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**BEFORE THE VICTIM COMPENSATION BOARD
OF THE STATE OF CALIFORNIA**

In the Matter of the Claim of:

Notice of Decision

Kash Register

On November 17, 2016, the California Victim Compensation and Government Claims Board adopted the attached Proposed Decision of the Hearing Officer as its Decision in the above-referenced matter.

Date: November 21, 2016



Tisha Heard
Board Liaison
California Victim Compensation Board

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6 **BEFORE THE VICTIM COMPENSATION BOARD**
7 **OF THE STATE OF CALIFORNIA**
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9 In the Matter of the Claim of:

Proposed Decision
(Penal Code § 4900 et seq.)

10 **Kash Register**
11

12 **Introduction**

13 This claim for compensation as an erroneously convicted person was decided based on the
14 written record and without the necessity of a hearing. Kyle Hedum was assigned to hear this matter
15 by the Executive Officer of the California Victim Compensation Board. Kash Register (Register) was
16 represented by Kevin Lahue, Barry Scheck, and Farhang Heydari. The California Department of
17 Justice, Office of the Attorney General (AG), was represented by Deputy Attorney General Barton
18 Bowers.

19 In this matter, the court determined that Register was factually innocent. According to Penal
20 Code¹ section 4902, when a court makes a finding of factual innocence, the Board shall, without a
21 hearing, recommend to the Legislature that an appropriation be made and the claim paid pursuant to
22 section 4904. Therefore, it is recommended that Register be compensated in the amount of
23 \$1,739,780, calculated at the rate of \$140 per day for 12,427 days of imprisonment.
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27 ¹ All further statutory references are to the Penal Code unless otherwise indicated.
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1 **Background**

2 On April 6, 1979, Jack S., an elderly man, was shot in the carport of his Los Angeles home
3 during an apparent robbery. He died of his injuries approximately three weeks later. Register was
4 arrested and on October 31, 1979, after a five-day trial and three days of deliberations, a jury found
5 Register guilty of first-degree murder, committing the murder while engaged in the commission of a
6 robbery, using a firearm to commit the offense, and inflicting great bodily injury on a victim over the age
7 of 60. On December 14, 1979, Register was sentenced to life without the possibility of parole. His
8 sentence was later changed to 25 years to life.

9 On November 7, 2013, Los Angeles County Superior Court Judge Mader granted Register's
10 petition for habeas corpus and vacated his conviction based on *Brady*² violations. Judge Mader found
11 that Register had been denied due process of law and was denied a fair trial because exculpatory or
12 impeaching information and evidence that was material to the guilt or innocence or to the punishment of
13 Register was not disclosed. Register was released on November 8, 2013, and the Los Angeles County
14 District Attorney's Office dismissed the charges against Register on December 13, 2013.

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16 Following the dismissal of charges, Register sued the City of Los Angeles for violating his civil
17 rights. On January 19, 2016, the Los Angeles City Council agreed to pay Register \$16.7 million. Soon
18 after Register's settlement, Register's counsel contacted the District Attorney's Office to determine
19 whether that Office would oppose Register's request for a finding of factual innocence and the
20 destruction of his arrest records. After reviewing the evidence in detail, representatives of the District
21 Attorney's Office met with Register's counsel in person, and shortly thereafter informed Register's
22 counsel that the District Attorney would not oppose Register's petition. On October 6, 2016, Judge
23 Mader determined that Register was factually innocent of the offense that resulted in his imprisonment.

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² *Brady v. Maryland* (1963) 373 U.S. 83.
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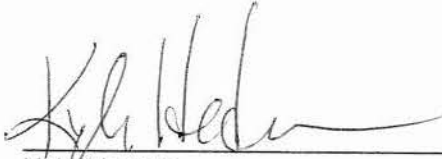
1 **Determination of Issues**

2 In order to be successful on a claim as an erroneously convicted person, a claimant must
3 prove the following by a preponderance of the evidence:

- 4 (1) that the crime with which he was charged was either not committed at all, or, if committed,
5 was not committed by him; and
6 (2) that he sustained injury through his erroneous conviction and imprisonment.³

7 A finding of factual innocence from the court is sufficient grounds for payment of compensation
8 for a section 4900 claim. Because the provisions of section 861.865 or 1485.55 apply in this claim,
9 Register is entitled to compensation at the rate of \$140 per day for the 12,427 days he served in
10 custody beginning from the date of his arrest⁴ until his release from state prison.⁵ The Board
11 recommends to the Legislature that it appropriate \$1,739,780 to compensate Register for the injury he
12 suffered as a result of this erroneous conviction.

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15 Date: October 10, 2016

16 
17 Kyle Hedum
18 Hearing Officer
19 California Victim Compensation Board
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25 ³ Pen. Code, § 4903.

26 ⁴ Penal Code section 4904 states that the \$140 per day in compensation "shall include any time spent
27 in custody, including in a county jail, that is considered to be part of the term of incarceration."

28 ⁵ Pen. Code, § 4904.