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## CALIFORNIA VICTIM COMPENSATION BOARD MEETING AGENDA

APRIL 12, 2023

11:00 a.m.

400 R Street, Room 330

Sacramento, CA 95811

### BOARD MEETING MATERIALS

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<b>Item 1.</b>	Maurice Hastings (Pen. Code, §§ 4900, et seq.) Copy attached	Action Item
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# ITEM 1

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

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9 In the Matter of:

10 **Maurice Hastings**

11 Claim No. 23-ECO-11

**Proposed Decision**

**(Penal Code §§ 1485.55, 4900 et seq.)**

12 **I. Introduction**

13 On March 14, 2023, Maurice Hastings (Hastings) submitted a claim for compensation to the  
14 California Victim Compensation Board (CalVCB) as an erroneously convicted person pursuant to  
15 Penal Code section 4900, which was supplemented on March 16, 2023. The claim is based upon  
16 Hastings' 38 years imprisonment for murder and related convictions, all of which were vacated with a  
17 finding of factual innocence. Hastings is represented by Paula Mitchell and Ayesah Hussain of the Los  
18 Angeles Innocence Project (LAIP). No appearance has been requested by the Attorney General. The  
19 matter was assigned to CalVCB Senior Attorney Laura Simpton. As mandated by Penal Code section  
20 1485.55, it is recommended that CalVCB approve Hastings' claim in the amount of \$1,945,720 if  
21 sufficient funds are available, upon appropriation by the Legislature, as indemnification for the injury  
22 sustained by Hasting's imprisonment for 13,898 days solely as a result of these erroneous convictions.

23 **II. Procedural Background**

24 On October 2, 1984, Hastings was arrested and subsequently charged with first-degree murder  
25 with a special circumstance for robbery and two counts of attempted murder in Los Angeles County  
26 Superior Court case number A909641.<sup>1</sup> In May 1986, the first trial commenced and ended with a hung  
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28 <sup>1</sup> Pen. Code, §§ 187 (murder), 190.2(a)(17) (special circumstance), 211 (robbery), 664 (attempt).

1 jury. A second trial ensued, and the jury found Hastings guilty of all charges on July 7, 1988. During  
2 the penalty phase, the jury selected life without possibility of parole, in lieu of a death sentence.<sup>2</sup> The  
3 Court of Appeal affirmed the convictions on November 23, 1994, and subsequent habeas petitions  
4 were denied.<sup>3</sup>

5 Throughout these events, Hastings maintained his innocence. He requested DNA testing in  
6 2000 and 2011, both of which were denied. Eventually, with the assistance of LAIP and cooperation  
7 from the Los Angeles District Attorney's Conviction Integrity Unit (CIU), DNA testing was conducted.  
8 The results excluded Hastings and implicated a third-party.<sup>4</sup>

9 On October 20, 2022, LAIP and CIU filed a joint petition for writ of habeas corpus in the Los  
10 Angeles County Superior Court on the basis of newly discovered evidence pursuant to Penal Code  
11 section 1473, subdivision (b)(3). CIU explained that the DNA evidence likely would have changed the  
12 outcome at trial and, consequently, the prosecution had lost confidence in Hastings' convictions. The  
13 court granted the joint motion the same day, and Hastings was immediately released from prison.<sup>5</sup> By  
14 then, he had been continuously imprisoned for 13,898 days solely as a result of his vacated  
15 convictions in case number A909641.<sup>6</sup>

16 On March 1, 2023, after additional investigation identified the third-party by name as the sole  
17 and likely culprit, LAIP and CIU filed a joint motion for a finding of factual innocence pursuant to  
18 subdivision (b) of Penal Code section 1485.55. In it, the parties agreed that the overall evidence  
19 demonstrated that Hastings was more likely innocent than guilty of any of the offenses for which he  
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21 <sup>2</sup> Hastings Application (App.) at pp. 3, 8-9, 21. The pagination refers to the continuous page numbers  
22 for the entire, 35-page PDF file, starting with the Erroneously Convicted Claim Form (App. at pp. 1-7),  
23 followed by a Claim Memorandum (*id.* at pp. 7-11), Joint motion for Finding of Factual Innocence (*id.* at  
pp. 12-34), and court order (*id.* at p. 35).

24 <sup>3</sup> See, e.g., *People v. Hastings*, Court of Appeal, Second District, case number B308267, and *In re*  
25 *Hastings*, Court of Appeal, Second District, case number B213749, dockets accessible at  
<https://appellatecases.courtinfo.ca.gov/>; *Hastings v. Prunty* (9th Cir 1999) 187 F.3d 647. (Cal. Code  
26 Regs., tit. 2, § 617.8 (official notice).)

27 <sup>4</sup> Hastings App. at pp. 9, 22-24.

