

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the matter of the Claim of:
Joseph Rollin
Application No. G573925

Proposed Decision
(Penal Code § 4900 et seq.)

Introduction

A hearing on this claim as an erroneously convicted person was conducted on May 24, 2010, by Kyle Hedum, the hearing officer assigned to hear this matter by the Executive Officer of the Victim Compensation and Government Claims Board.

Attorney Richard Hamlish represented Joseph Rollin, who appeared and testified at the hearing. Rollin seeks \$121,600 for 1,216 days imprisonment served subsequent to conviction.¹ Ms. Heather Gimle and Ms. Kari Ricci, Deputy Attorney Generals, represented the California Department of Justice, Office of the Attorney General.

At the conclusion of the hearing, and prior to the start of closing argument, the parties were afforded a 15 minute break. Upon Ms. Gimle's return to the hearing room, she informed the hearing officer that Rollin had made inappropriate comments to her in the hallway. Ms. Gimle appeared very

¹ Penal Code section 4904 provides that if a claim is granted, the amount of the appropriation recommended shall be a sum equivalent to one hundred dollars per day of incarceration served subsequent to the claimant's conviction.

1 upset, was trembling, and had difficulty describing the incident. The Board's chief counsel and the
2 Attorney General's supervisor were notified, and both asked that further proceedings be delayed until
3 they arrived at the hearing room.

4 Once all parties were present, with the exception of Rollin who remained outside the hearing
5 room on the advice of his attorney, Ms. Gimle described the incident on the record. She was
6 returning to the hearing room and found the door to be locked. As she stood near the door, Rollin
7 walked very close to her and said that he wanted her to know that she was done. Rollin called her
8 curse names and said that she was a liar. Rollin told her that bad things had happened to all the
9 people who had previously worked on his case. He again told her that she was done.

10 She then pounded on the hearing room door because she was afraid and did not want to remain
11 alone in the hallway with Rollin. When the hearing room door was unlocked and opened, she came
12 into the hearing room in a much disturbed state. After her statement, Rollin's attorney said that he
13 would obtain a statement from Rollin that would be forwarded to the Board in a timely fashion.
14 However, no statement was forthcoming. It was also agreed that the parties would waive oral closing
15 arguments, and instead the arguments would be submitted to the Board in written format after the close
16 of the hearing.

17 On July 14, 2010, the parties were requested, via email, to submit their closing arguments,
18 supplemental briefs, and other various motions to the hearing officer for inclusion in the proposed
19 decision that was currently in progress. On that same day, the Attorney General submitted their claim
20 opposition, a response to claimant's memorandum and motion in limine, a motion contesting
21 continuance of the hearing, and a Power Point presentation of their closing argument.

22 On August 11, 2010, Mr. Hamlish submitted a memorandum in support of claim, a motion to
23 exclude evidence of lack of medically-trained care by Rollin, a statement of facts, a supplemental
24 brief, a motion to exclude certain statements by claimant, and a memorandum in response to the
25 Attorney General's Power Point presentation.

26 After considering all the evidence, it is determined that Rollin has not proven by a
27 preponderance of the evidence that (1) he is innocent of the crime for which he was convicted and
28

1 incarcerated, and (2) that he did not by any act or omission on his part, intentionally contribute to the
2 bringing about of his arrest or conviction for the crime. Therefore, it is recommended that Rollin's
3 claim for compensation pursuant to Penal Code sections 4900 et seq. be denied.

4 **Background²**

5 Rollin was born on November 1, 1956 in San Antonio, Texas. His parents divorced when Rollin
6 was about four, and Rollin resided with his mother and brother in Louisiana, Indiana, and Arizona. He
7 lived in various states and worked as a salesman, telemarketer, musician, and farmer.

8 Joi Henderson was born on March 7, 1960. Joi married Kevin Wright. In 1984, Joi was
9 diagnosed with multiple sclerosis.³ In February of 1988, Joi gave birth to a girl. After the birth of her
10 daughter, Joi's health began to deteriorate. By 1990, Joi was confined to a wheelchair. In 1996, Joi
11 and her husband moved to Taos, New Mexico. As Joi's health deteriorated, so did her marriage. Joi
12 and Kevin separated. Their daughter lived with Kevin in Taos and Joi resided in Amarillo, Texas with
13 her parents. After about a year, Joi moved back to Taos, to be closer to her daughter.

14 Approximately three months after moving back to Taos, Joi was befriended by Esther Campbell-
15 Russ and her two sons, Andre and Rollin. Several months later, Joi moved in with Esther, Andre, and
16 Rollin. Several months later, Rollin and his family were evicted and Joi became homeless. Joi
17 returned to her parents' home in Amarillo and lived there for several months.

18 In 1998, Joi bought a home in Jamestown, California. Rollin moved in with her, and they agreed
19 that Rollin would care for Joi and prepare meals, clean, do laundry, and other tasks that Joi was no
20 longer capable of doing. In exchange, Joi would pay him \$900.00 per month in addition to free room
21 and board. In December of 1999, Joi sold her house and she and Rollin traveled until they ended up in
22 Washington, finding an abandoned mobile home in a forest.

23
24
25 ² The background is based on an unpublished appellate opinion, the crime report, investigative reports,
26 trial testimony, court transcripts, and other claim-related documents.

27 ³ According to the National Multiple Sclerosis Society, MS is a chronic, often disabling disease that
28 attacks the central nervous system. However, MS is not a fatal disease, and individuals with MS can
have a near-normal life.

1 On April 6, 2000, Joi's parents received a call from a Motel Six in Arcata, in Humboldt County,
2 informing them that Joi was seeking lodging at the motel but had no funds.⁴ Rollin was not with Joi
3 because he had decided that they should go their separate ways. Joi's parents paid for her lodging at
4 the motel and sent their daughter Sandi to bring Joi back to Amarillo. Sandi said that Joi was in a much
5 neglected state when she found her.

6 Joi was not happy about going back to Amarillo to live with her parents, and her attitude and
7 language reflected her state of mind. However, her parents tried to make Joi comfortable. A
8 neurologist informed them that Joi had chronic progressive MS and that she should be in a facility with
9 24-hour care. Neither Joi nor her parents wanted her to go to a nursing home. Instead, her parents
10 renovated their home to accommodate Joi. They planned to take care of Joi as long as they were
11 living.

