,000. This is the maximum amount available under the provisions of Penal Code section 4900.

The Board of now has the authority to request the Legislative to appropriate money via the next claims bill.

DEC 19 1996

STATE BOARD OF CONTROL
GOVERNMENT CLAIMS DIVISION

1 PHILLIP D. EATON
2 888 West Santa Ana Boulevard
3 Suite 150
4 Santa Ana, California 92701
5 Telephone: (714) 558-1564

6 State Bar No. 53455
7 Attorneys for Claimant

8 BEFORE THE STATE BOARD OF CONTROL
9 STATE OF CALIFORNIA

10	KEVIN LEE GREEN,)	
11	Claimant,)	[VERIFIED]
12	vs.)	CLAIM FOR DAMAGES FOR
13	STATE OF CALIFORNIA)	WRONGFUL INCARCERATION
14	Respondent.)	(P.C. 4900, et seq.)
15	_____)		

16 TO THE BOARD OF CONTROL FOR THE STATE OF CALIFORNIA:

17 YOU ARE HEREBY NOTIFIED that the above named Claimant,
18 KEVIN LEE GREEN, who resides outside the State of California and
19 who may be contacted through his attorney, PHILLIP D. EATON, at
20 888 West Santa Ana Blvd., Suite 150, Santa Ana, California,
21 92701, (714) 558-1563, claims indemnification from the State of
22 California by reason of his erroneous and unlawful felony
23 conviction and consequential imprisonment in state prison.

24 This claim is based upon the following facts:

- 25 1. In the year 1980 plaintiff was arrested and tried on
- 26 felony charges which led to his conviction of Penal Code
- 27 Sections 187 (2d degree murder) and 664/187 (attempted murder).

1 The arrest and conviction occurred in Orange County,
2 California.

3 2. As a result of Claimant's criminal conviction he was
4 remanded to the California Department of Corrections by whom
5 Claimant was imprisoned in the State Prison system until June
6 20, 1996.

7 3. On or about June 20, 1996, plaintiff was informed of
8 the confessions of GERALD PARKER for the crimes of which
9 Claimant had previously been wrongfully convicted, and that the
10 confessions were corroborated by DNA evidence. Thereafter, upon
11 Petition for Writ of Habeas Corpus, plaintiff's judgment of
12 criminal conviction was vacated, and plaintiff was found to be
13 factually innocent of the crimes for which he had been
14 incarcerated.

15 4. At all times Claimant maintained his innocence,
16 including parole board hearings at which his protests of
17 innocence caused him to be labeled "unrepentant".

18 5. At the time of Claimant's arrest, conviction, and
19 incarceration he was a member in good standing of the United
20 States Marine Corps. As a result of his conviction he was
21 dishonorably discharged, and thereafter prevented from
22 obtaining gainful employment.

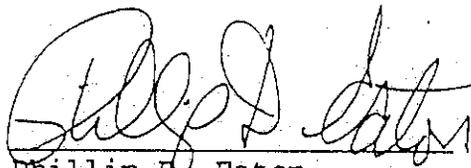
23 6. As a result of Claimant's arrest, conviction, and
24 subsequent incarceration he has suffered loss of earnings and
25 earning ability, personal pain and suffering, loss of his
26 marriage, loss of his rightful and honorable place in society,
27 and he has suffered permanent and irreparable damage to his
28 reputation, honor, emotions, and psyche.

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7. Claimant did not, by any act or omission, either intentionally or negligently, bring about his own arrest, conviction, imprisonment, or damages.

8. Claimant's pecuniary damages alone are in excess of \$750,000.00.

Dated: December 17, 1996



Phillip D. Eaton
Attorney for Claimant
KEVIN LEE GREEN

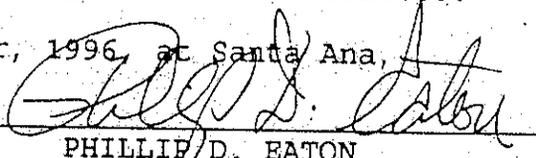
VERIFICATION (CCP 446)

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I am the attorney for KEVIN LEE GREEN, claimant herein. KEVIN LEE GREEN is absent from the County of Orange, State of California, within which I have my office and is therefore unable to verify the Claim presented to the State Board of Control pursuant to Penal Code Section 4900, et seq. Specifically he presently resides and is physically located in the State of Idaho. I have read the foregoing Claim for Damages for Wrongful Incarceration and am familiar with its contents. I am informed and believe that the matters contained within it are true and on that ground allege that the matters stated are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 17th day of December, 1996, at Santa Ana, California.


