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

In the Matter of the Claim of:

Maurice Caldwell

Claim Number: 13-ECO-01

Proposed Decision

(Penal Code § 4900)

Introduction

An in-person hearing on this claim for compensation as an erroneously convicted person was held on May 9, 2017, and May 31, 2017, in Sacramento, California, by Kevin Kwong, Hearing Officer, California Victim Compensation Board. The claimant, Maurice Caldwell, appeared at the hearing and was represented by Terry Gross, Adam Belsky, and Mary Parker from the law firm of Gross and Belsky. The California Attorney General's Office was represented by Sharon Loughner, Deputy Attorney General (AG). As explained below, Caldwell has not met the statutory requirements to receive compensation under Penal Code section 4900.¹

Procedural Background

In the early morning hours of June 30, 1990, four men drove to the Alemany Projects (projects) in San Francisco to purchase drugs. A dispute occurred which resulted in a fight that left one of the four men dead as a result of gunshot wounds. It is undisputed that a handgun and a shotgun were fired at the victims.

¹ If the Board grants Caldwell's claim, he would be entitled to \$1,049,160 for his 7,494 days of incarceration. Caldwell was arrested on September 21, 1990, and was released on March 28, 2011.

1 On December 14, 1990, the San Francisco District Attorney's Office (DA) charged Caldwell
2 with murder, attempted first degree murder, and felony discharge of a firearm at an occupied vehicle.
3 Caldwell was also charged with enhancements due to the use of a firearm to inflict great bodily injury
4 upon the victims.

5 On March 20, 1991, Caldwell was found guilty of second degree murder, attempted murder,
6 and discharging a weapon at an occupied vehicle. The jury also found true the related firearm
7 enhancements. Caldwell was sentenced to a term of 27 years to life in state prison. This decision
8 was later affirmed by the First District Court of Appeals.

9 Caldwell filed a petition for a writ of habeas corpus and, on December 16, 2010, the court
10 granted Caldwell's petition based on ineffective assistance of counsel. A new trial was ordered. The
11 DA offered Caldwell a time-served plea agreement that would have resulted in his immediate release
12 without parole. Caldwell refused the plea and the case was brought forward for retrial. On March 25,
13 2011, the court excluded testimony of an eyewitness identifying Caldwell as the perpetrator on due
14 process grounds; thus, the DA was unable to proceed and dismissed the case. Caldwell was
15 released from custody on March 28, 2011.

16 After release, on April 16, 2012, Caldwell filed a federal lawsuit against the City of San
17 Francisco and various police officers involved in the murder investigation alleging that his civil rights
18 were violated because the police had conspired to frame him by fabricating evidence and utilizing
19 unlawfully suggestive identification procedures. On March 2, 2016, the federal court granted the City
20 of San Francisco's motion for summary judgement finding that there were no triable issues of fact.
21 Caldwell is currently appealing this ruling to the Ninth Circuit Court of Appeals.²

22 Caldwell filed his claim with the Board under Penal Code section 4900 on March 21, 2013.
23 Caldwell subsequently filed a motion in the San Francisco Superior Court for factual innocence
24 pursuant to Penal Code section 1485.55. On May 13, 2016, the superior court denied Caldwell's
25 motion for a finding of factual innocence because it did not find that Caldwell had proven his
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² Case No. 16-15473. Oral arguments are scheduled for October 13, 2017.
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1 innocence by a preponderance of the evidence. Caldwell is currently appealing this ruling to the First
2 District Court of Appeals.³

3 4 5 6 **Summary of Evidence**

7 **I. Caldwell's Criminal Trial**

8 **A. Prosecution's Evidence**

9 In the early morning hours of June 20, 1990, Judy Acosta and his friends were at his house
10 drinking beer and seeking to obtain drugs. Acosta, Domingo Bobila, Eric Aguirre, and Dominador
11 Viray drove to the projects to purchase "crack."⁴ The projects were known by law enforcement to be
12 an area filled with narcotics. The men stopped their vehicle in the 900 block of Ellsworth Street,
13 outside the residence of Mary Cobbs. All four men exited the vehicle with Acosta and Bobila
14 standing on the driver's side of the vehicle. Five to seven men standing by a lamp post about 25 feet
15 away then approached Acosta and Bobila.

16 The drug transaction was underway when one of the men told Bobila that he had not paid
17 them enough money. Bobila turned and looked into the car to ask for more money when he was
18 then punched in the face. Bobila heard somebody say, "Shoot him," and gunfire began. One
19 person, believed to be Marrantie Funches, pulled out his handgun and began shooting. Acosta was
20 shot by the handgun shooter. Bobila was able to enter his car and, as he was looking for his car
21 keys, a shotgun shooter fired at the car causing the driver's side window to shatter. Shotgun pellets
22 entered Bobila's body. According to the DA, Maurice Caldwell was the shotgun shooter. Bobila saw
23 that Acosta was clutching his chest and trying to get back in the car. Bobila was able to pull an
24 injured Acosta into the car through the passenger side and drive away. The other two men in the
25 group escaped on foot and did not suffer significant injury. Bobila drove to a gas station about a mile
26 away to call 911. Acosta died of shock and loss of blood caused by the gunshot wounds. Acosta

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29 ³ Case No. A148828. The case is fully briefed as of August 9, 2017.

⁴ Crack is the street name for a cocaine based drug that is able to be smoked.

1 had suffered two different types of gunshot wounds – one from a bullet that passed through his
2 internal organs and 20 shotgun pellets that had struck his body.

3 Anonymous Tip

4 Many witnesses present in the projects refused to cooperate with law enforcement and
5 nobody identified the suspects. However, on July 12, 1990, an anonymous phone call was placed to
6 law enforcement stating that the police should “look at Maurice Caldwell because he’s always
7 shooting guns off in the projects.”

8 Mary Cobbs

9 Cobbs lived in the projects with her young children and was hesitant to speak about the
10 murder. However, she stated the shootings occurred in front of her apartment outside her bedroom
11 window. She had heard the gunshots and looked outside. She could see the suspect fire several
12 shotgun shots at the car as it was attempting to leave the scene. She saw two men with weapons
13 and described the shotgun shooter as a black male, around five feet, four inches tall, with a Jheri-curl
14 hairstyle. This description matched Caldwell’s appearance. Cobbs also stated the shotgun shooter
15 was wearing dark sweat pants, dark shoes, and no shirt. Cobbs did not think the shooters were from
16 the neighborhood. Law enforcement noted Cobbs’ description of the events included details that only
17 an eyewitness would know, including the position of the victims in the vehicle.