28 <sup>5</sup> Hastings App. at pp. 9, 13, 22-23.

<sup>6</sup> Email to CalVCB from counsel Ayesha Hussain, sent at 11:08 a.m. on March 16, 2023.

1 had been convicted in case number A909641.<sup>7</sup> That same day, the court granted the joint motion and  
2 declared Hastings “factually innocent of all charges and offenses for which he was previously  
3 convicted and incarcerated in the above-entitled matter.”<sup>8</sup>

4 By email sent March 14, 2023, Hastings submitted a claim to CalVCB seeking compensation  
5 as an erroneously convicted person under Penal Code section 4900, which he supplemented on  
6 March 16, 2023. As supplemented, Hastings seeks compensation in the amount of \$1,945,720,  
7 representing \$140 for each of the 13,898 days that he was imprisoned as a result of his erroneous  
8 convictions in case number A909641. The record closed the same day. No response was requested  
9 from the Attorney General in accordance with Penal Code sections 1485.55 and 4902, subdivision (a),  
10 which require CalVCB to approve payment without a hearing and within 30 days for claimants who  
11 obtain a court finding of factual innocence.

### 12 **III. Factual Background**

#### 13 **a. The Crimes**

14 Shortly after midnight on June 19, 1983, Roberta Wydermyer (Roberta) left her Los Angeles  
15 home in her white Cadillac El Dorado and drove towards a friend’s home located in Hawthorne. She  
16 never arrived. A few hours later around 9:00 a.m., a resident of Inglewood called Roberta’s home and  
17 spoke to her husband Billy Wydermyer (Billy). The resident claimed to have found Roberta’s wallet  
18 and checkbook in the street, which listed her telephone number. Billy retrieved Roberta’s belongings  
19 and noticed that approximately \$300 in cash was missing, along with her telephone calling card.<sup>9</sup> With  
20 this card, anyone could charge the cost of making a long-distance telephone call to Roberta’s account  
21 by entering the card number before dialing the telephone number.<sup>10</sup>

22 Billy and his friend George Pinson (Pinson) drove around the Inglewood area looking for  
23 Roberta. They soon spotted her white Cadillac driving along Crenshaw Boulevard. The driver was a  
24 Black male in his mid-to-late 20s, medium sized, and wearing a baseball cap with the letters “LAPD.”

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25 <sup>7</sup> Hastings App. at pp. 9, 30-33.

26 <sup>8</sup> Hastings App. at p. 35.

27 <sup>9</sup> Hastings App. at pp. 14-15.

28 <sup>10</sup> Hastings App. at p. 31.

1 Billy and Pinson pursued the Cadillac, which abruptly ended when the driver fired four shots at them.  
2 One of the bullets struck Billy in the head. Another bullet lodged in dashboard of Pinson's car, and  
3 another hit the back seat. Pinson rushed Billy to the hospital, where he received emergency treatment  
4 and survived.<sup>11</sup>

5         Meanwhile, during the afternoon and evening of June 19, 1983, a white Cadillac with a Black  
6 male driver was spotted in the parking lot of an apartment complex located in Inglewood. Shortly  
7 thereafter, around 1:00 a.m. on June 20, 1983, the interior of the Cadillac was engulfed in flames.  
8 After firefighters extinguished the blaze, Roberta's body was discovered in the trunk, which had  
9 escaped the fire. Roberta had been killed by a single gunshot to her head, which entered her left  
10 temple. Significantly, the bullet that killed Roberta was the same caliber as the bullets retrieved from  
11 Pinson's car, and all had been fired from the same weapon. Roberta likely died within a few hours of  
12 leaving her home. She was still dressed in jeans and a sweater but no shoes. No other injuries were  
13 visible.<sup>12</sup>

14         The coroner collected a Sexual Assault Evidence Kit (SAK) from Roberta's body. Semen and  
15 sperm were found on oral swabs from her mouth. It was not Billy's, as they had not had sexual  
16 relations recently. However, no DNA testing was conducted because this technology was not readily  
17 available at that time.<sup>13</sup>

18         **B. Hastings' Identification**

19         During the month after Roberta's death, 31 calls were made from various locations across the  
20 United States using her telephone card account. Those calls were traced back to Hastings, who was  
21 30 years old at the time. In August 1983, police showed Billy and Pinson a photograph of Hastings in  
22 a six-pack photo array, but neither identified any as the driver. Over a year later in October 1983,  
23 Hastings was photographed by police wearing a "LAPD" baseball cap when arrested on an  
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26 <sup>11</sup> App. at p. 15.

27 <sup>12</sup> App. at pp. 15-17.

28 <sup>13</sup> App. at p. 18.