12 Joi had maintained contact with Rollin, and in August of 2000, Joi decided to return to California.
13 Prior to her daughter's return to California, Joi's mother called Adult Protective Services in Humboldt
14 County to voice her concerns regarding her daughter living with Rollin. After arriving in Orick,
15 California, Joi and Rollin lived together in a dilapidated mobile home. Joi and Rollin's relationship was,
16 at times, a romantic as well as a tumultuous one. They lived together and separated from one another
17 multiple times.

18 In late August or early September 2000, Joi was visited by Michael Finamore, an adult
19 protective services public health nurse for Humboldt County.⁵ Finamore noted that Joi was suffering
20 from multiple sclerosis and that she was restricted to either her bed or wheelchair. Joi was incontinent
21 and she also had minor pressure sores or bedsores on her buttocks. Finamore estimated Joi's weight
22 to be about 110 pounds. Finamore arranged for Joi to receive MediCal and county health-care
23 services. Joi was given a hospital bed, a bedside commode, and a referral to a doctor. Humboldt
24

25 ⁴ According to Joi's parents, between January of 2000 and April of 2000, Joi and Rollin spent the
26 proceeds from the sale of Joi's home and all of her \$1,800 a month in disability benefits (about \$12,400
total).

27 ⁵ Finamore worked with senior citizens and dependent adults who were medically fragile and in need of
28 assistance.

1 County also contracted with Rollin to act as Joi's caregiver, for which Rollin received monthly
2 compensation in the amount of \$900.00. Rollin had no other income aside from the money he received
3 for caring for Joi.

4 Registered nurse Claudia Carter spent time with Rollin and explained to Rollin how to care for
5 Joi. Rollin's tasks as Joi's caretaker included food preparation, helping her eat, keeping her clean
6 and hygienic, dressing her, transporting her to medical appointments, and other tasks necessary for
7 the care of someone afflicted with multiple sclerosis.⁶

8 On March 5, 2001, Joi saw Doctor Albertini because she was experiencing urinary tract
9 infections and incontinence. The doctor estimated that Joi weighed about 120 pounds.⁷ He placed a
10 suprapubic catheter⁸ to assist Joi with urinary drainage. This catheter was to be changed every four to
11 six weeks. The doctor's routine was to change the catheter himself the first two times, and then the
12 patient or caretaker was expected to change the catheter on a timely basis. Joi was pleased with the
13 catheter because she no longer suffered from incontinence.

14 In April 2001, a county health counselor named Virginia Norling visited Joi after receiving a call
15 from Rollin, who was not present at this meeting. Joi told Norling that Rollin sometimes left her in bed
16 for two or three days at a time. According to Norling, Joi did not appear to be someone who wanted to
17 die because she had a lot of future plans and was hopeful that a new type of MS medication would
18 relieve her symptoms.

19 In June 2001, Norling again visited Joi. She arrived early and she saw Rollin bathing Joi by
20 having her lie on a mat on the ground outside the trailer while he hosed her off with a garden hose.
21 Norling described the incident as very unsettling. She spoke to Joi about it, and Joi said that the water
22 was invigorating and wasn't cold. Norling noticed that Joi's ability to feed herself was impaired because
23 she lacked coordination due to her illness. She saw Joi struggle to eat. She choked often and she
24

25 ⁶ 3 Reporter's Transcript pp. 566-570.

26 ⁷ 2 Reporter's Transcript pp. 448,449.

27 ⁸ A suprapubic catheter is a urine drainage catheter which is inserted through the abdominal wall just
28 above the pubic bone and into the bladder.

1 soon became exhausted trying to eat. However, Joi did have a bottle of water with a tube that made
2 sipping it easy.

3 Norling's last visit with Joi took place in July 2001. Joi told Norling that she was afraid
4 because Rollin had previously locked her in the trailer. She had also been left alone outside. Joi also
5 told Norling about Rollin's "anger outbursts," and that she was having difficulty getting Rollin to take
6 her to the doctor. Norling did not see Joi after this visit because Finamore told her that Rollin said
7 that she could not "come on the property anymore" because she was "too snoopy."⁹

8 Prior to September 21, 2001, Finamore told Carter that Adult Protective Services was going to
9 close Joi's case because it was determined that Joi was a competent adult who chose to stay with
10 Rollin. On September 21, 2001, Carter spoke with Rollin. Rollin was upset that he had not been paid
11 for a period of time that Joi was in Texas visiting her family. Carter told Rollin that she would get a
12 social worker to come out and address the problem with Rollin's paycheck. Rollin then told Carter that
13 he would "blow the head off any social worker who came to the residence."¹⁰ Carter reported this threat
14 to her supervisors, and Joi's in-home support services were then cancelled.

15 On October 4, 2001, Doctor Albertini saw Joi in his office to change her catheter. Carter was
16 present with Joi. In the discharge summary, necessitated because Joi's file was being closed, Carter
17 recorded that Joi's skin was "intact," her catheter was normal, and she was oriented. Carter estimated
18 Joi to weigh between 110 and 120 pounds. Carter also noted that Joi was not in any pain or distress.
19 There was no indication while Carter was working with Joi that Joi was unable to process her food or
20 that she was starving.

21 On November 15, 2001, Finamore visited Joi to check on her and discuss closure of her adult
22 protective services' case. When he arrived, Joi was in a hospital bed in an outbuilding. The building
23 was filled with items, and Joi looked "pretty good." She was clean and coherent and was not
24 concerned that the home health service had been discontinued. She did not appear to be in any pain
25 or discomfort.

26
27 ⁹ Interview of Virginia Norling by Detective Freese on April 2, 2002.

28 ¹⁰ 3 Reporter's Transcript, p. 557.

1 In January 2002, Humboldt County Deputy Sheriff Berry went to the mobile home after he
2 received a call from Joi's mother asking him to check on her daughter's welfare. Joi was lying in the
3 front area of the mobile home on a bed or a mattress. Joi's face looked thin but no other part of her
4 body was visible because she was covered with a blanket. Berry explained the reason for his visit, and
5 Joi thanked him and she asked him to have somebody speak with her mother and tell her to stop
6 calling.

7 Deputy Berry returned again in February 2002, after he received another call from Joi's mother
8 reporting that Joi's phone had been disconnected. Berry noticed that there was a truck and boxes at
9 the mobile home. He spoke to Rollin, who introduced his brother Andre. Rollin explained that the
10 phone was disconnected because they were moving. He told Berry that Joi was in the back room.
11 Berry walked to the back room and told Joi why he was there, and she thanked him for coming and said
12 that she was fine. Joi seemed excited about her impending move to New Mexico. She indicated that
13 she would decide after the move if she wanted to call her mother or not.