18 A few weeks later, Cobbs participated in a photo lineup. She picked out Caldwell’s photo as
19 the person who fired the shotgun and said she was positive that he was the shotgun shooter.
20 Caldwell had been staying in the unit next door to Cobb’s unit in the projects. Cobbs also later
21 identified Caldwell as the perpetrator when viewing a live lineup at the police station after his arrest.

22 As the investigation progressed, Cobbs told law enforcement and testified that she had been
23 threatened by Caldwell and his associates because she had been cooperating in the investigation.
24 She stated that Caldwell threatened her multiple times and once said “Bitch, if you talk, we going to
25 kill you and your family.” Cobbs’ children were told their heads would be played with like baseballs.
26 Due to law enforcement fearing that the threat to Cobbs and her family was real, it relocated Cobbs
27 to a new housing area away from the projects.

28 At trial, Cobbs identified Caldwell as the shotgun shooter. From her window she could see
29 two people in a car and some other men standing under a street light. Two of the men under the

1 light had guns; one of them being Caldwell, who was shirtless at the time. As Bobila was trying to get
2 the car moving she saw Caldwell fire the first shot, and he fired it a second time as the car was
3 leaving.

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6 Domingo Bobila

7 Bobila viewed the photo lineup and picked the photo of Caldwell as the person he was talking
8 with and the man who punched him. Bobila said he was not 100 percent sure, but Caldwell looked
9 like the person he was speaking with prior to the shooting. Bobila also made a similar statement
10 when viewing the live lineup. At trial, Bobila could not positively identify Caldwell as a perpetrator.
11 Caldwell looked familiar to him but he was not sure if Caldwell was in the crowd at the time of the
12 incident.

13 Eric Aguirre

14 Aguirre's description of the suspect, a black male, around five feet, four inches to five feet, six
15 inches, with a Jheri-curl style haircut, was very similar to the description given by Cobbs. When
16 viewing the live lineup, Aguirre stated he remembered Caldwell's face and he saw him there before
17 the shooting. Aguirre was not sure if Caldwell had a gun. At trial, Aguirre could not identify Caldwell
18 as a perpetrator.

19 Dominador Viray

20 Viray's statements to law enforcement about the crime and description of the suspects were
21 similar to those of Bobila. However, at trial Viray was unable to make any identification of the
22 suspects.

23 **B. Defense Evidence**

24 Deborah Rodriguez

25 Rodriguez is Caldwell's aunt and she was living in the projects at the time of the incident. She
26 testified that Caldwell was inside her unit in an upstairs bedroom with a girl⁵ at the time the shots
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29 ⁵ This individual, Tina McCullum, was a 16 year-old minor at the time of the murder.

1 were fired. He ran outside after the shots were fired. Rodriguez testified that Caldwell was not
2 holding any weapon as he ran outside and that he had a t-shirt on.

3 Alice Carruthers

4 Carruthers testified that on the night of the murder she saw Funches arguing with a group of
5 individuals trying to buy crack. She saw Funches pull out a gun and shoot somebody but never saw
6 Caldwell in the group. Once shots were fired, she ran and hid.

7 C. Other Evidence

8 Caldwell did not testify at trial. After being arrested he gave a statement to police. He stated
9 that he was in Rodriguez' home in an upstairs bedroom with a woman named Tina. Caldwell did not
10 provide Tina's last name because he did not know it, nor did he know Rodriguez's last name or
11 address. Investigators researched his alibi and eventually found and interviewed Rodriguez and
12 Jacqueline Williams who was also present in Rodriguez's home the night of the murder. Williams
13 and Rodriguez both initially told investigators that Caldwell was in the home and ran out of the house
14 without a shirt on after shots were fired. They later stated that Caldwell ran out of the home with a
15 shirt on.

16 Caldwell's attorney later provided names of persons whom Caldwell stated committed the
17 murder. Caldwell stated that Funches fired the handgun and that Henry Martin fired the shotgun.
18 None of the victims identified these individuals as being involved in the murder when investigators
19 presented pictures of them. Cobbs recognized Funches from the neighborhood but did not identify
20 him as a shooter. Additionally, Martin did not fit the physical description of the shotgun shooter given
21 by witnesses. Investigators could not locate these individuals in order to interview them.

22 D. The Jury's Verdict

23 The jury found Caldwell guilty of second degree murder, attempted murder, and discharging a
24 weapon at an occupied vehicle. Caldwell was sentenced to a term of 27 years to life in state prison.

25 II. Caldwell's Habeas Proceeding

26 On February 19, 2009, Caldwell filed a writ of habeas corpus in San Francisco Superior Court
27 alleging (1) newly discovered evidence, (2) that he was convicted on false testimony, (3) cumulative
28 errors denied him due process, (4) ineffective assistance of counsel, and (5) that he was actually
29 innocent. Caldwell submitted the following declarations in support of his petition:

1 Marritte Funches

2 Funches declared that he was currently in Nevada state prison after being convicted of an
3 unrelated murder that occurred in 1991. On the night of the Acosta murder, he was selling drugs on
4 Ellsworth Street in the projects. A group of four or five men came to buy drugs and they all exited the
5 vehicle which he found unusual. A fight broke out and one of the men was holding a knife and
6 approaching him. Funches then pulled out his gun and shot the man, whom he identified as Acosta,
7 in the chest while also firing shots at the persons running away. Funches kept the knife that Acosta
8 had been holding.

9 Funches further declared that "his homeboy" was firing the shotgun but Funches could not
10 name this person because it would put his daughter's life in jeopardy. Caldwell was not this person
11 and Caldwell was not present at the murder scene.

12 With regards to Cobbs, Funches knew her well. Cobbs would have recognized him had she
13 seen him outside her window. Additionally, based on where the shotgun shooter was standing
14 around the corner from the car, there was no way that Cobbs could have seen this person from her
15 bedroom window. Funches believes that Cobbs was looking for a way out of the projects and that
16 cooperating with the police was her way out.

17 Finally, Funchess declared that he has not had contact with Caldwell since 1990 (the
18 declaration was dated 2008) and that he does not like Caldwell because Caldwell tried to "rat him
19 out" which is why he ran to Nevada. However, Funches decided to look past all that and make this
20 declaration in order to not let an innocent person stay in prison.

