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

8 In the Matter of:

9 **Mireya Arias**

10 Claim No. 24-ECO-01

Proposed Decision

(Penal Code §§ 851.865, 4900 et seq.)

11 **I. Introduction**

12 On January 2, 2024, Mireya Arias (Arias) submitted a claim for compensation to the California
13 Victim Compensation Board (CalVCB) as an erroneously convicted person pursuant to Penal Code
14 section 4900. The claim is based upon Arias' convictions for 31 counts of extortion, attempted theft,
15 and burglary, all of which were reversed on appeal in 2021, with a finding of factual innocence issued
16 in 2023. The claim requests compensation in the amount of \$136,080 for 972 days, which includes
17 time spent incarcerated and subject to post-release supervision. Arias is representing herself in this
18 administrative proceeding.

19 The Attorney General, represented by Deputy Attorney General Tami Falkenstein Hennick,
20 responded to the claim on September 18, 2024. The Attorney General agreed that Arias was entitled
21 to compensation but disputed the amount. By the Attorney General's calculation, Arias' compensation
22 amounts to \$86,100 for 615 days of incarceration, excluding time on parole.

23 After both parties declined a hearing, the record closed on September 28, 2024. Thereafter, on
24 April 18, 2025, the claim was reassigned to CalVCB Senior Attorney Laura Simpton. As mandated by
25 Penal Code section 851.865 and in accordance with Penal Code section 4904, it is recommended that
26 the Board approve the claim in the amount of \$85,960, if sufficient funds are available upon
27 appropriation by the Legislature, as indemnification for the demonstrated injury sustained by Arias'
28 incarceration for 614 days as a result of her erroneous convictions. No compensation is recommended

1 for the remaining 358 days requested by Arias because the record fails to demonstrate by a
2 preponderance of evidence that she was incarcerated during that time.

3 **II. Procedural Background**

4 **A. Criminal Proceeding**

5 On April 20, 2017, Arias was arrested and subsequently charged with multiple counts of
6 extortion, attempted grand theft, and burglary with hate-crime enhancements in Riverside County
7 Superior Court case number RIF1701355.¹ Arias was eventually released on bail pending trial.²
8 Meanwhile, Arias' husband Rogelio Morales (Morales) was charged as a codefendant with the same
9 offenses plus additional counts for stalking and disobeying a restraining order.³ Their alleged victims
10 included minority-owned, local businesses, who provided dry cleaning or hair salon services.⁴

11 On December 3, 2018, after a jury trial, Arias was convicted of 31 counts, consisting of 10
12 counts of extortion, 11 counts of attempted grand theft, and 10 counts of second-degree burglary, each
13 with a hate-crime enhancement.⁵ That same day, Arias was remanded back to jail to await
14 sentencing.⁶ On March 29, 2019, the court sentenced Arias to an aggregate term of seven years and
15 eight months imprisonment for all 31 counts.⁷ Significantly, the court awarded Arias 124 days as
16 presentencing credit for actual time served.⁸ Arias remained confined at the jail until April 10, 2019,
17 when she was transferred to a California state prison to serve the remainder of her sentence.⁹

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20 ¹ Pen. Code, §§ 459 (burglary) 523 (extortion by letter), 664/487 (attempted grand theft), 422.75 (hate
crimes); Arias Supplemental Application (Supp. App.) at pp. 21, 82-84, 106-107.

21 ² Supp. App. at p. 108.

22 ³ Pen. Code, §§ 166 (contempt of court), 649.9 (stalking); Supp. App. at pp. 20-21.

23 ⁴ Supp. App. at pp. 18, 22-37.

24 ⁵ Supp. App. at pp. 82-84.

25 ⁶ Supp. App. at pp. 3, 108.

26 ⁷ Supp. App. at pp. 8, 22. By comparison, Morales was sentenced to 22 years imprisonment for his
convictions on 62 counts. (Supp. App. at pp. 13, 108.)

27 ⁸ Supp. App. at p. 85; Attorney General Response Letter (AGRL) Exhibit (Ex.) 1 at p. 3508, submitted
via email on Sep. 18, 2024.

28 ⁹ Supp. App. at pp. 12, 13-15, 108.