14 On March 11, 2002, a friend who was visiting Rollin noticed a gross, putrid smell and heard a
15 female ask "Are they here? Did they bring it? Help, help. I'm dying here. Come on. What's taking
16 so long?" Rollin told his friend that he had been working really hard taking care of Joi and that he
17 was not in any big rush to assist her.

18 On March 14, 2002, Joi's case was reopened by Humboldt County. Finamore returned to the
19 mobile home with a student nurse to check on Joi. Nobody answered the door, and upon further
20 inspection, the mobile home appeared to be deserted.

21 On March 20, 2002, Andre brought Joi to the emergency room at Mad River Community
22 Hospital. Joi was in a sleeping bag in the front seat of Andre's truck. She was lifeless, bluish, and in
23 rigor mortis.

24 An investigator with the Humboldt County Coroner's Office made the following observations.
25 The sleeping bag that contained Joi's body smelled of men's cologne. Joi was wearing a fleece vest,
26 sweatpants, and a diaper that was secured with tape around her waist and legs. Fecal matter
27 extended from the back of the diaper up her back. Joi's clothes appeared to have been worn for an
28 extended period of time. She was extremely emaciated and weighed an estimated 60 pounds. Joi

1 had sunken eyes and rib bones extending outwardly. Joi also had about 20 bedsores of various
2 sizes, and one of the sores on her hip bone extended out through the skin. The largest bedsore was
3 located on the small of Joi's back and had fecal matter in it. Joi was not wearing shoes and her
4 toenails were so long that they were curved to the right. Joi's ears were impacted with wax, and she
5 had a catheter that had not been changed for an extended period of time.¹¹

6 On March 21, 2002, Dr. Falconer conducted an autopsy.¹² Dr. Falconer observed that Joi had
7 suffered from multiple sclerosis and that she was very emaciated, weighing only about 60 pounds. Joi
8 had a catheter bulb in her bladder that had apparently been there for a long time because the catheter
9 material had been replaced by urinary minerals and it was as fragile as an egg shell.

10 The doctor also noted that he had never seen a person of Joi's age so emaciated or with the
11 number and severity of bedsores, with some sores exposing bone and others exposing muscular
12 tissue. He described her appearance as "shocking." According to Dr. Falconer, many of Joi's bedsores
13 could have been prevented with proper care. Dr. Falconer also believed that these bedsores would
14 have been painful.

15 Dr. Falconer determined that Joi died as a result of bronchial pneumonia of the left aleolar
16 lung that was caused by fecal contamination of her many bedsores or due to a urinary tract infection
17 that could have been caused by her neglected catheter.

18 On March 21, 2002, Detective Freese of the Humboldt County Sheriff's Department served a
19 search warrant at the mobile home where Joi had last lived with Rollin. According to Detective Freese,
20 the mobile home was in a deplorable condition. A fan was running in the home and there was an
21 overpowering odor of perfume or cologne. All the windows were covered in black plastic or plywood,
22 allowing no natural light to enter. A light that was turned on by law enforcement sparked and then went
23 out, leaving the search to be conducted by flashlight. There were exposed electrical wires in the back
24 bedroom. In the bathroom, Detective Freese observed mushrooms growing on the wall from ceiling to
25 floor. There was an apparent leak in the roof and a bucket underneath to catch the water. The mobile

26
27 ¹¹ 1 Reporter's Transcript, pp. 188-212.

28 ¹² 1 Reporter's Transcript, pp. 143-164.

1 home's floor had holes in it, and it appeared as if somebody had used a garden hose to wash down the
2 floor because it was still damp.

3 After the police investigation, the matter was submitted to the Humboldt County District
4 Attorney's Office. Christine Cook, a senior investigator for the District Attorney's Office, learned that
5 Rollin had been Joi's paid caretaker. He was hired to prepare meals, provide bowel, bladder, and
6 skin care, accompany Joi to medical appointments, and other related activities. Records produced at
7 trial showed that Rollin was paid \$17,030.82 from October 17, 2000, to February 28, 2002.¹³ On
8 March 19, 2003, a criminal complaint was filed against Rollin and an arrest warrant was issued.

9 On April 8, 2003, Rollin was arrested in Austin, Texas. Cook went to Austin to interview Rollin
10 about Joi's death. Rollin was transported in handcuffs from the county jail in Austin to an interview
11 room at a police station. Cook identified herself and told Rollin she was there to talk to him about Joi.
12 Rollin told her that when he first met Joi, she wanted to die. She also hated her mother and siblings.
13 Joi bought a house near Yosemite, but her payments were very high. Rollin went to live with her, and
14 he took care of her for free for three years. When Joi sold her house, they moved to Washington where
15 Rollin had property. They then went to Arcata. Rollin told Joi she should go back to Texas, and she
16 did. However, Joi returned to California and she and Rollin lived in a mobile home owned by Andre.
17 Rollin said that he and Joi got along well. When she screamed and yelled, he learned how to walk
18 away from it. Rollin said he kept the mobile home clean and he also kept Joi clean. He had a chair in
19 the bathtub to help Joi bathe. On sunny days, he bathed her outside. Rollin said he never left Joi
20 alone. Rollin also said that Finamore, from Humboldt County Adult Protective Services, was a real nice
21 guy who helped Rollin get paid for taking care of Joi.

22 Rollin told Cook that Joi's health started to go downhill around Christmas of 2001. It was only in
23 the last month of Joi's life that he stopped caring for her because she refused his assistance. Rollin
24 said that the only thing that was good for her was marijuana because marijuana helped her eat. He fed
25 her popcorn with brewer's yeast, which was her favorite. He explained that brewer's yeast was an
26
27

28 ¹³ 3 Reporter's Transcript, p. 724.

1 amino acid and a complete protein. He also gave Joi multivitamins. He denied starving Joi and he
2 insisted that her weight loss was a natural progression of her disease.

3 Rollin said that Joi would no longer permit him to take her to her doctors. He also said that Joi
4 got worse and worse real fast. He said he pleaded with Deputy Berry, Finamore and Joi's mother for
5 help taking care of Joi, but he was unsuccessful. Rollin claimed that Joi had decided to die on her
6 birthday after her ex-husband prevented her from speaking to her daughter.

7 Rollin explained that the reason Joi had bedsores is because she favored one side of her
8 body when lying down. This resulted in a big hole on that side. Rollin said that he would stuff
9 Goldenseal¹⁴ and antibiotics into the hole, covering it with a band aid. The hole kept getting bigger
10 and was really nasty. Rollin said that Andre took Joi to a motel because the mobile home was not a
11 good environment for her. Rollin claimed that he left northern California a week or so before Joi died
12 because he was looking for a place to live. Rollin later said he left the day before Joi died while
13 Andre was watching her in a motel room.