21 Marcus Mendez

22 Mendez declared that he grew up in the projects with Caldwell and, though they were on good
23 terms, they were not friends. On the night of the murder he was inside his home watching television.
24 When he heard the gunshots, he looked out the kitchen door and saw a group of people. He then
25 saw Caldwell running towards the group. Caldwell was not holding anything in his hands. Mendez
26 closed the door and did not hear any further gunshots.

27 Maurice Tolliver

28 Tolliver declared that he was sitting on a stairwell in the projects and noticed a group of men
29 stop on Ellsworth Street to purchase drugs. An argument broke out and the dealer tried to reclaim

1 the drugs. Funches pulled out a handgun and shot Acosta in the chest. Henry Martin then started
2 shooting. He was holding a larger gun with two hands. As Martin was shooting, Acosta tried to get
3 back in the car. One of the other men with the victims took off running down the street. Martin then
4 passed his weapon to a taller guy who started shooting as the victim's car made a u-turn and drove
5 away. None of the shooters were ever standing under the street light.

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7 Demetrius Jones

8 Jones declared that he was in the streets on the night of the murder. He saw the victims exit
9 their vehicle and have a discussion with Funches. All of a sudden, Funches pulled out a handgun
10 and shot the person he was talking to. Henry Martin then began firing a shotgun and his shots hit the
11 passenger side of the car door. Caldwell was not one of the shooters and was not out in the streets
12 at the time of the murder.

13 Maurice Caldwell

14 Caldwell declared that he lived in the projects with a friend, and for about 10 months, he lived
15 next door to Cobbs. On the night of the murder, he was staying at his aunt's home, Deborah
16 Rodriguez, in the projects. He was upstairs in a bedroom with a girl named Tina McCullum when he
17 heard shots being fired outside. He put on a tank top and pants and ran outside. Here, he learned
18 that Funches had killed somebody during a drug deal.

19 Caldwell then declared that he told his attorney, Craig Martin, everything he knew and learned
20 about the murder. Caldwell was upstairs in bed with McCullum inside of Rodriguez's home. He
21 heard gunshots and ran outside to see what happened. He saw Henry Martin standing at the corner
22 firing a shotgun. He saw Henry Martin fire one shot and then take off running down the street.
23 Funches told Caldwell that people from outside the neighborhood came to buy drugs and they got
24 into a fight. Funches told Caldwell that he shot and killed one of the persons. Caldwell then returned
25 to Rodriguez's home and walked McCullum back to her home.

26 Craig Martin

27 Craig Martin, Caldwell's criminal defense attorney, declared that Caldwell told him what he
28 knew about the murder, namely that Henry Martin had the shotgun and that Funches shot and killed
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1 Acosta. Craig Martin did not interview Cobbs or Funches nor did he hire an investigator to work on
2 the case.

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8 The Court's Decision

9 The court granted the petition based on ineffective assistance of counsel and ordered a
10 retrial.⁶ The court specifically stated it would not discuss the issues related to Caldwell's innocence.

11 **III. The Retrial of Caldwell**

12 In January 2011, the DA refiled its murder case against Caldwell. The DA offered Caldwell a
13 plea bargain where he would plead guilty and in return be released for time served and not be placed
14 on parole. Caldwell refused the plea bargain because he did not want to admit to a crime that he did
15 not commit.

16 Cobbs passed away in 1998; thus she could not testify at the retrial. The DA sought to
17 introduce the trial transcript of her testimony from the first trial. However, the court excluded her
18 testimony on due process grounds because Cobbs had relied on a diagram in the first trial to
19 describe locations, individuals, and events. At the time of retrial, the diagram could not be found;
20 thus, the court ruled that allowing her testimony without the diagram would have been prejudicial to
21 Caldwell. The court noted that its decision to exclude Cobbs' testimony was not an adverse ruling
22 with respect to Cobbs' credibility. Without being able to introduce Cobbs' testimony, the DA did not
23 believe that it could meet its burden of proof and dismissed the case against Caldwell. Caldwell was
24 released from custody on March 28, 2011.

25 **IV. Caldwell's Civil Rights Lawsuit versus the City of San Francisco**^Z

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27 ⁶ The Board is bound by the court's finding that Craig Martin did not interview all potential witnesses
28 and alibis, that he provided ineffective assistance of counsel to Caldwell, and that Caldwell received an
29 unfair trial. *Madrigal v. California Victim Compensation & Government Claims Board* (2016) 6
Cal.App.5th 1108.

1 On April 16, 2012, Caldwell filed a civil rights lawsuit against the City of San Francisco (City)
2 alleging the City impermissibly used suggestive identifications procedures, fabricated evidence,
3 conspired to violate his due process rights, and failed to intervene. However, on March 2, 2016, the
4 court dismissed the case on summary judgement. The court ruled that any alleged impermissible
5 actions by the police were nullified by the prosecutor's independent judgement, thus breaking the
6 chain of causation between unconstitutional action, if any, and the harm suffered. Since there were
7 no triable issues, summary judgement was granted in favor of the City. Caldwell has filed an appeal
8 of this ruling which is still pending.

9 **V. Caldwell's Motion for a Finding of Factual Innocence**

10 In August 2015, Caldwell filed a motion for a finding of factual innocence pursuant to Penal
11 Code section 1485.55. In support of his petition, Caldwell presented much of the same evidence he
12 presented at the habeas proceeding and the following evidence:

13 Caldwell

14 Caldwell submitted a second declaration that was similar to his first declaration. He stated
15 that on the night of the murder he was in a bedroom with McCullum inside Rodriguez's home. He
16 heard shots fired outside, put on some clothes, and ran outside. Here, he learned that Funches had
17 killed somebody who came into the neighborhood to buy drugs. Caldwell then stated what he told
18 Craig Martin about the murder, which were similar statements to the ones made in his first
19 declaration, with the only new information being that he did not see Henry Martin firing the shotgun.

20 Caldwell also testified at a 2015 deposition. He testified that when he went outside he saw
21 Henry Martin holding a shotgun but did not actually see Martin fire the shotgun because the gunshots
22 had stopped by the time he was outside. When asked about the discrepancies in his two
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25 ⁷ The parties agreed that the issues raised in this civil rights lawsuit do not determine the ultimate
26 question that must be answered at this hearing – whether Caldwell is innocent of the crimes charged.
27 However, Caldwell argues that police misconduct helps show that Cobbs made an inaccurate
28 identification. Since both parties agreed the civil rights proceeding is not directly related to innocence
29 and since the court dismissed the case on summary judgement without hearing any testimony, much of
the evidence and arguments from the civil rights proceeding will not be discussed. Relevant evidence
from this lawsuit, including evidence related to Cobbs, was also presented at his factual innocence
proceeding and his 4900 hearing and is discussed later in this proposed decision.