PHILLIP D. EATON

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PROOF OF SERVICE BY MAIL

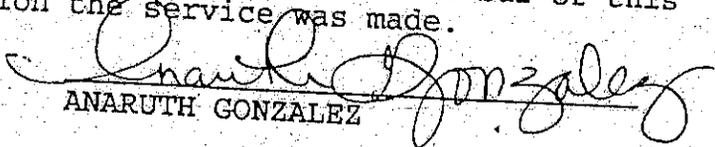
That I am now and at all times herein mentioned have been over the age of eighteen years, a resident and employed in Orange County, California; and not a party to the within action or cause; that my business address is 888 West Santa Ana Boulevard, Suite 150, Santa Ana, California. I am readily familiar with the firm's business practice for collection and processing of envelopes for mailing with the United States Postal Service.

On December 17, 1996, I served the foregoing documents described as CLAIM FOR DAMAGES, by placing said copy in an envelope addressed to:

STATE BOARD OF CONTROL
P.O. Box 3035
Sacramento, CA 95812-3035
(916) 323-3432

which envelope was then sealed and, with postage fully prepaid thereon, was placed for collection and mailing at my place of business following ordinary business practices. Said envelope will be deposited in the United States Mail at Santa Ana, California on the above referenced date in the ordinary course of business; and there is delivery service by United States Mail at the place so addressed.

Executed on December 17, 1996, at Santa Ana, California. I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that I am employed in the office of a member of the bar of this court at whose direction the service was made.


ANARUTH GONZALEZ

CLAIM NUMBER

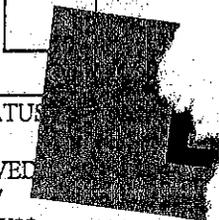
319960

SP FIELD: _____

FLAG: _____

APPR: _____

CLAIM CODE



- NEW
- CHANGE
- CORRECTION
- CLEAR AGENDA

HEARING DATE

CLAIM STATUS

CLAIMANT (PRINT LAST, FIRST, M.I.) ORGANIZATION

M D Y

4/1/97

- UNRESOLVED
- ALLOW-SV
- WITHDRAW**
- DOTPAID**
- NO JURIS**
- INC CLOSED**
- CLOSED 2YR (TORTS)
- INCOMPLETE
- DELETE AUTOSSET
- REFERRAL

NO NOTICE

ADDITIONAL ID (AKA, DBA, INSURANCE CO., ETC.)

DAY PHONE () - -

DATE PRESENTED			DATE RECEIVED			DATE OF ACTION			AMENDED DATE			INCOMPLETE RESPONSE DATE			LATE APP GRA DATE			AMOUNT CLAIMED
M	D	Y	M	D	Y	M	D	Y	M	D	Y	M	D	Y	M	D	Y	
/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	

POST HEARING CHANGES

HEARING LOCATION (CIRCLE)		BOARD REASON	BOARD ACTION
SAC	LA		
SF	SD		

NOTICE

- 20A 1A, 2A-REGULAR (REJECT)
- 20B 6 MONTH (REJECT)
- 20C 1 YEAR (REJECT)
- 20D PROPERTY (REJECT)
- 20E CONTRACT DISPUTE (REJECT)

NOTICES WITH RECO

- 21-01 & UP
- 22-LATE APPLICATION
01, 02, 03
- 25B 6 MONTH
- 25C 1 YEAR
- 25D PROPERTY

- 27 INSURANCE-03
- 29 INSURANCE-04
- 33 CHP

A B C D

- 50 "O" SPECIAL LETTER
- 51 REJECT
- 11 APPR
- NOTICE CODE _____

DO NOT MAIL NOTICE TO CLAIMANT

CORRECTED LETTER

NOTICE

- 28A HORSE RACING (REJECT)
- 28B LOTTERY (REJECT)
- 30A AMENDMENT 01, 02 WITH RECO
- 30C AMENDMENT 1A, 2A (REJECT)
- 31 TEMP ROADWAY HZRD (REJECT)

- 43 HEAR - NO APPEAR
- 46 RETURN AMENDMENT
- 58 PARTIAL ALLOW NO APPEAR "O"
- 54 "O" DUPLICATE CLAIM
DUPLICATE # G _____

NO HEARING DATE AND TIME REQUIRED

NOTICES 23, 45A, 45B, 47, AND 80

- 23 RECEIPT TORT 935.6

- 45A WITHDRAW CLAIMANT**
- 45B WITHDRAW AGENCY**
AGENCY _____

- 47 VERIFY DAMAGES ___ "O" (TEXT)
- 80 DOTPAID

CHANGE OF ADDRESS, SEE REVERSE SIDE

NOTICE

- 38 HEAR - CLAIM/RECO CONFLICT
- 40 HEAR - CLAIM 9:00 DATE
- 41 HEAR - LATE APP 10:00 AND
- 42 REHEARING 1:00 TIME
- 44 HEAR CLAIM ALLOW REQUIRED
AGENCY _____