14 During the interview, Rollin questioned how he could be guilty of a crime when it was he who
15 had wanted Joi to go back to her family. Rollin said that doctors, nurses, Finamore, Deputy Berry, and
16 his friends had seen him care for Joi. After expressing his innocence, Rollin told Cook that he was well-
17 connected¹⁵ and that he was going to bring in ABC, CBS, NBC, all the media and the ACLU if this goes
18 to court. He would also sue Humboldt County.

19 When another officer interrupted the interview to see if Rollin wanted more coffee, Cook left
20 the room. When Cook returned, she advised Rollin of his *Miranda*¹⁶ rights. After waiving his *Miranda*
21 rights, Rollin admitted that he had not been completely truthful. Rollin said he lied to protect Andre

22
23 ¹⁴ According to the National Center for Complementary and Alternative Medicine, Goldenseal is a plant
24 that has been used for various health conditions such as skin diseases, ulcers, gonorrhea, colds and
25 other respiratory tract infections, infectious diarrhea, eye infections, and vaginitis. Few studies have
26 been published on Goldenseal's safety and effectiveness, and there is little scientific evidence to
27 support using it for any health problem.

28 ¹⁵ Rollin told Cook that "his dad was in the biggest mafia in the world."

¹⁶ *Miranda v. Arizona* (1966) 384 U.S. 436.

1 because Andre had recently cashed a check from Joi's account for \$1,600.00 to fund the move that
2 they were planning. Rollin explained that he and Joi needed to get out of the depressing environment
3 of the mobile home, and on March 18, 2002, Andre drove them to a motel near a river. They stayed
4 one night, and Joi slept on the bed while Rollin slept on the floor. Rollin woke up when he heard Joi
5 make a gurgling noise just before she died. Rollin said that he was calm when Joi died and that he
6 stayed at the motel until Andre arrived later that night. Rollin did not want to go to the hospital
7 because he was embarrassed about all of Joi's bed sores, so he dressed Joi in clean clothing before
8 she was taken to the hospital by Andre. Rollin remained at the motel for a few weeks until Andre was
9 able to take him to Oregon and then to Arizona.

10 After his arrest in Texas, Rollin called Finamore on May 25 and May 27, 2003. The phone calls
11 were tape recorded. In the first call, Rollin blamed Finamore for Joi's death because Finamore allowed
12 Joi's family to interfere in her life. Rollin also blamed Joi's ex-husband because he would not allow Joi
13 to see or talk to her daughter. Rollin said that Joi didn't want to see the doctors, she didn't want to see
14 the nurses, and she didn't want to live anymore all because her daughter was taken from her. Rollin
15 told Finamore that he was coming to California and that he was going to sue Finamore, Humboldt
16 County, and California.

17 In the second call, also on May 25, 2003, Rollin repeated his threats that he was going to sue
18 Finamore, the hospital, and Joi's parents. He said that he was going to take their houses, their cars,
19 and everything they own. Rollin blamed Humboldt County for not giving Joi the care she deserved. He
20 blamed the hospital and Finamore and said that they were incompetent. Rollin also repeated that he
21 was going to bring the media, NBC, and CBS down on Humboldt County. Rollin warned Finamore that
22 if he did not drop the charges, if he "didn't stop this crap now, he was going to clean Finamore's clock"
23 and also "kick his ass."

24
25 In the third phone call on May 27, 2003, Rollin reminded Finamore once-again that his family was
26 well-connected. He also said that he had taken care of Joi for three years without pay. Rollin said that
27 he had a film of a Humboldt County drug enforcement agency selling drugs and transporting marijuana
28

1 throughout the country. Rollin threatened to shut down Humboldt County if Finamore did not drop the
2 charges.

3 Rollin was charged with abusing a dependent adult, with allegations that he proximately caused
4 Joi's death and that he personally inflicted great bodily injury. Rollin's attorney sought to have the court
5 exclude Rollin's statements made while he was in custody in Texas, but the trial judge determined that
6 Rollin's recorded statements to police did not result from interrogation and denied Rollin's motion to
7 exclude them.
8

9 On September 2, 2004, the jury convicted Rollin of abusing a dependent adult. On October 4,
10 2004, Rollin was sentenced to eight years in prison, including the midterm of three years for abuse of a
11 dependent adult, a five-year consecutive enhancement for proximately causing the victim's death, and
12 a three-year concurrent enhancement for personal infliction of great bodily injury.

13 On December 13, 2006, the First District Court of Appeal found that Rollin's *Miranda* rights
14 were violated when Rollin made a series of statements to Cook while in custody in Texas. The Court
15 determined that Rollin's conviction should be reversed because the admission of his statements that
16 were obtained in violation of *Miranda* were not harmless beyond a reasonable doubt and also
17 because the evidence of Rollin's guilt was not overwhelming.
18

19 Rollin was re-tried after his conviction was overturned, and the statements he had made to
20 Investigator Cook while in custody in Texas were excluded. On January 11, 2008, the jury returned
21 with a not-guilty verdict, and Rollin was released from custody.
22

23 **Hearing Testimony and Arguments**

24 Rollin testified to the following information at his hearing for compensation. Joi was despondent
25 and depressed after her husband and parents abandoned her. Due to her illness, Joi was not able to
26 care for herself and was completely dependant on Rollin. However, Rollin was not able to provide
27 proper care because she rebuffed most of his efforts. Joi would not allow him to take her to the doctor
28 for appropriate medical care because she wanted to die. Rollin testified that he did the best he could

1 with the little resources he had at his disposal. Rollin also claimed that he never received any training
2 on how to properly care for Joi.

3 Rollin explained at the hearing that Joi was malnourished because she was not able to swallow
4 her food, even though he chopped and mashed her food until it was almost a liquid. Rollin denied
5 telling Claudia Carter that if the social worker came to his residence he would "blow her head off" and
6 testified that Carter likely misunderstood him due to his frustration at being unable to provide proper
7 medical care for Joi.

8 Rollin also claimed that Joi was the victim of a corrupt bureaucracy that would not provide him
9 with the tools necessary to properly care for Joi. Several times during the hearing, Rollin commented
10 that he received far too little compensation for the amount of care he provided to Joi. Rollin also
11 testified that he had not received any compensation for three years while he cared for Joi prior to being
12 employed as a dependent caretaker.