1 declarations about Henry Martin being the shotgun shooter, Caldwell stated that his first declaration
2 was erroneous because he did not thoroughly read the declaration prepared by his attorneys.

3 Funches

4 Caldwell's attorneys deposed Funches in 2015. Funches testified to many of the same facts
5 from his original deposition. Funches testified that he fired the handgun and that Caldwell was not
6 present and did not fire the shotgun. He provided new information stating that Henry Martin was the
7 shotgun shooter. Funches also reiterated that he did not like Caldwell but he wanted to redeem
8 himself by clarifying that Caldwell was not involved in the murder.

9 Caldwell argued that Funches' statement is credible because his details of the murder are
10 corroborated by all of the other witnesses. His testimony about the drug transaction and the
11 shooting, including him being one shooter and Caldwell not being involved, is similar to the
12 statements made by the other witnesses.

13 Henry Martin

14 Martin submitted a declaration stating that he saw numerous young men selling crack. One
15 of the men then shot one of the buyers in the chest. Some of the victims ran while others tried to get
16 back in the car to get away. Another person then fired a shotgun two to three times at the car. He
17 described the shooter as bare back and not wearing a shirt. Martin had been told that Caldwell is
18 blaming him for the shooting and believes Caldwell is doing this to protect himself or the actual
19 shooter.

20 Tina McCullum

21 McCullum submitted a declaration stating that she grew up living in the projects and met
22 Caldwell when she was about 13. She moved out of the projects before the murder but still had
23 friends who lived there. She started dating Caldwell when she was 16 years old. The night of the
24 murder was her 16th birthday and she and Caldwell had gone out for dinner. Afterwards, they went to
25 Caldwell's uncle's home in the projects. Even though there were other people in the residence, she
26 and Caldwell were alone in an upstairs bedroom. As she was lying in bed, she heard gunshots.
27 Caldwell put some clothes on and ran outside. McCullum did not hear any gunshots once Caldwell
28 ran outside. Caldwell came back inside a few minutes later. Later that night, Caldwell walked her
29 back to her friend's grandmother's home, where she spent the night.

1 Paige Kaneb

2 Kaneb represented Caldwell during the habeas proceedings. She submitted a declaration
3 stating that she interviewed Funches numerous times. Funchess consistently stated he was the
4 handgun shooter and Caldwell was not involved in the murder. Kaneb had been to the murder
5 scene and Cobbs' apartment. When looking through the window in Cobbs' apartment, the light pole
6 that she allegedly saw Caldwell underneath holding a shotgun cannot be seen. Further, Kaneb
7 checked with the City and confirmed that there had not been any substantive changes to the
8 buildings in the projects since the night of the murder that would have affected the vantage point
9 from Cobbs' window. Kaneb interviewed Henry Martin while he was in prison. Martin stated that
10 Caldwell was not present at the shooting and he would provide a statement if given immunity. Kaneb
11 also stated that her interviews with the other witnesses, including Tolliver, Jones, Williams,
12 Rodriguez, and McCullum were consistent with their prior statements and declarations.

13 Cobbs

14 Caldwell attacked the identification made by Cobbs and stated that it was inaccurate and
15 unreliable. Caldwell argued that Cobbs could not have seen what she alleged to have seen from her
16 bedroom window, her statements have been inconsistent both internally and when compared to the
17 other witness statements and evidence. Further, police used suggestive identification procedures
18 during the process.

19 The DA's Evidence

20 The DA opposed Caldwell's motion and stated that if the missing exhibits related to Cobbs'
21 testimony are found it would proceed forward with murder charges against Caldwell since there is no
22 statute of limitations on murder. The DA presented much of the same evidence it presented at
23 Caldwell's criminal trial. It emphasized that Cobbs' identification is reliable, was not improperly
24 influenced by police, and was believed by the jury. Additionally, Caldwell had submitted a false
25 declaration at the habeas hearing, which was a crucial piece of evidence for the court in granting his
26 habeas petition. Finally, Henry Martin, whom Caldwell alleges was the shotgun shooter, has denied
27 being the shotgun shooter.

28 The Court's Ruling

1 The court denied Caldwell's motion without holding an evidentiary hearing. The court went
2 through much of the evidence presented finding inconsistent declarations and testimony over the 25
3 plus year history of the case. It noted that previously silent witnesses have now declared that
4 Caldwell was not the shotgun shooter. These witnesses did not testify at Caldwell's criminal trial
5 because they were either not contacted by Caldwell's attorney or did not want to become involved.
6 However, in reviewing all the evidence the court was not convinced that there was a preponderance
7 of the evidence that Caldwell is innocent. Caldwell's appeal of this ruling is still pending.⁸

8 **VI. Caldwell's Hearing Under Penal Code Section 4900**

9 On March 13, 2013, Caldwell filed his claim with the Board as an erroneously convicted
10 person. At the hearing he presented the following witnesses:

11 Rodriguez

12 Rodriguez testified that she was in a relationship with Caldwell's uncle at the time of the
13 murder. Caldwell and McCullum came to her residence in the projects late in the evening the night of
14 the murder. She was downstairs in the living room watching television when they entered. Caldwell
15 said, "Hi," and introduced her to McCullum, and then Caldwell and McCullum went upstairs. There
16 was no possibility that Caldwell could have left the residence without her knowing because the front
17 door was within her sight.

18 Later that evening she heard a number of shots outside. The shots were fired in rapid
19 succession. Caldwell then came downstairs and exited the front door. He was wearing a white tank
20 top, jeans, and socks. When she first told police that Caldwell left the home "half naked," to her that
21 meant he was only wearing a tank top. Once Caldwell went outside no further shots were fired.
22 Caldwell was not carrying a weapon when he left the residence. Rodriguez did not have guns in her
23 home.

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27 ⁸ In December 2016, Caldwell's attorneys asked to postpone this 4900 hearing until completion of his
28 appeal. The Hearing Officer denied the request because this claim was nearly four years old, Caldwell
29 waited over two years after filing his 4900 claim before filing his factual innocence motion, and Caldwell
could appeal the Court of Appeals' decision to the Supreme Court which would cause the Board further
delay.

1 The following day Funches came over to her home and had dinner with Caldwell's uncle.
2 Rodriguez overheard them discussing the fact that Funches had shot somebody because a drug deal
3 went bad.

