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

8
9 In the Matter of:

10 **Stephen Patterson**

11 Claim No. 24-ECO-49

Proposed Decision

(Penal Code §§ 1485.55, 4900 et seq.)

12 **I. Introduction**

13 On July 3, 2024, Stephen Patterson (Patterson) submitted an application¹ for compensation to
14 the California Victim Compensation Board (CalVCB) as an erroneously convicted person pursuant to
15 Penal Code section 4900, which was supplemented on July 11, 2024.² In this claim, Patterson
16 requests compensation for the 6,567 days he was erroneously imprisoned for murder in Los Angeles
17 County Superior Court case number VA092944 based on the order granting the parties' joint motion to
18 vacate his conviction, find him factually innocent, and seal his arrest records.³ Patterson is represented
19 by Jasmin Harris of the Innocence Center, Inc. The Attorney General's Office is represented by
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22 ¹ Patterson's Application (App.) included an Erroneously Convicted Person Claim Form (App. at pp. 1-
23 7); minutes for the March 13, 2024, hearing (App. at pp. 8-9); Abstract of Judgment from the January
24 17, 2008, hearing (App. at pp. 10-12); redacted copy of the Joint Petition for Writ of Habeas Corpus
Pursuant to Penal Code section 1473, subdivision (b) and Motion for Finding of Factual Innocence
Pursuant to Penal Code section 1485.55, subdivision (b) (App. at pp. 13-45).

25 ² Patterson's Supplemental Application (Supp.) included the four documents Patterson emailed to the
26 CalVCB on July 11, 2024: the Probation and Sentencing Report filed on July 17, 2008 (Supp. at pp. 1-
27 2), Order Granting Joint Petition for Writ of Habeas Corpus and Motion to Vacate, and Motion for
Finding of Factual Innocence filed on March 13, 2024 (Supp. at pp. 3-4), Department of Corrections
and Rehabilitation (CDCR) letter confirming dates of imprisonment (Supp. at p. 5); and court order to
file the Joint Petition for Writ of Habeas Corpus under seal (Supp. at p. 6).

28 ³ Pen. Code, §§ 1473, subd. (a)(2), 1485.55, and 851.86.

1 Kathryn Althizer. The matter was assigned to CalVCB Senior Attorney Kristen Sellers. As mandated by
2 Penal Code section 1485.55, it is recommended that the CalVCB approve Patterson’s claim in the
3 amount of \$919,380 as indemnification for the injury sustained through this erroneous conviction if
4 sufficient funds are available upon appropriation by the Legislature.⁴

5 **II. Procedural History**

6 **A. Patterson’s Erroneous Conviction**

7 On March 22, 2006, Patterson was arrested and subsequently charged with one count of
8 murder, with enhancements for personal use of a firearm, discharge of a firearm, and discharge of a
9 firearm causing great bodily injury, in Los Angeles County Superior Court case number VA092944.⁵
10 On August 9, 2007, the jury found Patterson guilty of first-degree murder and found true all of
11 Patterson’s alleged enhancements. On July 17, 2008, Patterson was sentenced to 50 years to life in
12 state prison.⁶ He was released from custody on March 13, 2024, after 6,567 days of imprisonment
13 (e.g., from the date of his arrest on March 22, 2006, through and including the date of his release).⁷

14 **B. Patterson’s Conviction was Vacated**

15 On or around March 8, 2024, counsel for Patterson and the Los Angeles County District
16 Attorney’s Office filed a “Joint Petition for Writ of Habeas Corpus Pursuant to Penal Code section 1473,
17 subdivision (b) and Motion for Finding of Factual Innocence Pursuant to Penal Code section 1485.55,
18 subdivision (b).”⁸ On March 13, 2024, the court granted the parties’ motion in full. The court recalled,
19 vacated, and set aside Patterson’s conviction based on new evidence; found him factually innocent of
20 all charges; and ordered his records be sealed.⁹

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22 _____
23 ⁴ Pen. Code, §§ 1485.55, subds. (b)-(c), 4904.

24 ⁵ Pen. Code, §§ 187, subd. (a), 12022.53, subds. (a), (b), and (d); App. at pp. 10-11, 14.

25 ⁶ 25 years to life for first-degree murder and another 25 years to life for the enhancement under Penal
26 Code section 12022.53, subd. (d).

27 ⁷ The number of days between Patterson’s arrest and release was determined using the online “Days
28 Calculator” located at <https://www.timeanddate.com/date/duration.html>.

⁸ App. at p. 13.

⁹ Supp. at pp. 3-4.

1 **C. Patterson’s Erroneously Convicted Person Claim**

2 On July 3, 2024, Patterson submitted an Erroneously Convicted Person Claim Form requesting
3 compensation in the amount of \$919,380, which included \$140 per day for each of the 6,567 days
4 Patterson alleges he was imprisoned for his erroneous murder conviction (e.g., from the date of his
5 arrest on March 22, 2006, through and including the date of his release on March 13, 2024).¹⁰ At the
6 CalVCB’s request, his application was supplemented on July 11, 2024, with an email providing
7 supplemental documentation.

8 On July 16, 2024, Patterson’s claim was filed, and the Attorney General’s Office was invited to
9 provide a response on the issue of injury only.¹¹ On August 5, 2024, the Attorney General’s Office
10 provided a response and supporting documentation confirming Patterson was imprisoned on March
11 22, 2006, and released from prison on March 13, 2024. The Attorney General’s Office agrees
12 Patterson is entitled to \$140 per day for 6,567 days of imprisonment, which includes the date of his
13 arrest on March 22, 2006, through and including the date of his release on March 13, 2024, for a total
14 of \$919,380 in compensation as indemnification for the injury sustained through his erroneous
15 incarceration. The administrative record closed on August 6, 2024.