1 outstanding warrant. Police created a new photo array with all of the individuals wearing a baseball  
2 cap, and this time both Billy and Pinson identified Hastings as the driver.<sup>14</sup>

3 No other physical evidence connected Hastings to Roberta's death or the shooting of Billy and  
4 Pinson. In both trials, the defense offered an alibi for Hastings' whereabouts during the time of the  
5 shootings on June 19, 1983. Specifically, Hastings had accompanied his roommate to an out-of-town  
6 birthday party on June 18, 1983, and they did not return home until two days later. The defense  
7 further maintained that Hastings had merely received Roberta's stolen telephone calling card from a  
8 family friend, although that friend refused to testify without immunity. The defense insisted that  
9 Hastings had no involvement with Roberta's murder or the attempted murders of Billy and Pinson.<sup>15</sup>

### 10 **C. Exculpatory Evidence**

11 Hastings was ultimately convicted and remained in prison for over 38 years. Eventually, DNA  
12 testing of the SAK collected from Roberta's body was conducted in 2022. The DNA profile of a single  
13 male was detected on the oral swab from Roberta's mouth, and Hastings was excluded as the  
14 contributor. The DNA profile was subsequently matched to Kenneth Packnett (Packnett), a previously  
15 convicted sex offender who was the same race, age, and similar build as Hastings in the 1980s.  
16 Packnett's prior offenses included kidnap, rape, and driving a stolen vehicle. Notably, Packnett was  
17 arrested on July 7, 1983, just 18 days after Roberta's murder, while in possession of a loaded firearm  
18 that was likely the same caliber as the one used to kill Roberta. In addition, Packnett's former  
19 girlfriend told investigators in 2022 that Packnett had once showed her the body of a deceased woman  
20 in the trunk of a car that was parked in the Inglewood area.<sup>16</sup> Finally, investigators reviewed telephone  
21 records from Hastings' residence during the time of the murder, which confirmed that no calls were  
22 made or received during the two-day period that he and his roommate claimed to be out-of-town when  
23 the crimes occurred.<sup>17</sup> Overall, as the parties agreed and the court necessarily found, the "newly  
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25 <sup>14</sup> App. at pp. 2, 18-20.

26 <sup>15</sup> App. at pp. 21, 28.

27 <sup>16</sup> App. at pp. 23-27.

28 <sup>17</sup> App. at pp. 27-28. Packnett's full name is included in this decision, as it was also included in the parties' filed joint motion for a finding of factual innocence, which is accessible to the public.

1 obtained evidence supports Packnett’s likely sole involvement” in the crimes for which Hastings was  
2 erroneously convicted.<sup>18</sup>

#### 3 **IV. Determination of Issues**

4 Penal Code section 4900 allows a person, who has been erroneously convicted and  
5 imprisoned for a felony offense that they did not commit, to submit a claim for compensation to  
6 CalVCB.<sup>19</sup> Typically, under subdivision (a) of section 4900, claimants bear the burden to prove by a  
7 preponderance that (1) the crime with which they were convicted either did not occur or was not  
8 committed by them and (2) they suffered injury as a result of their erroneous conviction.<sup>20</sup> Once such  
9 a claim is received and filed, Penal Code section 4902 requires the Attorney General to submit a  
10 written response.<sup>21</sup> Thereafter, under Penal Code section 4903, a hearing before a hearing officer  
11 ensues, at which the claimant and Attorney General may present evidence concerning innocence and  
12 injury.<sup>22</sup> Upon the requisite showing of innocence and a finding of injury, Penal Code section 4904  
13 requires approval of the claim, at a rate of \$140 per day, if sufficient funds are available.<sup>23</sup>

14 An exception to this process occurs when a claimant obtains a finding of factual innocence  
15 issued by a state or federal court. Under subdivision (b) of Penal Code section 1485.55, when a court  
16 has granted a writ of habeas corpus, “the person may move for a finding of factual innocence by a  
17 preponderance of the evidence that the crime with which they were charged was either not committed  
18 at all or, if committed, was not committed by the petitioner.”<sup>24</sup> If the court makes such a finding, then  
19 under subdivision (c) of section 1485.55, “the [CalVCB] board shall, without a hearing, recommend to  
20 the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section  
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23 <sup>18</sup> App. at p. 33.

24 <sup>19</sup> Pen. Code, § 4900, subd. (a).

25 <sup>20</sup> Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

26 <sup>21</sup> Pen. Code, § 4902, subd. (a).

27 <sup>22</sup> Pen. Code, § 4903, subd. (a).

28 <sup>23</sup> Pen. Code, § 4904.

<sup>24</sup> Pen. Code, § 1485.55, subd. (b).