4 McCullum

5 McCullum testified that she had known Caldwell for a few years. They had begun a romantic
6 relationship about six months prior to the night of the murder. McCullum has strong memories from
7 the night of the murder because it was her 16th birthday and the first time she had been intimate.

8 She met Caldwell around 8:00 p.m. that night and the two went out for dinner. McCullum lied
9 to her family and told them that she was planning to spend the night at a friend's home. In reality,
10 she planned to spend the evening with Caldwell. They arrived at a home, which she now knows as
11 Rodriguez's residence, and Caldwell introduced her to the people in the home. The two then went
12 upstairs to a bedroom. Here, they talked, watched television, and were intimate.

13 Later that evening they heard gunshots outside and Caldwell put on a "wife beater" shirt⁹ and
14 pants and left the room. He said that he would be right back. After Caldwell left the room no further
15 shots were fired. Caldwell then came back to the room and lay in bed with her. McCullum stated
16 that nobody ever interviewed her during the criminal proceedings.

17 Kaneb

18 Kaneb testified about obtaining the declarations submitted on behalf of Caldwell. The
19 witnesses were consistent with the answers given to her when that person was interviewed. Kaneb
20 noted that Funches has been interviewed numerous times and has never changed his story that he
21 was the handgun shooter and Caldwell was not the shotgun shooter. She also stated that Funches
22 still hates Caldwell for allegedly snitching on him.

23 Kaneb said that the inconsistent statements between Caldwell's two declarations, in relation
24 to witnessing Henry Martin fire the shotgun, were due to her error and being careless with words.
25 Caldwell's 2013 declaration is accurate and Kaneb took extra time to go over the declaration with him
26 to ensure its accuracy.

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29 ⁹ A "wife beater" shirt is slang for a form fitting tank top or sleeveless undershirt.

1 Kaneb also testified regarding the viewing angle from Cobbs' apartment. Kaneb visited the
2 crime scene, went into Cobbs' old apartment, and looked out her bedroom window. From this view
3 she could not see the light pole that Cobbs allegedly she saw Caldwell standing under. The
4 building's exterior wall juts out and prevents viewing the light pole from her window. Additionally,
5 there was a grate in front of the window preventing Cobbs from sticking her head outside the window.

6 Beverley Myers

7 Myers was an investigator who worked on Caldwell's case. She interviewed Funches in
8 prison and he told her that Caldwell was not involved in the murder. He also called Caldwell a "rat"
9 and stated they were not friends, but he wanted to make things right. Myers also interviewed
10 Wiggins, who was a friend of Cobbs. Wiggins said that Cobbs had told her she would do whatever it
11 took to move from the projects. Wiggins believed that Cobbs was not home at the time of the murder
12 because the lights in her place were off and that she lied at trial.

13 Caldwell

14 Caldwell testified that on the night of the murder he planned to take McCullum out for her
15 birthday. His plan was to take her out to dinner and then take her to Rodriguez's home in the
16 projects. Caldwell did not live at Rodriguez's home but planned to go there that evening because he
17 did not want to risk running into his ex-girlfriend at his own apartment.

18 The two had dinner and then arrived at Rodriguez's residence a little after midnight. They
19 went to an upstairs bedroom where they talked, watched television, and had sex. Around 2:00 a.m.,
20 Caldwell, who was still awake, heard gunshots outside. He put on his shoes, pants, and a shirt and
21 went downstairs. By this time, the gunshots had stopped and he went outside. Caldwell was afraid
22 that one of his friends had been shot. According to Caldwell, in this neighborhood they do not wait
23 for ambulances or police, they help each other and take each other to hospitals. Caldwell told a story
24 where he drove a friend to the hospital after being shot in an unrelated incident.

25 Outside, Caldwell stopped at the end of the building because he did not want to go into the
26 open space. He was afraid the shooters may still be out there and did not want to put himself at risk.
27 Caldwell saw a bunch of familiar faces. This group included Funches, Tolliver, and Henry Martin,
28 who was holding a shotgun. Caldwell asked Funches what happened and Funches said that it was
29 none of his business. Caldwell and Funches did not get along well at this time. Nobody else said

1 anything about what had happened. Caldwell then went inside Rodriguez's home and back to the
2 bedroom with McCullum. He walked McCullum home sometime around 5:00 a.m.

3 In the following weeks, the police interviewed Caldwell. Caldwell did not tell police much
4 because he was not positive what happened. There were a lot of rumors about Funches and Henry
5 Martin being involved, but he was not sure the rumors were true. Additionally, Caldwell did not feel
6 that it was his place to talk to the police. Caldwell did not feel safe or trust talking to the police
7 because of previous interactions with them. He also did not want to be a snitch.

8 Caldwell testified about a previous encounter with Detective Crenshaw of the San Francisco
9 Police Department on an unrelated incident a few months prior to the murder. According to Caldwell,
10 Crenshaw was searching the projects looking for a weapon. Caldwell, who was shooting the weapon
11 at light poles, did not know where the weapon was so he was taken to an isolated area away from
12 the projects where Crenshaw gave him three choices: 1) tell him where the gun was and he would go
13 to jail, 2) Crenshaw would "fuck him up" and then Caldwell would tell him where the gun was, 3)
14 Crenshaw would kill him right there. Crenshaw then beat him up including putting his head on the
15 ground alongside his car tire and telling his partner to run him over. Crenshaw also made a comment
16 about hoping to one day find Caldwell with a gun so that he could shoot and kill Caldwell. Caldwell
17 filed a citizen's complaint against Crenshaw for this incident.

18 In regards to the investigation of this murder, during one visit to the projects, Crenshaw
19 pointed a gun at Caldwell and told him to get against the wall. Crenshaw then started walking
20 Caldwell to a home in the projects. Crenshaw knocked on the door and Cobbs answered the door.
21 Crenshaw asked Cobbs if the homicide inspector was inside. This inspector, who was interviewing
22 Cobbs at the time, came to the door to meet Crenshaw and Crenshaw identified Caldwell. Crenshaw
23 spoke loud enough that Cobbs could hear him identify Caldwell. Crenshaw then asked for the
24 inspector's car keys and placed Caldwell in the backseat of the vehicle. Caldwell was in the vehicle
25 for a few minutes and then released.