13 Rollin also blamed the system for its failure to recognize that Joi was not mentally competent.
14 Rollin testified that he even thought Joi had been seen by a physician and other health-care
15 professionals, none recognized that Joi was not mentally competent. Rollin claimed that he asked that
16 Joi be seen by a psychologist or psychiatrist, but no assistance was forthcoming. Finally, Rollin
17 testified that Joi was in a delusional state prior to and at the time of her death.

18 Rollin presented the following arguments in support of his claim for compensation. The Attorney
19 General's response to each argument is presented in single-spaced format immediately following each
20 argument.

21 I. Factual Innocence: Rollin argued that because he was found not-guilty by the jury in his
22 second trial, he is innocent. Thus, he has met his burden of proving that he did not commit the crime
23 for which he was incarcerated. Rollin's argument is based on the premise that because a person is
24 presumed to be innocent until proven guilty, a not-guilty verdict by a jury is synonymous with a finding
25 of factual innocence.

1 This argument is specious. Penal Code section 851.8 is the avenue that must be followed for
2 those persons who seek a finding of factual innocence. In *Medlin*,¹⁷ the court was tasked with
3 determining whether a granting of a finding of factual innocence was proper. The court
4 determined that the finding of factual innocence was improper and held "[A]cquittal on criminal
charges does not prove that the defendant is innocent; it merely proves the existence of a
reasonable doubt as to his guilt."

5 II. Miranda: Rollin argued that the Board should not consider any evidence that was
6 determined to have been obtained as a result of a violation of his *Miranda* rights. Therefore, the first
7 statement he made to Investigator Cook should be excluded from consideration by the hearing officer
8 because the Court of Appeal determined that it was taken in violation of *Miranda*.

9 Because the purpose of these hearings is to determine whether the claimant has met his
10 burden of proving that he is innocent of the crime for which he was convicted and
11 incarcerated, the hearing officer is authorized to hear all relevant evidence that is probative to
12 Rollin's assertion that he is innocent,¹⁸ as the Board is not bound by the formal hearing rules
13 of the Administrative Procedures Act.¹⁹

14 III. Fifth Amendment: Rollin testified that because he has a Fifth Amendment right not to be
15 involuntarily called as a witness against himself, he can refuse to answer any questions posed by the
16 hearing officer or the Attorney General, so long as he believes that his answers could result in a
17 criminal prosecution.²⁰

18 The Fifth Amendment to the United States Constitution states that a person "shall not be
19 compelled in any criminal case to be a witness against himself." Claimant is not testifying in a
20 criminal matter. He also cannot be re-tried for the death of Joi because he has already been
21 acquitted in a criminal court. More importantly, Rollin is not being compelled to testify. If he had
22 chosen not to testify at his hearing, his claim would have been evaluated by the hearing officer
23 solely on the evidence in the record.

24 IV. Involuntary False Confession: Rollin claims that he has a privilege under Penal Code
25 section 4903, a provision that precludes the fact-finder from using a statement or statements obtained
26 from an involuntary false confession or involuntary plea. Rollin sought to have the statements he made
27

28 ¹⁷ *People v. Medlin* (2009) 178 Cal. App. 4th 1092.

¹⁸ Cal. Code Regs., tit. 2, § 641.

¹⁹ Cal. Code Regs., tit. 2, § 615.1.

²⁰ Although Rollin claimed certain rights pursuant to *Miranda* and the Fifth Amendment, he testified at his hearing and answered all questions posed by the hearing officer and the AG.

1 to Cook in Texas, that were subsequently determined to be a violation of *Miranda*, be deemed to be an
2 involuntary confession, and therefore his "involuntary false confession" should not be considered by the
3 hearing officer.

4 Penal Code section 4903 is aimed at preventing persons who were coerced into falsely
5 confessing responsibility for a crime they did not commit from being precluded from Penal Code
6 section 4900 relief. Rollin ignores the fact that his first statement to Cook cannot be
7 characterized in any way as a "false confession." In that statement, he told the investigator
8 deliberate falsehoods that he revealed, following an advisement of his *Miranda* rights, in a
9 second interview were lies. Those falsehoods were not admissions to committing a crime, they
10 were simply statements that negatively affected his credibility.

11 Courts have held that a confession may be found involuntary if extracted by threats or violence,
12 obtained by direct or implied promises, or secured by the exertion of improper influence.²¹
13 Such is not the case here. Moreover, even if it could be viewed as a "confession," Rollin's
14 statement was not involuntary.

15 V. Immunity: Rollin argues that he is immune from criminal and civil liability for failing to
16 provide proper care for a dependent adult so long as it is shown that the dependent adult refused the
17 offered care. According to Rollin, Joi refused his offer of care. Therefore, he has no liability for failing
18 to provide proper care for Joi, notwithstanding the provisions of Penal Code section 368. Rollin cites
19 cases involving physicians who did not provide medical treatment to patients in accordance with the
20 written or verbal instructions of those patients. In one of the cited cases, the patient signed a living
21 will, durable power of attorney, and a declaration that indicated his desire to die without medical
22 intervention.²² Rollin also cites Justice Benjamin Cardoso who wrote: "Every human being of adult
23 years and sound mind has a right to determine what shall be done with his own body..."²³

24 Penal code section 368(a) states that the Legislature finds and declares that elders and
25 dependent adults are deserving of special consideration and protection against crimes, not
26 unlike the special protections provided for minor children, because elders and dependent adults
27 may be confused, on various medications, mentally or physically impaired, or incompetent, and
28 therefore less able to protect themselves, to understand or report criminal conduct, or to testify
in court proceedings on their own behalf.

26 ²¹ *People v. Benson* (1990) 52 Cal.3d 754, 778.

27 ²² *Bartling v. Superior Court* (1984) 163 Cal.App.3d 186.

28 ²³ *Schloendorff v. Society of New York Hospital* (1914) 211 N.Y. 125.

1 In *Heitzman*,²⁴ the California Supreme Court noted in its discussion of this Penal Code section
2 legislative intentions that were presented to the Senate Judiciary Committee: "The person who
3 abuses is usually the caretaker of the victim, that is, the person who officially or informally
4 assumes responsibility for the care of a dependent person. Thus, it is no surprise that the
5 imposition of a duty on those having care or custody of an elder to protect his or her charge
6 from injury or dangerous situations is expressly set forth in the second and third clauses of the
7 statute."

8 VI. Collateral Estoppel: Rollin also claims that the Board is estopped from denying his claim
9 because he was acquitted in his second trial. Rollin would like the Board to consider his acquittal to be
10 determinative of the issue of his innocence and thus require the Board to grant his claim for
11 compensation.