16 **III. Statement of the Facts**

17 **A. The Murder**

18 On April 15, 2005, at approximately 4:45 p.m., a young Black man (“the shooter”) shot and killed
19 the victim, Yair.¹² About thirty minutes before the shooting, Yair, along with two other members or
20 associates of the Florencia 13 street gang, Juan and Saul, were standing near the corner of 68th Street
21 and Parmelee Avenue (Parmelee) in South Los Angeles.¹³ The shooter was walking towards Parmelee
22 on 67th Street. When he reached Parmelee, he looked over at Yair and his group of friends. Yair, Juan,
23 and Saul believed the shooter was a member of a rival street gang, the 6 Side Hustler Crips.¹⁴ They

24 _____
25 ¹⁰ App. at p. 3.

26 ¹¹ Pen. Code, § 4904, subd. (a).

27 ¹² Victims and witnesses are referred to by first name only to protect their identities.

28 ¹³ App. at pp. 15-16.

¹⁴ App. at p. 15.

1 began yelling out racial epithets and flashed gang signs in the shooter's direction.¹⁵ The shooter flashed
2 gang signs back at the group before walking away. When the shooter returned with a friend, about thirty
3 minutes later, he and his friend pulled out guns and started shooting at Yair, Juan, and Saul, and then
4 quickly fled on foot.¹⁶ Yair was transported to the hospital where he died from a gunshot wound to the
5 head.¹⁷ Police recovered four expended .380 caliber casings and one .45 caliber casing from the
6 scene. Two of the .380 caliber casings were on the sidewalk, and two were in the street, while the .45
7 caliber casing was in the center of Parmelee.¹⁸ No prints were found on the cartridges or casings.¹⁹

8 **B. Pre-Trial Witness Statements**

9 **1. Saul**

10 Law enforcement interviewed Saul at 9:05 p.m., about 16 hours after the shooting.²⁰ He was
11 standing with Yair and Juan on Parmelee when he saw two Black men walking towards them. As the
12 men got closer, one of them flashed a gang sign for the East Coast Crips, pulled out a gun, and fired in
13 his direction.²¹ As Saul got down on the ground, he heard more gunshots. He then saw the men run up
14 Parmelee towards 66th Street and out of view. Saul described the shooter as a Black male,
15 approximately 16 years old, five feet and five inches tall, "stocky," 150 to 160 pounds, with braids that
16 went down to his neck.²² He was wearing a Hawaiian shirt and light blue pants.²³ The other assailant
17 was an 18- or 19-year-old, dark-skinned Black man, who was five feet and seven inches tall, and "not
18 stocky but fat." He was wearing a thick black hoodless jacket with long sleeves and light blue pants.²⁴

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21 ¹⁵ App. at p. 16.

22 ¹⁶ App. at pp. 15-16.

23 ¹⁷ App. at p. 16.

24 ¹⁸ *Ibid.*

25 ¹⁹ App. at p. 20.

26 ²⁰ App. at p. 5.

27 ²¹ App. at p. 17.

28 ²² *Ibid.*

²³ App. at p. 5.

²⁴ App. at p. 17.

1 **2. Juan**

2 Law enforcement interviewed Juan at 9:35 p.m.²⁵ Juan was standing with Yair and Saul in front
3 of an apartment complex when he saw the shooter standing on the corner nearby, flashing gang signs.
4 He and his friends walked towards the shooter, flipped him off, and then walked back to the apartment
5 complex. Not long after that, Juan was standing several feet away from Yair and Saul when he heard
6 gunshots. He described the shooter as five feet and five inches tall to five feet and nine inches tall, with
7 a light to medium complexion, dark hair with braids, and wearing a light brown shirt with short sleeves
8 and beige pants.²⁶ He did not see the other assailant.²⁷

9 **3. Colleen**

10 Law enforcement interviewed Colleen at 9:05 p.m.²⁸ Colleen lived with her mother, Esther, in a
11 house on the corner of Parmelee and 67th Street. A group of Florencia gang members were standing
12 on the sidewalk in front of an apartment complex when a Black man walked to the corner of Parmelee
13 and 67th Street. The Florencia gang members were yelling racial slurs and throwing gang signs. The
14 Black man flashed gang signs back at them and then turned to walk up Parmelee towards 66th
15 Street.²⁹ About thirty minutes later, the man returned with a friend. The two men walked up Parmelee
16 towards the Florencia gang members. The two groups of men were yelling at each other and throwing
17 gang signs.³⁰ The man standing on the sidewalk pulled a gun and fired about three times.³¹ The other
18 man, who had moved into the middle of the street, also pulled a gun and fired twice.³² After the
19 shooting, the assailants fled, back down Parmelee. She lost sight of them when they turned onto 66th
20 Street. She described the shooter on the sidewalk as five feet and nine inches tall, 145 to 150 pounds,

21
22 ²⁵ App. at p. 5
23 ²⁶ App. at p. 17.
24 ²⁷ *Ibid.*
25 ²⁸ App. at p. 18.
26 ²⁹ *Ibid.*
27 ³⁰ *Ibid.*
28 ³¹ *Ibid.*
³² App. at p. 19.

1 medium complexioned Black man in his early 20's.³³ His hair was styled into short curls, and he was
2 wearing a beige plaid shirt, blue jeans, and white Nike shoes.³⁴ She described the man in the street as
3 in his late 20's, five feet seven inches, 175 to 180 pounds, heavysset, dark complexion, short natural
4 hair, black jacket, dark blue shirt and dark pants.³⁵

5 Significantly, Colleen told detectives she had previously seen the man who was standing in the
6 street hanging around at a house on 66th Street and provided a description of the house.³⁶ Based on
7 this information, police later identified the house and determined that one of the occupants of the house
8 was Patterson.³⁷ Patterson's photograph was then placed in a photo lineup along with five "fillers."³⁸ On
9 June 13, 2005, detectives met with Colleen and showed her the photo lineup with Patterson's
10 photograph. She immediately identified Patterson as the shooter that was standing in the middle of the
11 street.³⁹ She also confirmed that Patterson was the person she recognized from the neighborhood.⁴⁰

12 Over a year later, on September 26, 2006, Defense Investigator Malcolm Richards (Richards)
13 interviewed Colleen.⁴¹ Her account of the events that took place on April 15, 2005, were consistent with
14 what she had told police. However, she also indicated that when police showed her the photo lineup,
15 she selected a photograph of Patterson, and told officers, "This looks like him." The officer reportedly
16 responded, "We thought so."⁴²

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20 ³³ App. at p. 19.