26 When interviewed by police Caldwell did not give them McCullum's last name because he did
27 not know her last name. In the projects, people did not know each other's last name. Often, people
28 did not even know each other's real first name. Caldwell stated that he was known in the projects by
29 his nickname "Twone" and nobody knew his name was Maurice Caldwell. He also did not give police

1 the address where Rodriguez lived because he did not know her unit number. He knew where she
2 lived but did not know the specific number on the building.

3 Caldwell discussed Funches and stated that they used to be friends, but about three to four
4 months before the murder they stopped being friends. Funches had his own personal problems and
5 there was the thought that he was going to bring trouble to the projects. Caldwell tried to talk to
6 Funches about being safer but the conversation did not go well. About a month prior to the murder,
7 Caldwell and Funches had a minor physical altercation.

8 Caldwell did not take the plea deal because he was not going to take a "shortcut" and is
9 innocent. If he committed the crime he would take responsibility for it. He had been fighting for 20
10 years to prove his innocence and did not want to suddenly "lay down" just to get out of jail.

11 In regards to the discrepancies in his declarations, Caldwell said he has reading
12 comprehension issues. When he was preparing paperwork for this 4900 claim, his attorneys
13 reviewed his original 2009 declaration with him. At that point, he realized the first declaration was
14 inaccurate. He then filed a second declaration correcting the errors.

15 On cross-examination, Caldwell denied threatening Cobbs or her family for cooperating with
16 law enforcement. He had known Henry Martin for over 10 years. Caldwell was sure Henry Martin
17 was the person holding the shotgun. Caldwell could not remember what Henry Martin was wearing
18 at that time, but Caldwell previously told his attorney that Henry Martin was known throughout the
19 projects as a guy who never wore shirts. Caldwell told his attorney this information because Cobbs'
20 description of the shotgun shooter matched Henry Martin more than himself.

21 The AG went through Caldwell's lengthy arrest record. Caldwell has been arrested 11 times
22 for crimes, including drug possession, drug sales, aggravated assault, assault with a deadly weapon,
23 and shooting a firearm in the air. Caldwell was never charged or convicted of any offenses related to
24 these arrests. According to Caldwell, many of these arrests were the result of being unfairly treated
25 by police. Caldwell denied that he ever assaulted anybody.

26 Caldwell then explained that in his vernacular saying the word "shirtless" means that a person
27 may have an undershirt on, such as a tank top, but no shirt over it. A person exposing his bare chest
28 would be called "naked," and a person who had no clothes on his top or bottom would be called
29 "asshole naked."

1 Caldwell's Arguments

2 Caldwell has numerous alibi witnesses stating that he was at Rodriguez's home inside a
3 bedroom with McCullum at the time of the shooting. McCullum testified that she was in bed with
4 Caldwell when they both heard shots. She did not hear anymore gunshots after Caldwell left the
5 bedroom. All witnesses stated that the shotgun fire happened immediately after the handgun fire. It
6 would have taken Caldwell more time than that to put on clothes, grab a weapon, run downstairs, and
7 then go outside to the crime scene. Thus, it was not physically possible for Caldwell to have been a
8 shooter.

9 Numerous witnesses have explicitly stated that Caldwell was not the shooter. None of the
10 witnesses claimed Caldwell was holding a weapon. These witnesses, Funches, Tolliver, Mendez,
11 and Jones, corroborate each other by giving similar accounts of the drug deal. These witnesses
12 show further reliability by implicating Funches as one of the shooters.

13 Funches has admitted to being the person who fired the handgun. He implicated himself as
14 the handgun shooter and Henry Martin as the shotgun shooter. Funches' declaration is credible for a
15 number of reasons. First, details about the crime are similar to all other witness and victim
16 statements. Second, he and Caldwell are not friends and he has no reason to lie to protect Caldwell.
17 Finally, Funches stated that being in prison has given him a new outlook and he wants to do what is
18 right. He was not given immunity or any deal to make the statements he made.

19 Henry Martin did not implicate Caldwell in the shooting. Martin saw both shooters, knows
20 Caldwell, referenced Caldwell by name in his declaration, and never stated that Caldwell fired the
21 shotgun or that he was present at the scene. Additionally, none of the victims identified Caldwell at
22 trial as a shooter or as being present at the murder scene.

23 The only evidence linking Caldwell to the murder is the eyewitness identification of Cobbs.
24 However, Cobbs' identification is unreliable for four reasons. First, her trial testimony is unreliable
25 because the exhibits she used are unable to be found. The Board cannot weigh her trial testimony
26 without these documents. Second, she was not meaningfully cross-examined at trial by Craig Martin,
27 as he was found to have provided ineffective counsel to Caldwell. Third, no other evidence or
28 witness statement corroborates Cobbs' testimony; meaning, her version of events is unreliable.
29 Cobbs did not identify Funches as a shooter even though they knew each other, numerous witnesses

1 identified Funches as a shooter, and Funches admitted to being a shooter. Lastly, eyewitness
2 identification in general is unreliable. Cobbs' misidentification was the result of improperly suggestive
3 police procedures including an improper show-up at Cobbs door by Crenshaw. Police also did not
4 turn on the tape recorder for an interview with Cobbs until after Cobbs identified Caldwell; thus, no
5 one knows what manipulation tactics were used.

6 Cobbs also has testified to inconsistent and impossible events. Some of these
7 inconsistencies include the number of shots fired, not knowing Caldwell's nickname around the
8 neighborhood, and whether the shooters were from the neighborhood. It was also physically
9 impossible for Cobbs to see the light pole from her bedroom window that she allegedly saw Caldwell
10 standing under while holding a shotgun. Cobbs could not have seen both shooters standing under
11 this light pole since the victims testified that one shooter was standing on the other side of the car.
12 Cobbs had a motive to implicate somebody for the crime since she wanted to leave the projects.
13 Being a witness to a murder, who also made up a story about being threatened, would lead to her
14 relocation.

15 The jury's guilty verdict should not be given any weight since Caldwell was not defended by
16 competent counsel. The court's basis for denying Caldwell's motion for factual innocence is different
17 than this proceeding because oral testimony and arguments, including that of Caldwell, were
18 presented at this hearing. The court determined Caldwell was not factually innocent without holding
19 a hearing. Caldwell has maintained his innocence and even rejected a plea that would have released
20 him for time served because he did not want to admit to a crime that he did not commit.