1 Arias appealed. In an opinion filed on June 18, 2021, the Fourth District Court of Appeal
2 reversed all of Arias' convictions for insufficient evidence.¹⁰ Accordingly, the superior court dismissed
3 all charges on September 3, 2021.¹¹

4 On July 30, 2020, one year before the appellate court's reversal, Arias was released from
5 prison upon completion of her sentence. By then, Arias had been incarcerated for a total of 614 actual
6 days, comprised of 124 days presentencing, plus 490 days from the date of her sentencing on March
7 29, 2019, to and including the date of her release on July 30, 2020.¹² Arias remained on parole for 364
8 days until July 28, 2021, approximately one month after her convictions were reversed.¹³

9 **B. Factual Innocence Proceeding**

10 Arias subsequently filed a "Petition to Seal and Destroy Arrest Record (PC 851.8)" in the
11 Riverside County Superior Court.¹⁴ According to a minute order dated April 26, 2023, the court "finds
12 defendant factually innocent of the charge(s) for which the arrest was made" in case number
13 RIF1701355 and "orders case sealed pursuant to: 851.8 PC."¹⁵ The minute order, which was certified
14 by the court deputy on April 26, 2023, was not signed by the judge.¹⁶ Instead, the judge signed a
15 preprinted order form (i.e., Judicial Counsel Form CR-410) on April 26, 2023, which directed Arias'
16 arrest record be sealed pursuant to Penal Code section 851.91.¹⁷ Significantly, section 851.8 requires
17 persuasive proof of factual innocence that "no reasonable cause exists to believe that the arrestee
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19 ¹⁰ Supp. App. at pp. 40-76; see also *People v. Morales, et al.*, Fourth District Court of Appeal case
20 number E072462, opinion filed Jun. 18, 2021, available on Westlaw at 2021 WL 2493058 (deciding
21 consolidated appeal from Morales and Arias following joint jury trial); Cal. Code Regs., tit. 2, § 617.8
(official notice).

22 ¹¹ Supp. App. at pp. 4, 77-79, 86. The appellate court similarly vacated all but three of Morales'
convictions. (Supp. App. at pp. 59-60.)

23 ¹² Supp. App. at p. 85. The number of days of Arias' post-sentencing incarceration was determined
24 using the online calculator located at <https://www.timeanddate.com/date/duration.html>.

25 ¹³ Supp. App. at pp. 3, 13, 108. The number of days of Arias' parole was determined using the online
calculator located at <https://www.timeanddate.com/date/duration.html>.

26 ¹⁴ Supp. App. at p. 79 (minute order).

27 ¹⁵ Supp. App. at p. 79.

28 ¹⁶ Supp. App. at pp. 79, 80.

¹⁷ Supp. App. at p. 81.

committed the offense for which the arrest was made,” whereas section 851.91 merely requires a showing that the arrestee’s conviction was reversed and dismissed.¹⁸ Evidently, no other documentation was prepared, such as a formal written order signed by the judge, to confirm the court’s finding of factual innocence pursuant to section 851.8.

C. CalVCB Proceeding

On January 2, 2024, Arias submitted a claim to CalVCB seeking compensation as an erroneously convicted person under Penal Code section 4900. The claim was based upon all 31 of Arias’ reversed convictions in case number RIF1701355. The claim summarily requested \$136,080 as compensation for 972 days incarceration without any explanation for the calculation. The claim alleged that the superior court had issued a finding of factual innocence pursuant to Penal Code section 851.8 but attached, as the sole evidence, the certified minute order from April 26, 2023. The claim also included the appellate court’s decision, custodial records, and the superior court docket with no entries after September 2021.¹⁹

By letter dated January 10, 2024, CalVCB acknowledged receipt of Arias’ claim but determined that it was incomplete. CalVCB requested a statement of injury to explain the amount of compensation requested and to confirm the length of imprisonment served solely as a result of the reversed convictions. CalVCB also requested a file-stamped copy of a court order declaring Arias factually innocent because the minute order did not suffice under the circumstances. The letter was sent to Arias, as well as the Attorney General.²⁰

1. Supplemented Claim

Arias supplemented her claim on January 11, 2024. In addition to all of her previously provided documents, Arias included an Abstract of Judgment, the order to seal from April 26, 2023, and a declaration with a statement of injury. Arias’ declaration explained that the injury calculation included time spent on parole based on her interpretation of the term “incarcerated” for purposes of Penal Code

¹⁸ Pen. Code, §§ 851.8, subd. (b), 851.91, subd. (a)(1)(B)(iii).

¹⁹ Arias Application (App.) at pp. 1-95, submitted by email sent January 2, 2024.