21 ³⁴ *Ibid.*

22 ³⁵ *Ibid.*

23 ³⁶ *Ibid.*

24 ³⁷ *Ibid.*

25 ³⁸ *Ibid.*

26 ³⁹ App. at p. 20.

27 ⁴⁰ Esther was also shown the photo lineup but was unable to identify anyone. No other witnesses were
28 shown photo lineups; see App. at pp. 18-20.

⁴¹ App. at p. 23.

⁴² *Ibid.*

1 **4. Esther**

2 Law enforcement interviewed Colleen’s mother, Esther, at 9:52 p.m.⁴³ Esther lived with her
3 daughter, Colleen, in a house on the corner of Parmelee and 67th Street. At 4:45 p.m. that night, Esther
4 saw a group of six Hispanic men exchanging words with two Black men on the sidewalk outside.⁴⁴
5 About thirty minutes later, the two Black men returned.⁴⁵ She sensed something was about to happen,
6 so she went inside the house with Colleen. Esther and Colleen looked through the window and saw the
7 two Black men split up - one man remained on the sidewalk and the other man walked toward the
8 middle of the street.⁴⁶ The man on the sidewalk pulled a gun from his waistband and fired
9 approximately three times. The man standing in the street pulled out a gun and fired approximately two
10 times.⁴⁷ Both men then ran back down Parmelee and turned onto 66th Street. She described the man
11 on the sidewalk as 19 to 20 years old, five feet and nine inches tall, 145 to 150 pounds, and medium
12 complexion. His hair was braided in small “French rolls,” and he was wearing a tan and beige button-
13 down shirt and blue jeans. The man standing in the street was between 19 and 21 years old, five feet
14 and seven inches tall, and 175 to 180 pounds. He was “not muscular but more chunky,” with a small
15 afro and darker complexion than his associate. He was wearing dark pants, a dark blue shirt, and a
16 black jacket.⁴⁸

17 On September 26, 2006, Esther told Defense Investigator Richards that she would not be able
18 to identify either of the men.⁴⁹

19 **5. Trinidad and Robert**

20 Law enforcement interviewed Trinidad and Robert at the scene.⁵⁰ On the night of the shooting,
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22 ⁴³ App. at p. 17.

23 ⁴⁴ Esther is the only witness to state that there were two Black men during the first encounter; see App.
at 17-18.

24 ⁴⁵ App. at p. 18.

25 ⁴⁶ *Ibid.*

26 ⁴⁷ *Ibid.*

27 ⁴⁸ *Ibid.*

28 ⁴⁹ App. at p. 23.

⁵⁰ The crime reports did not attribute individual statements to each witness; see App. at p. 19.

1 Trinidad and Robert were in a parking lot, located on Parmelee between 65th and 67th Street. They
2 heard approximately three gunshots and then witnessed the two men run north on Parmelee towards
3 66th Street.⁵¹ The men continued to the end of 66th street, and Trinidad and Robert saw them go south
4 over a wall. The men were described as five feet and five inches to five feet and seven inches tall. One
5 man was wearing a white short-sleeve button down shirt and dark pants. The other man was wearing
6 dark pants and a black hooded sweatshirt.⁵²

7 On January 22, 2007, nearly eighteen months after the shooting, Defense Investigator Richards
8 interviewed Trinidad and presented him with the same photo lineup police showed Colleen.⁵³ Trinidad
9 selected one of the photographs and said that person most fit the description of one of the shooters;
10 however, it was not Patterson.⁵⁴

11 **6. Ascencion**

12 Law enforcement interviewed Ascencion at his house, which was located across the street from
13 Patterson's house on 66th Street.⁵⁵ On the night of the shooting, Ascencion was in his front yard when
14 he heard several gunshots. He then saw two men run down 66th Street to an apartment complex,
15 adjacent to a church, where he lost sight of them.⁵⁶

16 Over a year later, on August 27, 2006, Defense Investigator Richards interviewed Ascencion.⁵⁷
17 Ascencion indicated that he had known Patterson for six years. On the day of the shooting, he was
18 standing in his front yard when he heard gunshots. He looked towards Patterson's house and saw
19 Patterson.⁵⁸ He yelled to Patterson, "What's going on?" Patterson replied that he did not know. Shortly
20 after that, Ascencion saw two male teenagers run up the street and stop in front of Patterson's house.

21
22 ⁵¹ App. at p. 19.

23 ⁵² *Ibid.*

24 ⁵³ App. at p. 23.

25 ⁵⁴ *Ibid.*

26 ⁵⁵ App. at pp. 19, 22.

27 ⁵⁶ App. at p. 19.

28 ⁵⁷ App. at p. 22.