21 AG's Arguments

22 Caldwell has been inconsistent in his statements. It is undisputed that he submitted a false
23 declaration in support of his habeas petition regarding seeing Henry Martin fire a shotgun. Caldwell
24 was also less than helpful to police regarding his alibi witnesses. Caldwell clearly knew where
25 McCullum lived because he walked her home. He also knew how to contact her since he planned a
26 birthday date for her. He also may not have known Rodriguez's address but he knew where she
27 lived and could have shown police the unit she lived in. Finally, Caldwell did not initially offer Henry
28 Martin as a possible suspect to police until he read Cobbs' statements in the police report and
29 thought that he could place blame on Martin instead of himself.

1 Cobbs testified that Caldwell was the shotgun shooter. She never recanted her testimony and it
2 was relied upon by the jury. Her testimony was never determined to be unreliable. Simply having lost
3 exhibits does not mean that her testimony was inaccurate. Any inconsistencies in her testimony are
4 immaterial to the circumstances of the crime.

5 Cobbs also testified that she did not see Caldwell at her door when Crenshaw rang her doorbell
6 to speak with the homicide investigator. This is consistent with the statements of other police officers
7 and investigators who testified that Caldwell was not at the door when Crenshaw rang the doorbell.
8 There is no evidence that police improperly fabricated evidence and the summary judgement from the
9 Civil Rights lawsuit confirms this.

10 In addition to Cobbs' testimony there is other evidence indicating Caldwell's guilt:

- 11 - Bobila and Aguirre previously identified Caldwell as being present during the drug deal,
12 contradicting his alibi testimony that he was in Rodriguez's home.
- 13 - Multiple people described the shotgun shooter as shirtless and Rodriguez and Williams
14 originally stated that Caldwell ran out of the home shirtless. It was only after they realized
15 their mistake that they changed their definition of what a shirtless person means.
- 16 - There was no reason for Caldwell to have threatened Cobbs and her family unless he was
17 guilty of the crime. Notes from Kaneb state that during one of her interviews with Funches
18 he spoke about a plan that was to result in Cobbs' murder because she was snitching.
19 According to Funches, Caldwell was aware of this plan even though Funches would carry
20 out the murder. Funches also stated he thinks that Caldwell had previously threatened
21 Cobbs to prevent her from snitching on Funches.
- 22 - An anonymous tip was placed to law enforcement stated that Caldwell should be
23 investigated.
- 24 - Caldwell has a lengthy arrest record including assaults, weapons charges, and drug
25 offenses.

26 The numerous witnesses whom Caldwell provided declarations from are unreliable. Funches
27 is the only person who stated that a victim was armed with a knife. He also is the only person who
28 stated that the shooting was retaliation for a previous robbery, not a drug deal. Funches is a
29 convicted murderer and should not be considered a "hero" because he is now discussing the crime

1 with a new outlook on life. All the declarations were submitted 20 years after the crime. It is
2 questionable why these witnesses did not come forward when the murder was being investigated.
3 Also, it is impossible to investigate the crime scene today and then say that Cobbs could not see
4 certain things from her home over 25 years ago because we do not know if the layout of the projects
5 or crimes scene changed since the night of the murder. Finally, even if one were to believe that
6 Caldwell was inside a bedroom with McCullum when the shooting started, all witnesses who placed
7 him in the bedroom also state that he immediately ran outside, thereby placing him at the crime
8 scene.

9 The judge who granted Caldwell's habeas petition also denied his factual innocence. He
10 reviewed all the same evidence that was presented in this 4900 hearing as there was no new
11 substantive evidence presented before the Hearing Officer. Although there were no explicit credibility
12 determinations made at the factual innocence hearing; in essence, the judge did not find the
13 declarations from Funches and the other witnesses credible or else he would have granted Caldwell's
14 motion and found him factually innocent. Caldwell lost in his civil rights lawsuit, he lost at his factual
15 innocence proceeding, and there is no reason for the Board to grant his 4900 claim.

16 **Determination of Issues**

17 Penal Code section 4900 allows any person, who has been erroneously convicted and
18 imprisoned for a felony offense, to apply for compensation from CalVCB.¹⁰ CalVCB must recommend
19 compensation to the Legislature, without conducting a hearing, if the claimant was found by a court to
20 be actually innocent by a preponderance of evidence in a proceeding for a declaration of actual
21 innocence or a motion to vacate the judgment.¹¹ CalVCB must also recommend compensation,
22 without conducting a hearing, if a court grants a contested habeas petition based upon a finding that
23 the claimant is factually innocent.¹²

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¹⁰ Pen. Code, § 4900.

27 ¹¹ Pen. Code, § 4902, subd. (a) [referring to Pen. Code, §§ 851.865 and 1473.6].

28 ¹² Pen. Code, § 1485.55, subd. (a).
29

1 Otherwise, CalVCB may recommend compensation after a hearing only if the claimant proves,
2 by a preponderance of the evidence, that (1) the crime with which he was charged was either not
3 committed at all, or, if committed, was not committed by him and that (2) he sustained an injury
4 through his erroneous conviction and imprisonment.¹³ The Attorney General may introduce evidence
5 in opposition to the claimant.¹⁴ “Preponderance of the evidence” means evidence that has more
6 convincing force than that opposed to it.¹⁵ If the claimant satisfies this burden of persuasion, then
7 CalVCB shall recommend to the Legislature an award of compensation equal to \$140 per day for every
8 day of time spend in custody.¹⁶

9 CalVCB hearings are not governed by traditional rules of evidence.¹⁷ Instead, CalVCB may
10 consider the “claimant’s denial of the commission of the crime; reversal of the judgment of conviction;
11 acquittal of claimant on retrial; or, the decision of the prosecuting authority not to retry claimant of the
12 crime....”¹⁸ However, none of these circumstances may be deemed sufficient evidence to warrant a
13 recommendation for compensation “in the absence of substantial independent corroborating evidence
14 that claimant is innocent of the crime charged.”¹⁹ CalVCB may also “consider as substantive evidence
15 the prior testimony of witnesses [that] claimant had an opportunity to cross-examine, and evidence
16 admitted in prior proceedings for which claimant had an opportunity to object.”²⁰

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20 ¹³ Pen. Code, §§ 4903, subd. (a), 4904; *Tennison v. Victim Compensation and Government Claims*
21 *Board* (2006) 152 Cal. App. 4th 1164.

22 ¹⁴ Pen. Code, § 4903, subd. (a).

23 ¹⁵ *People v. Miller* (1916) 171 Cal. 649, 652.

24 ¹⁶ Pen. Code, § 4904.

25 ¹⁷ See Cal. Code Regs., tit. 2, § 615.1, subd. (a) [“The formal hearing provisions of the Administrative
26 Procedure Act ... do not apply”].