12 The offensive use of collateral estoppel is more closely scrutinized than the defensive use of
13 the doctrine.²⁵ However, even if scrutinized under the general standard for collateral estoppel,
14 Rollin's position is without support.

15 Traditionally, courts have applied the doctrine only if several threshold requirements are
16 fulfilled. First, the issue sought to be precluded from relitigation must be identical to that
17 decided in a former proceeding. Second, this issue must have been actually litigated in the
18 former proceeding. Third, it must have been necessarily decided in the former proceeding.
19 Fourth, the decision in the former proceeding must be final and on the merits. Finally, the
20 party against whom preclusion is sought must be the same as, or in privity with, the party
21 to the former proceeding.²⁶

22 The party asserting collateral estoppel bears the burden of establishing these
23 requirements.²⁷ Furthermore, even if these threshold requirements are satisfied, the
24 doctrine will not be applied if such application would not serve its underlying fundamental
25 principles.²⁸

26 Rollin bears the burden of proving by a preponderance of the evidence that he is innocent.
27 Conversely, at a jury trial in a criminal case, the prosecutor has the burden of proving that a
28 defendant is guilty "beyond a reasonable doubt." Those are very different burdens and the
ultimate issues being litigated are very different. Rollin suggests that his acquittal at jury trial is
closer to the issue of innocence being "actually litigated" than a finding of factual innocence

29 ²⁴ *People v. Heitzman* (1994) 9 Cal.4th 189, 204.

30 ²⁵ *Parklane Hosiery Co. v. Shore* (1979) 439 U.S. 322, 329-331; *Tennison v. California Victim*
31 *Compensation & Government Claims Board* (2007) 152 Cal.App.4th 1164, 1179, quoting *White Motor*
32 *Corp. v. Teresinski* (1989) 214 Cal. App. 3d 754, 763.

33 ²⁶ *Gikas v. Zolin* (1993) 6 Cal.4th 841, 848-849.

34 ²⁷ *Pacific Lumber Co. v. State Water Resources Control Bd.* (2006) 37 Cal.4th 921, 943.

35 ²⁸ *Gikas v. Zolin* (1993) 6 Cal.4th 841, 849.

1 pursuant to Penal Code section 851.8. As discussed earlier, acquittal at a jury trial means that a
2 person has been found not guilty "beyond a reasonable doubt." At the conclusion of a jury trial, a
3 person who is acquitted is not found innocent of the criminal charges, the finding is "not guilty."

4 Furthermore, the public policies underlying collateral estoppel—preservation of the integrity of
5 the judicial system, promotion of judicial economy, and protection of litigants from harassment
6 by vexatious litigation—strongly influence whether its application in a particular circumstance
7 would be fair to the parties and constitutes sound judicial policy.²⁹ For Rollin's assertion of
8 collateral estoppel to apply would be to ignore that some people who are not innocent of a
9 crime are nevertheless found "not guilty" because there is not enough evidence to meet the
10 highest legal burden of proof. It would not promote integrity in the judicial system to label
11 those persons as "innocent" without a separate legal proceeding. Therefore, the doctrine of
12 collateral estoppel does not apply under these circumstances.

13 Findings

14 A preponderance of the evidence supports the following findings:

- 15 1. Joi Wright was a dependent adult who suffered with multiple sclerosis.
- 16 2. Rollin received compensation for being Joi's caretaker.
- 17 3. As Joi's caretaker, Rollin had a legal duty not to willfully cause or permit Joi's health to be
18 injured.
- 19 4. Rollin permitted Joi's person and health to be injured.
- 20 5. Joi weighed approximately 120 pounds on or about March 5, 2001.
- 21 6. Joi weighed approximately 110 to 120 pounds on or about October 4, 2001.
- 22 7. Adult protective services closed Joi's case on or about November 15, 2001.
- 23 8. Joi died on or about March 20, 2002.
- 24 9. At or about the time of her death, Joi weighed approximately 60 pounds.
- 25 10. On September 2, 2004, Rollin was convicted of abusing a dependent adult.
- 26 11. Rollin's conviction for abusing a dependent adult was reversed on or about December
27 13, 2006, based on the admission of statements made in violation of *Miranda*.
- 28 12. Rollin's second criminal trial resulted in an acquittal, and Rollin was released from prison
on January 11, 2008.
13. Rollin served 1,216 days in prison subsequent to his conviction.

²⁹ *Lucido, supra*, 51 Cal.3d at p. 343; see also *People v. Sims, supra*, 32 Cal.3d at pp. 488–489.

1 14. Rollin did not provide substantial independent corroborating evidence that he is innocent
2 of the crime charged.

3 **Determination of Issues**

4 Penal Code section 4903 establishes the requirements for a successful claim for an
5 erroneously convicted felon. A person erroneously convicted and imprisoned for a felony may submit
6 a claim to the Board for pecuniary injury sustained as a result of his erroneous conviction and
7 imprisonment.³⁰ In order to be successful on such a claim, a person must prove the following, by a
8 preponderance of the evidence:

- 9 (1) that the crime with which he was charged was either not committed at all, or, if committed,
10 was not committed by him;
11 (2) that he did not by any act or omission on his part, intentionally contribute to the bringing
12 about of his arrest or conviction for the crime; and
13 (3) that he sustained a pecuniary injury through his erroneous conviction and imprisonment.³¹

14 "Preponderance of the evidence" means evidence that has more convincing force than that opposed
15 to it.³² If Rollin meets his burden of proof, the Board shall recommend to the legislature that an
16 appropriation of \$100 be made for each day of incarceration served subsequent to the Rollin's
17 conviction.³³

18 On or about December 13, 2006, the Court of Appeal, First Appellate District, reversed
19 Rollin's conviction. Rollin was acquitted on retrial. Because Rollin was acquitted, the Board can
20 consider his acquittal in reaching its determination of the merits. However, the acquittal will not be
21

22
23
24 ³⁰ Pen. Code, § 4900.

25 ³¹ Pen. Code, § 4903, *Diola v. Board of Control* (1982) 135 Cal.App.3d 580, 588, fn 7; *Terrison v.*
26 *Victim Compensation and Government Claims Board* (2000) 152 Cal. App. 4th 1164.

27 ³² *People v. Miller* (1916) 171 Cal. 649, 652.

28 ³³ Pen. Code, § 4904.