⁵⁸ *Ibid.*

1 One of the males appeared to be holding a gun. According to Ascencion, it looked like the two males
2 wanted to enter Patterson's front gate.⁵⁹ Ascencion saw Patterson shake his head, denying them entry.
3 The two males then continued running up 66th Street. When the two males reached the end of the
4 street, they jumped over a wall, which led to a church. Ascencion walked over to Patterson's house and
5 Patterson told him, "Those guys shot somebody from Florence." When police arrived, Ascencion told
6 the responding officer what he had witnessed.⁶⁰ Patterson was present when Ascencion spoke to the
7 officer. Ascencion told Defense Investigator Richards that Patterson was not the one who fired the
8 gunshots.⁶¹

9 **7. Y.C.**

10 On August 28, 2006, just over a year after the shooting, Defense Investigator Richards
11 interviewed Patterson's grandfather, Y.C.⁶² Y.C. lived with Patterson, Patterson's mother, Joann, and
12 Patterson's sister.⁶³ Y.C. heard three to four gunshots coming from Parmelee.⁶⁴ At the time of the
13 gunshots, Patterson was on the phone in the kitchen.⁶⁵ Patterson went into the living room and looked
14 out the window. He then walked back to the kitchen, opened a side door, and looked around again.⁶⁶
15 Y.C. returned to his bedroom and did not think any more of it. Sometime later, his daughter, Joann, got
16 home and said that police were outside and had blocked off the area.⁶⁷

17 **8. Joann**

18 Defense Investigator Richards also interviewed Patterson's mother, Joann.⁶⁸ On the day of the
19 shooting, she returned home between 4:30 p.m. and 5:30 p.m. As she approached her house, she saw

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21 ⁵⁹ App. at p. 22.

22 ⁶⁰ App. at p. 19.

23 ⁶¹ App. at p. 23.

24 ⁶² Y.C. is now deceased; App. at p. 21.

25 ⁶³ App. at p. 21.

26 ⁶⁴ *Ibid.*

27 ⁶⁵ *Ibid.*

28 ⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ App. at p. 21.

1 several police cars in the area. She drove onto 66th Street and parked her car in front of her house.
2 She saw her son, Patterson, as well as other neighbors standing in their respective front yards and on
3 the street. She got out of her car and asked Patterson what happened, to which Patterson replied that
4 he did not know. She also recalled her neighbor, Ascencion, being out front. Joann indicated that a
5 police officer asked her, Ascencion, and Patterson, if they had seen or heard anything. Joann told
6 police that she had not seen anything. Patterson said that he and his grandfather heard gunshots.
7 Ascencion told the police officer that there might have been a man on the porch who saw what
8 happened. Joann said the police officer took their names down and continued walking on 66th Street.

9 A few days later, Joann saw a car drive slowly past their house with one of the occupants
10 brandishing a firearm.⁶⁹ A few days after that incident, their house was shot at by an unknown person
11 or persons.

12 9. Karla

13 On July 31, 2007, Defense Investigator Richards interviewed Karla.⁷⁰ At the time of the
14 shooting, Karla lived diagonally across the street from Patterson. She heard a couple of gunshots and
15 looked out her window. She saw Patterson walking toward his front yard fence and saw other neighbors
16 coming out into their front yards as well.⁷¹ Karla claimed that Patterson was innocent because she saw
17 him in his front yard right after she heard the gunshots.⁷²

18 C. Patterson Arrested and Interviewed

19 On January 4, 2006, a felony complaint was filed against Patterson, and he was arrested shortly
20 thereafter.⁷³ Following his arrest, Patterson again told the police he did not know anything about the
21 murder.⁷⁴ Patterson reiterated he was at home when the shooting took place, and he came out of his
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23
24 ⁶⁹ App. at p. 22.

25 ⁷⁰ App. at p. 23.

26 ⁷¹ *Ibid.*

27 ⁷² *Ibid.*

28 ⁷³ App. at p. 20.

⁷⁴ *Ibid.*

1 house after he heard police presence in the area.⁷⁵

2 **D. Evidence Presented at Trial**

3 **1. Juan's Testimony**

4 Juan testified to the circumstances surrounding the shooting but was uncooperative, often
5 indicating that he could not remember portions of the incident.⁷⁶ Specifically, he claimed he could not
6 remember any prior statements he made to police.⁷⁷ He denied that he, Yair, or Saul were members or
7 associates of Florencia 13. He could not recall details about the verbal altercation between his group
8 and the shooters.⁷⁸ He did not identify Patterson as being involved in the shooting. Rather, he indicated
9 he had bad eyesight and could not see the shooters.⁷⁹

10 **2. Colleen's Testimony**

11 Colleen's testimony was consistent with her previous statements to law enforcement and
12 Defense Investigator Richards.⁸⁰ She again identified Patterson as the shooter she saw standing in the
13 middle of the street.⁸¹ She estimated that the two shooters were approximately 35 feet from where she
14 was at the time they fired.⁸² She described seeing Patterson on prior occasions when she would walk
15 down 66th Street to get her hair done.⁸³

16 **3. Esther's Testimony**

17 Esther's testimony was consistent with her previous statements to law enforcement and
18 Defense Investigator Richards.⁸⁴ On the night of the crime, she saw a group of about six Hispanic men
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20 ⁷⁵ App. at p. 20.

21 ⁷⁶ App. at p. 24.

22 ⁷⁷ A detective later testified as an impeachment witness for Juan and was allowed to bring in the
entirety of Juan's April 15, 2005, statement to detectives.

23 ⁷⁸ App. at p. 24.

24 ⁷⁹ App. at p. 24.

25 ⁸⁰ App. at p. 24.

26 ⁸¹ App. at p. 24.

27 ⁸² App. at p. 24.

28 ⁸³ App. at p. 24.

⁸⁴ App. at p. 24.

1 exchanging words with two Black men. About thirty minutes later, the two Black men returned and split
2 up, with one remaining on the sidewalk and the other walking into the middle of the street.⁸⁵ The men
3 then each pulled out a gun and opened fire.⁸⁶ She did not identify Patterson as one of the shooters.⁸⁷

4 **4. Detective Mitch Robison’s Testimony**

5 Detective Robison testified that he found cartridges and casings near the scene of the crime,
6 and that the cartridges and casings were all at least 134 feet away from 67th Street. On cross-
7 examination, he confirmed that investigators had not found any physical evidence connecting Patterson
8 to the shooting.