27 ¹⁸ Cal. Code Regs., tit. 2, § 641, subd. (a).

28 ¹⁹ Cal. Code Regs., tit. 2, § 641, subd. (a).

29 ²⁰ Cal. Code Regs., tit. 2, § 641, subd. (b).

1 Ultimately, all relevant evidence is admissible in a CalVCB hearing “if it is the sort of evidence
2 on which reasonable persons are accustomed to rely in the conduct of serious affairs,”²¹ even if a
3 common law or statutory rule “might make its admission improper over objection in any other
4 proceeding.”²² CalVCB “may also consider any other information that it deems relevant to the issue
5 before it.”²³

6 The court’s denial of Caldwell’s factual innocence motion is significant. Had Caldwell prevailed,
7 the Board would be bound by that decision and mandated to recommend to the Legislature that
8 payment be made pursuant to Penal Code section 1485.55, subdivision (a). This rule of law exists to
9 provide consistency since the factual innocence and 4900 proceedings are similar and have the same
10 burden of proof. A presumption cannot be made against Caldwell because he was unsuccessful in his
11 motion.²⁴ However, even though the Board is not bound by the court’s decision and cannot make a
12 presumption against Caldwell, the court’s ruling and findings cannot be taken lightly since the burden
13 of proof is the same.

14 The evidence presented at Caldwell’s factual innocence proceeding was substantively similar to
15 the evidence presented at his 4900 hearing. The AG argued that the evidence was the same while
16 Caldwell argued that the live testimony and arguments constituted new evidence. While witnesses,
17 including Caldwell, testified under oath at this hearing, nobody testified or elicited any new information
18 regarding what happened on the night of the murder or during the investigation. The arguments and
19 theories regarding innocence, guilt, and eyewitness accounts were the same as the ones presented at
20 the factual innocence proceeding. Although Caldwell’s testimony about being in a bedroom with
21 McCullum was corroborated and appears credible, it is unknown what occurred when he ran outside as
22 this part of his testimony was unable to be corroborated.

23 Further, Penal Code section 1485.5, subdivision (a), states that the express factual findings
24 made by the court, including credibility determinations, shall be binding on the Board. The order from
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26 ²¹ Cal. Code Regs., tit. 2, § 641, subd. (c).

27 ²² Cal. Code Regs., tit. 2, § 641, subd. (d).

28 ²³ Cal. Code Regs., tit. 2, § 641, subd. (f).

29 ²⁴ Pen. Code, § 1485.55, subd. (e).

1 the factual innocence proceeding went through much of the evidence, especially the declarations filed
2 by numerous individuals. It did not make any explicit credibility determinations other than
3 acknowledging this case has been filled with inconsistent declarations and testimony. Thus, the Board
4 is not bound by any finding or credibility determination by the court. However, it is clear that the court
5 did not find the declarations submitted on behalf of Caldwell to be reliable and/or it found Cobbs'
6 identification to be reliable. Had the court found otherwise it would have granted Caldwell's motion and
7 found him factually innocent.

8 Even if the Board ignores the court's ruling against Caldwell, an independent evaluation of the
9 evidence does not show that he has met his burden of proof. Working in Caldwell's favor is the sheer
10 number of witnesses who declared that he was not involved in the murder and that he was in a
11 bedroom with McCullum at the time of the shooting. Cobbs is the only strong witness who implicated
12 Caldwell in the crime.

13 With the number of individuals attesting to Caldwell's innocence it is understandable why the
14 DA did not go forward with a retrial as it is unlikely that Caldwell could be proven guilty beyond a
15 reasonable doubt. However, in this proceeding Caldwell has the burden of proving innocence by a
16 preponderance of the evidence. Cobbs identified Caldwell as a shooter, has never recanted, and was
17 believed by both the DA throughout the investigation and the jury. Further, there is no convincing
18 evidence that law enforcement used improper procedures to suggest to Cobbs that Caldwell was the
19 suspect.

20 Cobbs has inconsistencies in her testimony and it is concerning that no other witness
21 corroborates her version of the events. However, the reliability of the individuals who submitted
22 declarations on behalf of Caldwell may also be questioned. Most of these individuals stayed silent for
23 20 years, had a relationship with Caldwell, and/or have never testified under oath subject to cross
24 examination. Caldwell's attorneys strenuously argued for Funches' credibility. However, Funches has
25 killed at least one and possibly two people, plotted to kill Cobbs, did not make his first statement until
26 nearly 20 years after the crime, has never testified in any proceeding, and was friends with Caldwell at
27 one point. It cannot be said that his statements are more reliable than Cobbs' statements. None of the
28 witnesses either for or against Caldwell can comfortably be found reliable which is detrimental to
29 Caldwell's case since he has the burden of proof.

1 There are other small pieces of evidence working against Caldwell including the physical
2 description of the perpetrator from the victims matching Caldwell, the threats Caldwell made against
3 Cobbs, Caldwell's reluctance to assist law enforcement in its investigation, and Caldwell's lengthy
4 arrest record including crimes which involved weapons and violence. Further, the DA has not charged
5 Funches or Martin for the murder despite all the statements alleging their involvement which can
6 reasonably mean that the DA does not find the declarations credible. None of these pieces of
7 evidence show guilt but they raise further hurdles for Caldwell to show his innocence.

8 In considering all the evidence presented at this hearing, Caldwell has failed to meet his burden
9 of proof. The factual innocence court reviewed all the same evidence and determined that Caldwell did
10 not meet his burden. It did not find the declarations on behalf of Caldwell to be reliable proof of his
11 innocence. Caldwell did not present any new substantive evidence at this hearing. Even without the
12 court's ruling, the witness statements evaluated on their own merit contain inconsistencies and do not
13 present enough evidence showing that Caldwell is innocent of the crimes with which he was charged.

14 Accordingly, Caldwell has not met his burden of proving his innocence by a preponderance of
15 the evidence and his claim for compensation is denied.

16
17 Dated: August 14, 2017

18 _____
19 Kevin D. Kwong
20 Hearing Officer
21 California Victim Compensation Board
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**BEFORE THE VICTIM COMPENSATION BOARD
OF THE STATE OF CALIFORNIA**

In the Matter of the Claim of:

Maurice Caldwell

Claim Number: 13-ECO-01

Notice of Decision

On October 17, 2017, the California Victim Compensation Board adopted the attached Written Decision in the above-referenced matter.

Date: October 21, 2019

Michelle Greer
Board Liaison
California Victim Compensation Board