1 deemed sufficient evidence to warrant the Board's recommendation that Rollin be indemnified in the
2 absence of substantial independent corroborating evidence that he is innocent of the crime charged.³⁴

3
4 The Board may also consider as substantive evidence testimony of witnesses that Rollin had
5 an opportunity to cross-examine, and evidence to which Rollin had an opportunity to object, admitted
6 in prior proceedings relating to the claimant and the crime with which he was charged.

7 Because the purpose of these administrative hearings is to determine whether the claimant
8 has met his burden of proving that he is innocent of the crime for which he was convicted and
9 incarcerated, all relevant evidence is admissible, irrespective of whether it would be admitted at a
10 criminal jury trial or in a civil or administrative proceeding, so long as the evidence is probative to the
11 claimant's assertion that he is innocent.³⁵ The formal hearing rules of the Administrative Procedures
12 Act are also not applicable.³⁶

13 Rollin argues that his first statement to Investigator Cook should be excluded from
14 consideration by the hearing officer because the Court of Appeal determined that it was taken in
15 violation of *Miranda*. However, statements deemed to have been taken in violation of *Miranda* are
16 suppressed at trial as a prophylactic remedy. Since it was Rollin who initiated this claim for
17 compensation, that prophylactic remedy has no place. The hearing officer must be able to hear all
18 relevant evidence, irrespective of whether or not it would have been admissible at trial to evaluate the
19 claim of actual innocence. Although Rollin's *Miranda* statements to Cook were considered by the
20 hearing officer, they were not dispositive in the determination that Rollin had not met his burden. The
21 statements were used in making the determination that Rollin was not credible.

22 In Rollin's second trial, the jury determined that the prosecutor had not met the substantial
23 burden of proving that Rollin was guilty beyond a reasonable doubt. But, contrary to Rollin's
24 assertion, a person who is found to be "not guilty" cannot be said to be innocent. That finding can
25 only be accomplished through Penal Code section 851.8. And, even if Rollin had obtained a finding

26 ³⁴ Cal. Code Regs., tit. 2, § 641.

27 ³⁵ Cal. Code Regs., tit. 2, § 641.

28 ³⁶ Cal. Code Regs., tit. 2, § 615.1.

1 of factual innocence pursuant to Penal Code section 851.8, that finding alone is not sufficient
2 evidence to prevail in a claim for compensation under Penal Code section 4900.³⁷

3
4 Because Rollin was tried and acquitted of Joi's death, he cannot be tried again. But, even if
5 he could possibly face additional sanctions as a result of his testimony, Rollin filed this claim for
6 compensation. He brought the matter to the attention of the Board. Rollin has the burden of proving
7 that he did not commit the crime for which he was incarcerated. Therefore, it is determined that Rollin
8 cannot claim a Fifth Amendment privilege in an administrative hearing for compensation that he
9 initiated.

10 Rollin also did not prove that his *Miranda* statements to the investigator in Texas were an
11 involuntary false confession. Rollin's falsehoods were not admissions to committing a crime; they
12 were simply statements that negatively affected his credibility.

13 Rollin also would like his failure to provide adequate care to Joi be excused because he
14 believes he was under no legal duty to care for Joi. Rollin was not simply a boyfriend who had no
15 legal obligation to Joi. Rollin was being compensated for being Joi's caretaker. As such, he
16 assumed a legal duty to provide competent care. The evidence showed that Rollin received
17 instruction as to what duties were expected of him. Humboldt County paid him to prepare meals, help
18 Joi with bowel and bladder care, feed her, bathe her, move her in and out of bed, rub her skin and
19 reposition her body, and accompany her to medical appointments.

20 In *Heitzman*,³⁸ the California Supreme Court summarized the "egregious facts" of that case.
21 Sixty-seven year old Robert Heitzman resided with his two grown sons. When police were
22 summoned to the residence, they found Robert had died in his bedroom. "His body lay on a mattress
23 that was rotted through from constant wetness, exposing the metal springs. The stench of urine and
24 feces filled not only decedent's bedroom, but the entire house as well. His bathroom was filthy, and
25 the bathtub contained fetid, green-colored water that appeared to have been there for some time."
26 "Police learned that Jerry Heitzman was primarily responsible for his father's care, rendering

27 ³⁷ Cal. Code Regs., tit. 2, § 641.

28 ³⁸ *People v. Heitzman* (1994) 9 Cal.4th 189.

1 caretaking services in exchange for room and board." "At the time of his death, decedent has large,
2 decubitus ulcers, more commonly referred to as bedsores, covering one-sixth of his body. An
3 autopsy revealed the existence of a yeast infection in his mouth, and showed that he suffered from
4 congestive heart failure, bronchial pneumonia, and hepatitis. The forensic pathologist who performed
5 the autopsy attributed decedent's death to septic shock due to the sores which, he opined, were
6 caused by malnutrition, dehydration, and neglect."

7 The Court noted that the statute included both assaultive conduct and passive abuse, such as
8 extreme neglect. The Court stated that when "criminal liability is based on the *failure* to act, it is well
9 established that he or she must first be under some existing legal duty to take positive action." With
10 respect to caregivers, the Court observed that they were specifically considered when the legislation for
11 section 368 was presented to members of the Senate Judiciary Committee:

12 'The person who abuses is usually the caretaker of the victim, that is, the person who
13 officially or informally assumes responsibility for the care of the dependent person. This
14 includes caretakers in licensed family homes or relatives: children, grandchildren or parents
15 of the youngest dependent adult.' Thus, it is no surprise that the imposition of a duty on those
16 having care or custody of an elder to protect his or her charge from injury or dangerous
17 situations is expressly set forth in the second and third clauses in the statute.

18 The Court also rejected appellant's claim that section 368 violates due process because
19 elderly persons may prefer to neglect their medical needs. First, appellant is not an elderly person
20 who wants to suffer from lack of food or water, or wishes to have her flesh slowly rot away; we
21 cannot understand how appellant would acquire standing to assert a victim's supposed 'right' to be
22 suffering such conditions. In any event, the argument is obviously frivolous in the factual context of this
23 case, and we reject it.

24 Rollin claimed that he did everything he could to care for Joi, but he was hobbled by her refusal
25 to allow him to take her to a doctor to receive appropriate medical care. Rollin tried to negate his
26 responsibility for Joi's death by claiming that she wanted to die and the he was just following her
27 wishes. Rollin also blamed Joi's death on a corrupt bureaucracy that placed hurdles in his way and that
28

1 also did not provide him training on how to properly care for Joi. However, the record indicates
2 otherwise.