9 **5. Gang Expert’s Testimony**

10 Richard M. testified as a gang expert.⁸⁸ As part of his expertise, he described a rivalry between
11 Florencia 13 and 66 East Coast Crips, a gang affiliated with 6 Side Hustlers Crips. He further identified
12 some of Patterson’s tattoos as being consistent with 66 East Coast but also acknowledged that he was
13 unable to find any documentation of Patterson’s gang membership and that he had never had contact
14 with Patterson in his seven years working the area gangs.⁸⁹

15 **6. Y.C.’s Testimony**

16 Y.C.’s testimony was consistent with his previous statements.⁹⁰ He indicated that he was in the
17 back of the house when he heard gunshots.⁹¹ Upon hearing the gunshots, he walked to the front of the
18 house and saw Patterson in the kitchen. Patterson looked out the window and then walked outside.⁹²
19 On cross-examination, Y.C. was asked how many shootings had happened in that area around the time
20 of the murder, and he answered, five to ten. When asked how he could be sure that his memory of
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22 ⁸⁵ App. at p. 18.

23 ⁸⁶ *Ibid.*

24 ⁸⁷ App. at p. 24.

25 ⁸⁸ App. at p. 25.

26 ⁸⁹ *Ibid.*

27 ⁹⁰ *Ibid.*

28 ⁹¹ *Ibid.*

⁹² *Ibid.*

1 Patterson's actions related to Yair's murder, he responded that the murder was the only shooting that
2 involved the police putting up yellow crime scene tape.⁹³

3 **7. Karla's Testimony**

4 Karla's testimony was consistent with her previous statements. She testified that she was in her
5 living room when she heard gunshots.⁹⁴ She walked to her door and looked out the window where she
6 saw several neighbors, including Patterson and Y.C., gathering in their yards.⁹⁵ Five to ten minutes
7 later, she saw police arrive in the area. Karla said that she had not learned of Patterson's arrest in
8 connection with the shooting until three weeks before her testimony.

9 **8. Trinidad's Testimony**

10 Trinidad told the jury he heard gunshots coming from Parmelee, which was next to the area
11 where he was working. He ducked down and looked toward Parmelee where he saw two males running
12 up Parmelee before they turned onto 66th Street. He estimated the males were about 100 feet away
13 when he first observed them. One of the males stopped at the third house down and talked to
14 someone. They then continued running to the end of 66th Street. He described both males that he saw
15 as slender and between five feet and six inches and five feet and ten inches tall. In court, Trinidad
16 looked at Patterson and stated that the men he saw running did not have Patterson's body type.⁹⁶ On
17 cross-examination, Trinidad said he was "positive" that Patterson was not one of the people that he saw
18 running.⁹⁷

19 **E. Post-Conviction Defense Investigation**

20 After Patterson's conviction, Joann hired a private investigator, Eduardo Hernandez ("PI
21 Hernandez"), to conduct additional investigation. He visited the crime scene, re-interviewed existing
22 witnesses, located and interviewed new witnesses, and questioned Patterson through mail

24 ⁹³ App. at p. 25.

25 ⁹⁴ App. at p. 26.

26 ⁹⁵ *Ibid.*

27 ⁹⁶ Patterson's California Driver's License, which was issued six months after the murder, listed him at
five feet and nine inches, 280 pounds; see App. at p. 26.

28 ⁹⁷ App. at p. 26.

1 correspondence.⁹⁸ At some point, an attorney from the California Innocence Project (“CIP”) agreed to
2 take on Patterson’s case and also interviewed new witnesses.⁹⁹

3 **1. Witness Interviews**

4 **a. Romeo**

5 On October 27, 2013, Patterson’s attorney interviewed Romeo, a former Florencia 13 gang
6 member and Patterson’s next-door neighbor.¹⁰⁰ Romeo “clearly” remembered the day of the
7 shooting.¹⁰¹ Romeo had just gotten home from work and parked in his driveway when he saw Patterson
8 hanging out in his own front yard.¹⁰² Romeo also saw two young Black males hanging out on the block.
9 One of the males was talking to Patterson while Patterson leaned against the fence surrounding his
10 front yard. Romeo had never seen these two males before.¹⁰³ He described the two males as small
11 guys dressed in baggy clothing. Patterson was much bigger than the two males.¹⁰⁴ Not long after he
12 arrived home, Romeo heard gunshots. He immediately saw two Black males running past his house.¹⁰⁵
13 Romeo said that Patterson remained in his front yard the entire time.¹⁰⁶

14 **b. Isabel**

15 On July 22, 2016, PI Hernandez interviewed Isabel, who lived on 66th Street across the street
16 from Patterson.¹⁰⁷ At the time of the interview, Isabel was in her late 80s and had some difficulty
17 communicating. Isabel said that on the day of the shooting, she heard gunshots. She then stepped
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20 ⁹⁸ App. at p. 27.

21 ⁹⁹ *Ibid.*

22 ¹⁰⁰ App. at p. 28.

23 ¹⁰¹ *Ibid.*

24 ¹⁰² *Ibid.*

25 ¹⁰³ *Ibid.*

26 ¹⁰⁴ *Ibid.*

27 ¹⁰⁵ Romeo was not asked whether the males he saw running after the shooting were the same two
28 males he had seen earlier.

29 ¹⁰⁶ App at p. 28.