1 4904.”<sup>25</sup> Section 4904, in turn, provides that the board “shall approve payment for the purpose of  
2 indemnifying the claimant for the injury” sustained through their erroneous conviction and  
3 imprisonment, “if sufficient funds are available, upon appropriation by the Legislature,” in an amount  
4 equivalent to \$140 per day of imprisonment for both pre- and post-conviction imprisonment that  
5 resulted solely from the erroneous conviction.<sup>26</sup> Thus, if the claimant received a court finding of factual  
6 innocence during a proceeding that resulted in a grant of habeas relief, then that finding is not only  
7 binding upon CalVCB, but CalVCB must automatically approve the claim, within 30 days and without a  
8 hearing, for the amount of demonstrated injury.<sup>27</sup>

9 **A. Innocence**

10 Pursuant to the court’s finding under Penal Code section 1485.55, CalVCB unequivocally  
11 accepts that Hastings is factually innocent of all charges in case number A909641. As determined by  
12 the superior court, a preponderance of the evidence exonerates Hastings. This exonerating evidence  
13 includes new DNA testing that excludes Hastings, as well as telephone records that bolster Hastings’  
14 alibi defense. Indeed, as the parties below stipulated, the DNA evidence implicates Packnett as the  
15 sole culprit who murdered Roberta and attempted to murder Billy and Pinson, which is corroborated by  
16 Packnett’s possession of the same type of firearm, his then-girlfriend’s recollection of seeing a  
17 deceased body, as well as Packnett’s convictions for similar crimes. Accordingly, the administrative  
18 record amply demonstrates Hastings’ innocence for purposes of compensation under Penal Code  
19 section 4900 as an erroneously convicted offender.<sup>28</sup>

20 **B. Injury**

21 The record further demonstrates that Hastings’ injury amounts to 13,898 days of imprisonment  
22 for his erroneous convictions in case number A909641. In this context, injury “may be established by  
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25 <sup>25</sup> Pen. Code, § 1485.55, subd. (c).

26 <sup>26</sup> Pen. Code, §§ 1485.55, 4904.

27 <sup>27</sup> Pen. Code, §§1485.55, 4902, subd. (a), 4903, subd. (c); see also Cal. Code of Regs., tit. 2, § 640,  
subd. (e)(1)-(2), eff. Jan. 1, 2023.

28 <sup>28</sup> Pen. Code, §§1485.55, 4902, subd. (a).

1 showing that, but for the erroneous conviction, the claimant would not have been in custody.”<sup>29</sup> As  
2 confirmed by counsel, Hastings remained continuously confined solely as a result of his erroneous  
3 convictions from the date of his arrest on October 2, 1984, to and including the date of his release on  
4 October 20, 2022.<sup>30</sup> But for these convictions, Hastings would not have spent 13,898 days “illegally  
5 behind bars, away from society, employment, and [his] loved ones.”<sup>31</sup> Given the statutory rate of \$140  
6 per day, Hastings is therefore entitled to indemnification in the amount of \$1,945,720 for his injury if  
7 sufficient funds are available upon appropriation by the Legislature.

## 8 V. Conclusion

9 As mandated by Penal Code section 1485.55, the undersigned hearing officer recommends  
10 CalVCB approve payment to Hastings in the amount of \$ 1,945,720 for his claim as an erroneously  
11 convicted offender under Penal Code section 4900 if sufficient funds are available upon appropriation  
12 by the Legislature,<sup>32</sup> as indemnification for the injury sustained by his 13,898 days of imprisonment  
13 solely as a result of his vacated convictions.

14  
15 Date: March 24, 2023



16 \_\_\_\_\_  
17 Laura Simpton  
18 Hearing Officer  
19 California Victim Compensation Board  
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22 <sup>29</sup> Cal. Code of Regs., tit. 2, § 640, subd. (f).

23 <sup>30</sup> Pen. Code, § 2900.5 (credit for days spent in custody); *People v. King* (1992) 3 Cal.App.4th 882, 886  
24 (construing “days” for custody credit to include partial days).

25 <sup>31</sup> *Holmes v. California Victim Compensation & Government Claims Bd.* (2015) 239 Cal.App.4th 1400,  
26 1405.

27 <sup>32</sup> Of the initial \$7 million appropriated by Senate Bill 154 (i.e., the Budget Act of 2022) for CalVCB’s  
28 payment of approved claims under Penal Code section 4900, approximately \$1,798,580 remains.  
Nonetheless, as Senate Bill 154 recognized, “Upon order of the Department of Finance, [this] amount  
... may be increased by an amount not in excess of any total unpaid claim amounts pursuant to  
Sections 4900 and 4904 of the Penal Code.” (S.B. 154, Ch. 43 at p. 851.) Accordingly, any additional  
appropriations will be applied to outstanding claims, in the order approved, absent a contrary directive  
from the Legislature or Department of Finance.