3 During the time that Joi was visited by health care professionals, her health appeared to be
4 satisfactory. Her weight was estimated at about 110-120 pounds. When Joi's health services were
5 discontinued because Rollin threatened that he would "blow the head off any social worker who came
6 to the residence," Joi's health and personal hygiene rapidly deteriorated. Other than his self-serving
7 testimony, Rollin provided no evidence that Joi wanted to die or that he was prevented from taking her
8 to the doctor for medical care. He presented no evidence that she chose to lay in her bed with feces in
9 her bedsores, or that her toenails could not be cut or trimmed. He presented no evidence that Joi
10 wanted her ears to be impacted with wax or that he was unable to clean her ears. He presented no
11 evidence that Joi chose to be in a diaper full of feces held together by tape.

12 Rollin initially told Investigator Cook that he was not present when Joi died because he was out
13 of town. He claimed that Andre was caring for Joi and that Andre called him when Joi died. After
14 admitting that he was present when Joi died, Rollin stated he did not go to the hospital because he was
15 embarrassed at Joi's condition. He dressed her body in clean clothing and sent Joi with Andre to the
16 hospital in the middle of the night. When investigators searched the mobile home following Joi's
17 death, they discovered that the mobile home had been recently cleaned. The interior of the home had
18 been hosed out because the floor was damp. Water and debris drained through holes in the floor. The
19 mobile home also reeked of perfume or cologne, like the sleeping bag Joi's body had been put and
20 transported to the hospital in. Because the law recognizes that various acts committed or omitted after
21 a crime may tend to show consciousness of guilt, including: altering relevant evidence,³⁹ fleeing from
22 the jurisdiction,⁴⁰ or providing deliberately false statements,⁴¹ it is determined that Rollin's action after
23 Joi's death contributed to his arrest and conviction.

24
25
26 ³⁹ *People v. Rodrigues* (1994) 8 Cal.4th 1060, 1138-1141.

27 ⁴⁰ Pen. Code, § 1127c; *People v. Mendoza* (2000) 24 Cal.4th 130.

28 ⁴¹ *People v. Rodrigues* (1994) 8 Cal.4th 1060, 1138-1141.

1 Rollin testified that Joi wanted to die because her husband and her family deserted her. He
2 claimed that Joi was despondent and depressed. His testimony, however, is contradicted by evidence
3 from other sources. Dr. Albertini testified at trial that he saw Joi on July 6, 2001, and he noted that she
4 was doing extremely well and appeared to be much happier now that she was receiving medical care
5 for her incontinence issues.⁴² When Dr. Albertini saw Joi again on October 4, 2001, he checked her
6 catheter and did not notice anything out of the ordinary in regards to Joi's health and physical condition.
7 Virginia Norling testified at trial that she met with Joi in April and May of 2001, and that Joi's overall
8 demeanor was positive, hopeful, and that Joi was planning for the future.⁴³

9 Rollin also testified that he was aware that Joi was in a delusional state prior to and at the time
10 of her death. He claims that he sought mental health counseling for Joi, but he presented no evidence
11 supporting this assertion.

12 On March 5, 2001, Joi weighed approximately 120 pounds. On October 4, 2001, she weighed
13 approximately 110 to 120 pounds. Prior to discharging Joi, a nurse filled out a discharge summary and
14 recorded that Joi's skin was intact and her catheter was normal. Joi appeared oriented, and she
15 weighed approximately 110 to 120 pounds. She appeared to have adequate nutrition, and there were
16 no concerns about her mental condition. Joi also was not in any pain or distress.

17 On November 15, 2001, Joi's adult protective services case was closed, and Joy and Rollin
18 were no longer visited by health care personnel. After the discharge of the health providers, Joi was
19 totally reliant on Rollin. Her health quickly declined. Joi suffered from starvation, 20 bedsores covering
20 her body with some of the bedsores going to the bone and some with feces in the bedsore, a urinary
21 tract infection, and pneumonia. At the time of her death, Joi's estimated weight was 60 pounds. The
22 coroner described her appearance as "shocking." The autopsy determined that Joi died from bronchial
23 pneumonia of the left aleolar lung that was caused by fecal contamination of her many bedsores or due
24 to a urinary tract infection that could have been caused by her catheter.

25
26
27 ⁴² Reporter's Transcript Volume 2, pp. 451,457.

28 ⁴³ Reporter's Transcript Volume 2, p. 488.

1 There was also evidence that Rollin was not acting in Joi's best interests. Joi told Norling that
2 she was fearful of Rollin. Joi also told her that Rollin would leave her in bed for days, and on occasion
3 he would leave her outside the trailer while he was gone.⁴⁴ On one visit, Carter arrived at the mobile
4 home earlier than scheduled and she saw Rollin washing Joi by having Joi lie on a plastic sheet on the
5 ground while he squirted her with a garden hose. Even though Joi appeared unconcerned, Carter
6 described this incident as very unsettling. No care worker or other witness testified or reported that Joi
7 wished to die. Based on the evidence, it is determined that Rollin willfully caused or permitted Joi to be
8 placed in a situation in which her person or health was endangered and that Rollin acted with criminal
9 negligence.

10 It is also determined that Rollin's threat against a social worker further isolated Joi and
11 prevented her from receiving physical and emotional care. His claim that he was misunderstood when
12 it was reported that he threatened that he would "blow the head off any social worker who came to the
13 residence," is contradicted by Rollin's conduct with the Attorney General outside the hearing room and
14 by his telephone threats against Finamore following his arrest in Texas.

15 Therefore, it is determined by a preponderance of the evidence that Rollin has not proven that
16 he did not commit the crime for which he was incarcerated and that he did not, by any act or omission
17 on his part, intentionally contribute to the bringing about of the arrest or conviction for the crime.
18 Whether he incurred pecuniary injury as a result of his conviction is rendered moot by the determination
19 that he has not met his burden in proving his innocence.

20 Rollin's claim under Penal Code section 4900 et seq. is denied.

21
22 Date: November 18, 2010


23 Kyle Hedum
24 Hearing Officer
25 California Victim Compensation and
26 Government Claims Board

27
28 ⁴⁴ Reporter's Transcript Volume 2, pp. 488-498.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

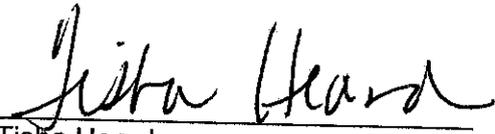
**BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
OF THE STATE OF CALIFORNIA**

In the Matter of the Claim of:
Joseph Rollin
Claim No. G573925

Notice of Decision

On January 20, 2011, 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: January 20, 2011



Tisha Heard
Board Liaison
Victim Compensation and
Government Claims Board