30 ¹⁰⁷ *Ibid.*

1 outside, and she saw Patterson standing in the front yard of his house.¹⁰⁸ She also saw two males
2 running eastbound on 66th Street. She did not recognize the two males.¹⁰⁹

3 **c. Juan**

4 On January 3, 2017, PI Hernandez conducted a telephonic interview with Juan.¹¹⁰ Juan told PI
5 Hernandez that Patterson was not the person he had seen shoot and kill his friend.¹¹¹ Juan also
6 confirmed that, when he saw Patterson in jail following the murder, he told Patterson that he did not
7 believe he was one of the shooters.¹¹² Juan said that he had known Patterson since Patterson was a
8 young kid, and he did not see him on the day of the shooting.¹¹³

9 **d. Ascencion**

10 On March 3, 2018, PI Hernandez interviewed Ascencion.¹¹⁴ Ascencion could not remember if he
11 saw Patterson come out of his house but recalled seeing Patterson in his front yard just after the
12 shooting.¹¹⁵ He and Patterson looked at each other from their respective houses.¹¹⁶ However, the
13 interview then became contentious as Ascencion did not want to have his name associated with the
14 investigation.¹¹⁷

15 **e. Patterson**

16 On March 6, 2018, PI Hernandez wrote to Patterson, asking him a series of questions regarding
17 Colleen and the two shooters.¹¹⁸ On March 16, 2008, Patterson responded, stating that he had seen
18 Colleen a couple of times on her front porch when he walked to school, but he had never “met” her. He

19
20 ¹⁰⁸ *Ibid.*

21 ¹⁰⁹ App. at p. 28.

22 ¹¹⁰ *Ibid.*

23 ¹¹¹ App. at pp. 28-29.

24 ¹¹² App. at p. 29.

25 ¹¹³ *Ibid.*

26 ¹¹⁴ *Ibid.*

27 ¹¹⁵ *Ibid.*

28 ¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

1 remembered that she had a brother who walked their dog. Otherwise, he had never spoken to her.¹¹⁹
2 Patterson indicated that after hearing three to four gunshots while he was standing in his kitchen, he
3 walked to the front window and looked out.¹²⁰ He saw a few neighbors standing in their yards. He then
4 walked to the gate in his front yard and looked down the street. He saw two people running towards
5 him, and, as they got closer, he saw that they were men.¹²¹ One of the men started to slow down but
6 the other man told him to keep running.¹²²

7 **2. Scene Investigation**

8 PI Hernandez commissioned a survey of the crime scene.¹²³ Specifically, he requested
9 information related to the distance between the location where the only identifying witness, Colleen,
10 was located in relationship to the shooters.¹²⁴ The survey company determined the distance between
11 the north-facing window of Colleen's house (the observation point) and the location of the recovered
12 shell casing (the shooter's location) was 182 feet and two inches.¹²⁵

13 On June 4, 2018, PI Hernandez met Trinidad at the original crime scene.¹²⁶ Trinidad showed PI
14 Hernandez where he was standing when he saw the shooters. Using that location and the location of
15 the casings as the other reference point, PI Hernandez calculated Trinidad was approximately 60 to 90
16 feet away from the shooters at the time he saw them running away, although that distance likely
17 decreased slightly as the shooters neared 66th Street.¹²⁷

18 **F. The Conviction Integrity Unit's Investigation**

19 On March 19, 2022, following the completion of his investigation, PI Hernandez filed a
20

21 ¹¹⁹ App. at p. 30.

22 ¹²⁰ *Ibid.*

23 ¹²¹ *Ibid.*

24 ¹²² *Ibid.*

25 ¹²³ App. at p. 27.

26 ¹²⁴ *Ibid.*

27 ¹²⁵ *Ibid.*

28 ¹²⁶ App. at p. 29.

¹²⁷ App. at p. 27.

1 Conviction Review Request Form with the Conviction Integrity Unit (CIU) on behalf of Patterson.¹²⁸ In
2 his request form, PI Hernandez outlined the investigation he had completed and identified by name the
3 two people he believed were the actual perpetrators of the crime.¹²⁹ The case was assigned for review
4 on March 22, 2022.¹³⁰ The CIU interviewed percipient witnesses who had not been identified before trial
5 or who had been identified but had not testified at trial. These witnesses included Ascencion, Danny,
6 and Louis. The CIU also interviewed Juan and Patterson.¹³¹

7 **1. Ascencion**

8 On January 26, 2024, a CIU Investigator interviewed Ascencion via telephone.¹³² Ascencion
9 was in his attic bedroom when he heard noise coming from outside. He revealed for the first time that,
10 when he looked out his window, he saw “two youngsters coming out of [Patterson’s] house going
11 toward Parmelee.”¹³³ He later clarified that he did not know if the two “youngsters” had been inside of
12 the house, but he had seen them on [Patterson’s] lawn.¹³⁴ Minutes later, Ascencion heard gunshots.
13 Immediately after the shooting, he saw the same two males running eastbound on 66th Street. As the
14 males got to Patterson’s house, they attempted to come onto Patterson’s property, but Patterson
15 refused to let them come through the gate. Ascencion then saw the two males run to the end of the
16 block and climb a wall or fence leading to a church, at which point he lost sight of them. Ascencion was
17 adamant that, based on what he had seen, Patterson was not involved in the shooting.¹³⁵

18
19 ¹²⁸ App. at p. 31.

20 ¹²⁹ The names of the alleged true perpetrators, as well as other pertinent portions of the Joint Petition
21 for Writ of Habeas Corpus and Motion for Finding of Factual Innocence, submitted as part of the
22 Claimant’s Erroneously Convicted Person Claim Form, were redacted to not hinder CIU’s ongoing
investigation; App. at pp. 13-45; see also the July 11, 2024, email from Claimant’s counsel.

23 ¹³⁰ App. at p. 31.

24 ¹³¹ Saul, who was also standing with Juan and Yair at the time of the shooting, is now deceased; See
App. at p. 35.

25 ¹³² App. at p. 35.

26 ¹³³ Although Ascencion was interviewed on two occasions prior to his CIU interview, he never
previously disclosed this fact.

27 ¹³⁴ App. at p. 39.

28 ¹³⁵ App. at p. 36.