- 90. HEAR LATE APP-AGENCY APPR
- 92. HEAR CLAIM-AGENCY APPR

ONLY HEARING DATE REQUIRED

- 16 INMATE REJECT
- 17 TORT/EQUITY REJECT A B C D E "O"
- 18 GRA LATE APP-CLAIM ACTION
- 39 REJECT A B C "O"

- 10 INCOMPLETE "O" TEXT
A B C D E F G H I J L M
P R S T U CLAIM FORMS

- 15 NO JURISDICTION
A B C E G H I J K "O"

SPECIAL HANDLING, SEE REVERSE SIDE

ANALYST INITIALS & DATE MANAGER INITIALS & DATE EO INITIALS & DATE GC INITIALS & DATE WPT INITIALS & DATE OA

9/3/17/97				Rum 3/17/97	
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STATE OF CALIFORNIA
STATE BOARD OF CONTROL
P. O. Box 3035
Sacramento, CA 95812-3035
(916) 323-3564 ATSS 473-3564

October 19, 1998

PHILLIP D EATON
ATTORNEY AT LAW
888 WEST SANTA ANA BLVD STE 150
SANTA ANA, CA 92701

Re: GREEN, KEVIN LEE

Claim Number: G319960

Amount: \$10000.00

Code: 06

Funds to pay your claim described above are now available to the State Board of Control for disbursement. Therefore, the enclosed check is full payment of your claim against the State of California. Please note that the endorsement of the payee(s) on the back of the check acknowledges receipt of payment in full on this claim and also releases the state of all liability in connection with this claim.

Sincerely,

Government Claims Division
State Board of Control

(N60 - Claim Payment Letter)

as88

NOV 18 1998

STATE OF CALIFORNIA
STATE BOARD OF CONTROL
P. O. Box 3035
Sacramento, CA 95812-3035
(916) 223-3564 ATSS 473-3564

April 3, 1997

PHILLIP D. EATON
ATTORNEY AT LAW
888 WEST SANTA ANA BLVD STE 150
SANTA ANA, CA 92701

Re: GREEN, KEVIN LEE

Claim Number: G319960

*Amount: \$10000.00

Code: 01

The State Board of Control, at its hearing on April 1, 1997, allowed the claim described above. In order to obtain funds for payment, the Board will submit the claim to the legislature as part of the next Board-sponsored Claims Bill.

The Board submits claims bills to the Legislature twice each year between January and April. Obtaining funds to pay claims depends largely on the legislative process. As a result, it is likely that the Board will not be able to start paying these claims until late fall of the year in which the bill is submitted. Therefore, do not expect payment prior to this time. In addition, please note that the Legislature and the Governor have complete discretion, and may reduce the award or eliminate it entirely.

The Board's award is a full and final settlement of the entire claim as provided by Government Code Section 946(c). Any court action initiated on any part of this claim will be viewed as an express rejection of the Board's award. Please refer to the "Warning" stated below.

If you change your address, or have any questions, please call this office at the telephone number above.

Sincerely,

Cindy A. Walton, Program Manager
Government Claims Division

cc: B-23 CORRECTIONS, ATTN: MARY MORAIRTY
D-8 ATTORNEY GENERAL, TORT CLAIMS COORDINATOR

* GENERAL FUND

Warning

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

(N56 - Legislative Pay)

STATE OF CALIFORNIA
STATE BOARD OF CONTROL
P. O. Box 3035
Sacramento, CA 95812-3035
(916) 323-3564

March 18, 1997

PHILLIP D. EATON
ATTORNEY AT LAW
888 WEST SANTA ANA BLVD STE 150
SANTA ANA, CA 92701

Re: GREEN, KEVIN LEE

Claim Number: G319960

Code: 06

The staff of the State Board of Control (Board) has completed its review of the information contained in your claim and the response(s) to this information provided by the involved State agency(ies). Based on this review, the staff and the Department(s) of NONE are recommending that your claim be allowed in the amount of \$ 10000.00.

The Board's policy in resolving claims such as yours is to accept the staff recommendation without hearing claimant appeals. If you do not wish to accept the recommended amount, you may initiate litigation against the State agency(ies) allegedly responsible for your damages or injuries should you wish to pursue the matter further.