1 **2. Danny**

2 On February 25, 2024, a CIU Investigator and Deputy District Attorney interviewed Danny.¹³⁶
3 Danny had just gotten off work and gone to Ascension’s house, on 66th Street.¹³⁷ After he arrived, he
4 was hanging out in front of the house, and he saw “two kids, not [Patterson] coming out of [Patterson’s]
5 yard and going around the corner.”¹³⁸ The two males walked toward Parmelee and out of view. He did
6 not remember hearing gunshots, but he did remember the males running back down the street a few
7 minutes later.¹³⁹ When they got to Patterson’s house, the two males attempted to go through the gate
8 into Patterson’s front yard, but Patterson refused to let them enter.¹⁴⁰ The two males continued running
9 down the street and jumped over the wall/fence leading to the church. Danny had seen the two males
10 in the neighborhood on a couple of occasions, but he did not know their names.¹⁴¹ Danny said he knew
11 that Patterson had not been one of the two shooters on the day of murder.¹⁴²

12 **3. Juan**

13 On February 20, 2024, Juan was interviewed by CIU Investigators.¹⁴³ Juan was reluctant to
14 speak to the investigators but said he was sure that Patterson was not the person who shot at or killed
15 his friend.¹⁴⁴ When asked how he could be so sure, he said that Patterson was a large man, estimated
16 at 300 pounds, and the shooters were much smaller.¹⁴⁵ Juan also stated he was friendly with Patterson,
17 and the two would periodically play football in the neighborhood.¹⁴⁶

18
19 _____
20 ¹³⁶ App. at p. 36.

21 ¹³⁷ This is the same house where Ascencion lived; App. p. 36.

22 ¹³⁸ App. at p. 39.

23 ¹³⁹ App. at p. 36.

24 ¹⁴⁰ *Ibid.*

25 ¹⁴¹ App. at p. 37.

26 ¹⁴² *Ibid.*

27 ¹⁴³ *Ibid.*

28 ¹⁴⁴ App. at p. 38.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*

1 **4. Patterson**

2 On March 4, 2024, a CIU Investigator and Deputy District Attorney interviewed Patterson at the
3 Long Beach Police Department in the presence of Patterson’s attorneys.¹⁴⁷ Patterson said that on the
4 night of the crime he was at home with his elderly grandparents. He was in the kitchen talking on the
5 telephone when he heard a series of gunshots. He looked out his window and saw several neighbors
6 outside their house. He exited his house and walked into the front yard. He looked to the west, and he
7 saw two people running in his direction. As the two people got closer, the front person stopped in front
8 of his house.¹⁴⁸ The two males continued running east and disappeared where the church was located.
9 Patterson then walked to the corner of Parmelee and 66th Street and looked around to see what had
10 happened. He did not see anything unusual and walked back to his house. Approximately five minutes
11 later, law enforcement officers arrived and cordoned off the area. Patterson remained in front of his
12 house, and, at some point, he spoke to an officer and described what he had seen. He said he was told
13 that another officer would speak to him later, but nobody ever followed up with him.¹⁴⁹

14 During the CIU investigation, Ascencion and Danny indicated that they saw the two fleeing men
15 exit Patterson’s yard prior to the shooting. Because Patterson did not include this information in his
16 initial description of the day’s events, he was asked about it. He stated that he was certain that the two
17 people he saw running down 66th Street had not been at his house before the shooting.¹⁵⁰

18 Based on its investigation, the CIU concluded that Patterson did not commit the murder he was
19 convicted of, and, in fact, was able to determine the identities of the actual shooters.¹⁵¹ The parties –
20 counsel for Patterson and the Los Angeles District Attorney’s Office – jointly petitioned for a finding that
21 Patterson was factually innocent of this crime.

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23 _____
24 ¹⁴⁷ App. at p. 38.

25 ¹⁴⁸ Portions of Patterson’s interview was redacted to protect the integrity of the ongoing investigation;
see App. at p. 39.

26 ¹⁴⁹ App. at p. 39.

27 ¹⁵⁰ *Ibid.*

28 ¹⁵¹ The names of the true perpetrators of the shooting were redacted in court filings to protect the
integrity of the ongoing investigation; see App. at p. 39.

1 **IV. Determination of Issues**

2 Penal Code section 4900 allows a person, who has been erroneously convicted and
3 imprisoned for a felony offense that they did not commit, to submit a claim for compensation to the
4 CalVCB. Specifically, subdivision (a) of section 4900 provides:

5 Any person who, having been convicted of any crime against the state amounting to a
6 felony and imprisoned in the state prison or incarcerated in county jail pursuant to
7 subdivision (h) of Section 1170 for that conviction, is granted a pardon by the Governor
8 for the reason that the crime with which they were charged was either not committed at
9 all or, if committed, was not committed by the person, or who, being innocent of the
10 crime with which they were charged for either of those reasons, shall have served the
11 term or any part thereof for which they were imprisoned in state prison or incarcerated in
12 county jail, may, under the conditions provided under this chapter, present a claim
13 against the state to the California Victim Compensation Board for the injury sustained by
14 the person through the erroneous conviction and imprisonment or incarceration.¹⁵²

15 To prevail on a claim under Penal Code section 4900, claimants typically bear the burden of
16 proving, by a preponderance of the evidence, that the crime with which they were convicted either did
17 not occur or was not committed by them and that they suffered an injury as the result of their
18 erroneous conviction.¹⁵³ However, if the claimant has already established their innocence by obtaining
19 a finding of factual innocence under Penal Code section 1485.55 or 851.86, the claimant only bears
20 the burden of establishing their injury.

21 Under Penal Code section 1485.55, subdivision (b), “if the court has granted a writ of habeas
22 corpus or vacated a judgment pursuant to Section 1473.6 or paragraph (2) of subdivision (a) of Section
23 1473.7, the person may move for a finding of factual innocence by a preponderance of the evidence
24 that the crime with which they were charged was either not committed at all or, if committed, was not
25 committed by the petitioner.” Penal Code section 851.86 further provides that when a “conviction is set
26 aside based upon a determination that the person was factually innocent of the charge, the judge shall
27 order that the records in the case be sealed, including any record of arrest or detention[.]” A finding of
28 factual innocence made under either provision “shall be binding” on the CalVCB “for a claim presented

29 ¹⁵² Pen. Code, § 4900, subd. (a); see also Pen. Code, § 1170, subd. (h) (allowing prison term for
30 specified felony convictions to be served in local county jail instead of state prison).

31 ¹⁵³ Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

1 ... pursuant to Penal Code section 4900,” and “[u]pon application” the CalVCB “shall, without a
2 hearing, approve payment to the claimant pursuant to Penal Code section 4904.”¹⁵⁴

3 However, even when the claimant has been found factually innocent, the CalVCB remains
4 statutorily obligated to determine the extent of the injury caused by the erroneous conviction and may
5 request additional documents and arguments from the parties as needed to complete this
6 calculation.¹⁵⁵ In this context, injury means that, but for the erroneous conviction, the claimant would
7 have been free from custody.¹⁵⁶ Upon the requisite showing of innocence and injury, the CalVCB “shall
8 approve payment for the purpose of indemnifying the claimant for the injury if sufficient funds are
9 available, upon appropriation by the Legislature.”¹⁵⁷ The “amount of the payment shall be a sum
10 equivalent to one hundred forty dollars (\$140) per day of incarceration served, and shall include any
11 time spent in custody, including in a county jail, that is considered to be part of the term of
12 incarceration[]” for the erroneous conviction.¹⁵⁸

13 **A. Innocence**

14 Pursuant to Penal Code section 1485.55, the CalVCB unequivocally accepts that Patterson is
15 factually innocent of the crime he was charged with in Los Angeles County Superior Court case
16 number VA092944. As determined by the superior court and consistent with the parties’ joint motion
17 for a finding of factual innocence, a preponderance of the evidence establishes Patterson was
18 innocent of the charged offense. Multiple witnesses interviewed after Patterson’s conviction, including
19 Juan, who had been standing with the victim at the time of the shooting, stated that Patterson was not
20 involved in the shooting. Many of these witnesses saw the perpetrators fleeing the area at the same
21 time they saw Patterson standing in his front yard. Juan also indicated that he had a personal
22 relationship with Patterson and repeatedly declared that Patterson was not one of the shooters. In fact,
23 Juan stated that the shooters did not match Patterson’s description. The only witness who did identify

24
25 ¹⁵⁴ Pen. Code, §§ 851.86, 851.865, and 1485.55, subds. (b)-(c).

26 ¹⁵⁵ Pen. Code, §4904, subd. (a).

27 ¹⁵⁶ Cal. Code Regs., tit. 2, § 640, subd. (f).

28 ¹⁵⁷ Pen. Code, § 4904.

¹⁵⁸ Pen. Code, § 4904, subd. (a); Cal. Code Regs., tit. 2, § 640, subd. (f).

1 Patterson was Colleen, who was later determined to be unreliable, as she made her observations
2 through a window at a distance of nearly 200 feet. While she indicated that she believed she had seen
3 the shooter in the neighborhood before, neither of the actual shooters nor any other similar looking
4 individuals from the neighborhood were placed in a lineup and shown to Colleen.¹⁵⁹ More importantly,
5 the CIU investigation revealed the identities of the true perpetrators of the shooting.¹⁶⁰ The newly
6 discovered evidence of third-party culpability establishes that Patterson was not the shooter on the
7 night of the crime. Accordingly, the administrative record amply demonstrates Patterson was innocent
8 of the charged offenses and, therefore, was erroneously convicted of this crime for purposes of
9 compensation under Penal Code section 4900.

10 **B. Injury**

11 Penal Code sections 4900 et seq. authorize compensation “for the purpose of indemnifying the
12 claimant for the injury” sustained “through their erroneous conviction and imprisonment....”¹⁶¹ The term
13 “injury” refers to “whatever harm is suffered by a person who is wrongly imprisoned....”¹⁶² Injury “may
14 be established by showing that, but for the erroneous conviction, the claimant would not have been in
15 custody.”¹⁶³ Upon such a showing, Penal Code section 4904 authorizes compensation in the amount
16 of “one hundred forty dollars (\$140) per day of incarceration served and shall include any time spent in
17 custody, including a county jail, that is considered to be part of the term of incarceration.”¹⁶⁴

18 In this claim, the CalVCB agrees with the parties that Patterson’s injury includes the 6,567 days
19 he was imprisoned solely for his convictions in Los Angeles County Superior Court case number
20 VA092944. This includes the date of his arrest on March 22, 2006, through and including the date of
21 his release on March 13, 2024. Given the statutory rate of \$140 per day, the CalVCB also agrees with
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23 _____
24 ¹⁵⁹ App. at p. 43.

25 ¹⁶⁰ App. at p. 14.

26 ¹⁶¹ Pen. Code, § 4904.

27 ¹⁶² Senate Floor Analysis of Sen. Bill No. 635 (2015-2016), as amended Sept. 3, 2015, at pp. 4-5.

28 ¹⁶³ Cal. Code of Regs., tit. 2, § 640, subd. (f).

¹⁶⁴ Pen. Code, § 4904.

1 the parties' calculation that Patterson is entitled to indemnification for his erroneous convictions in the
2 amount of \$919,380 if sufficient funds are available upon appropriation by the Legislature.¹⁶⁵

3 **V. Conclusion**

4 As mandated by Penal Code section 1485.55, subdivision (b), the undersigned hearing officer
5 recommends the CalVCB approve payment to Patterson in the amount of \$919,380 as indemnification
6 for the injury he sustained through the 6,567 days he was imprisoned solely for his erroneous
7 convictions in Los Angeles County Superior Court case number VA092944, if sufficient funds are
8 available upon appropriation by the Legislature.

9
10 Date: August 23, 2024

11 _____
12 Kristen L. Sellers
13 Hearing Officer
14 California Victim Compensation Board
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27 _____
28 ¹⁶⁵ Pen. Code, § 4904, subd. (a).