\$10,000.00 IS THE MAXIMUM ALLOWABLE UNDER CALIFORNIA PENAL CODE SECTION 4900 ET SEQ.

Your claim will be acted upon by the Board on the consent agenda at its meeting on April 1, 1997. Your appearance at this meeting will not be necessary. Following this meeting, you will be sent a notice which confirms the Board's action on your claim.

If you have any questions or concerns, please contact the Board in writing at the address at the top of this letter. For a faster response, please indicate your claim number on any correspondence.

Sincerely,

Government Claims Division
State Board of Control

cc: B-23 CORRECTIONS, ATTN: MARY MORAIRTY
D-8 ATTORNEY GENERAL, TORT CLAIMS COORDINATOR

(58 - Tort Notice of Partial Pay/No Appear)

To: B-23 CORRECTIONS, ATTN: MARY MORAIRTY

January 21, 1997

From: D-30 State Board of Control
Government Claims Division
P. O. Box 3035
Sacramento, CA 95812-3035
(916) 323-3564
ATSS 472-3564

Other Agencies Involved:
D-8 ATTORNEY GENERAL, TORT CLAIMS COORDINATOR

Subject: CLAIM REFERRAL AND REQUEST FOR AGENCY RECOMMENDATION

>>>>>>>> Please respond by February 20, 1997
(Claim documents are attached for your review.)

Claim Number: G315960 Dept: 130 Amount Claimed: \$750000.00 Code: 0
Claimant: GREEN, KEVIN LEE

The claim cited above was presented to the State Board of Control (Board) on December 17, 1996. Please review the attached claim documents. In the space provided on this notice, please describe your agency's understanding of the incident, injuries, or damages as alleged by the claimant, and provide an official agency recommendation on the claim. Please type or print neatly all responses directly on this form, and return it to the Board at the address noted above by February 20, 1997.

AGENCY CLAIM RECOMMENDATION

Allow Reject Other

Fund/budget line item to charge if claim is allowed by the Board

Claims Coordinator
or Authorized Reviewer:

Mary Morairty

Signature
BOC Coordinator

Title

2/11/97

Date
323-4577

Telephone Number

CLAIM SUMMARY AND BASIS FOR RECOMMENDATION
(Attach Additional Pages If Necessary)

*Returned -
Per Jerry this is PC 4900.*

RECEIVED
FEB 13 1997
STATE BOARD OF CONTROL
GOVERNMENT CLAIMS DIVISION

STATE OF CALIFORNIA
STATE BOARD OF CONTROL
P. O. Box 3035
Sacramento, CA 95812-3035
1-800-999-0045 (916) 327-3564

January 7, 1997

PHILLIP D. EATON
ATTORNEY AT LAW
888 WEST SANTA ANA BLVD STE 150
SANTA ANA, CA 92701

Re: GREEN, KEVIN LEE

Claim Number: G319960

Code: 06

Your claim was presented to the State Board of Control (Board) on December 17, 1996.

We have recently completed an initial review of the claim. To resolve your case, we have decided to ask each of the affected State agencies to provide us with their positions on your claim. After these agencies have had enough time to fully investigate your claim and submit their positions to the Board, your claim will be scheduled for hearing by the Board. You will receive written notice informing you of the recommendation we will present to the Board, and if appropriate, the date, time, and location of the hearing.

If you have any questions, please contact us at one of the telephone numbers above.

Sincerely,

Government Claims Division
State Board of Control

cc:

D-8 ATTORNEY GENERAL, TORT CLAIMS COORDINATOR

(N21 - Receipt 05)

STATE OF CALIFORNIA
STATE BOARD OF CONTROL
P. O. Box 3035
Sacramento, CA 95812-3035
1-800-955-0045 (916) 323-3564

January 7, 1997

PHILLIP D EATON
ATTORNEY AT LAW
888 WEST SANTA ANA BLVD STE 150
SANTA ANA, CA 92701

Re: GREEN, KEVIN LEE

Claim Number: G319960 Code: 06

Your claim was presented to the State Board of Control (Board) on December 17, 1996.

We have recently completed an initial review of the claim. To resolve your case, we have decided to ask each of the affected State agencies to provide us with their positions on your claim. After these agencies have had enough time to fully investigate your claim and submit their positions to the Board, your claim will be scheduled for hearing by the Board. You will receive written notice informing you of the recommendation we will present to the Board, and if appropriate, the date, time, and location of the hearing.

If you have any questions, please contact us at one of the telephone numbers above.

Sincerely,

Government Claims Division
State Board of Control

cc:

D-8 ATTORNEY GENERAL, TORT CLAIMS COORDINATOR

(N21 - Receipt 05)