²⁰ The letter was signed by CalVCB Senior Attorney Caitlin Christian, who was initially assigned to review this claim. (Cal. Code Regs., tit. 2, § 615.10.)

1 section 4904, but Arias acknowledged that, if her interpretation was “incorrect,” then CalVCB may
2 “please disregard as appropriate.”²¹ Arias’ declaration, which was signed under penalty of perjury,
3 confirmed that the entire length of her imprisonment resulted solely from her reversed convictions.²²
4 Arias’ declaration also confirmed that the Riverside County Superior Court “granted my petition for
5 factual innocence on April 26, 2023.”²³ Otherwise, no new evidence was presented to confirm a finding
6 of factual innocence was issued pursuant to Penal Code section 851.8.²⁴

7 On February 27, 2024, CalVCB notified Arias that her claim would be deemed filed without a
8 finding of factual innocence unless she provided (1) a file-stamped copy of the motion for a finding of
9 factual innocence, (2) any response by the District Attorney, and (3) the court order granting that
10 motion.²⁵ Arias objected on February 28, 2024, insisting that the submitted materials sufficed to
11 demonstrate her factual innocence.²⁶

12 On March 28, 2024, CalVCB filed Arias’ claim without a finding of factual innocence due to
13 insufficient documentation. CalVCB nevertheless offered to reconsider this determination if either party
14 provided additional documentation to confirm that a finding of factual innocence had been issued.
15 CalVCB requested a response to the merits of the claim from the Attorney General, due within 60
16 days, pursuant to Penal Code section 4902, subdivision (a).²⁷

17 Meanwhile, on April 24, 2024, Arias submitted a pleading by email that was entitled, “Petition
18 by Defendant Mireya Arias Requesting Order and Finding of Factual Innocence Pursuant to Cal. Penal
19 Code 851.8.”²⁸ The pleading was file-stamped April 15, 2024, by the Riverside County Superior Court.
20 The petition alleged that the court previously found Arias factually innocent on April 26, 2023, but “no
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22 ²¹ Supp. App. at p. 106.

23 ²² Supp. App. at pp. 107, 109.

24 ²³ Supp. App. at p. 107.

25 ²⁴ Supp. App. at pp. 1-108.

26 ²⁵ CalVCB email to parties sent on Feb. 27, 2024.

27 ²⁶ Email from Arias sent on Feb. 29, 2024.

28 ²⁷ CalVCB email to parties sent on Mar. 28, 2024.

²⁸ Petition, file stamped Apr. 15, 2024, submitted by email from Arias sent on Apr. 27, 2024.

certificate of factual innocence was issued.”²⁹ The petition asked the court to issue a “finding of factual innocence pursuant to California Penal Code section 851.8,” as well as a “Certificate of Factual Innocence pursuant to California Penal Code section 851.8.”³⁰ The petition attached two exhibits: (A) the April 26, 2023, minute order citing section 851.8, and (B) the April 26, 2023, order to seal citing Penal Code section 851.91.³¹ In addition to this petition, Arias also submitted a minute order from a recent hearing on April 16, 2024, which noted the “Court has read and considered Petition of finding of factual innocence” and “orders hearing to be set .. on 05/17/2024.”³² In the email, Arias notified CalVCB that the attached petition was pending before the superior court and would be heard on May 17, 2024.³³ CalVCB confirmed receipt of both documents on April 30, 2024.³⁴

Arias next emailed CalVCB on May 17, 2024, around noon.³⁵ Arias stated that, during the morning session of the hearing, the court indicated it would grant the petition but was unsure what particular certificate was required and, consequently, the court continued the hearing for that afternoon to allow the parties to locate one during the interim. Arias asked for a sample certificate of factual innocence under Penal Code section 851.8 that would suffice to perfect her claim. CalVCB responded that it was unable to provide legal advice.³⁶ Arias promptly replied to thank CalVCB for the response.³⁷ Arias did not provide any further update concerning the outcome of this hearing.

2. Attorney General Response

Following two extensions of time, the Attorney General timely responded to Arias’ claim on September 18, 2024. The response consisted of a single-page letter that confirmed the Attorney

²⁹ Petition, at p. 1.

³⁰ Petition, at p. 2.

³¹ Petition Exs. A & B.

³² Minute Order, dated Apr. 16, 2024, submitted by email from Arias sent on Apr. 27, 2024.

³³ Email from Arias sent on Apr. 27, 2024.

³⁴ CalVCB email to parties sent on Apr. 30, 2024.

³⁵ Email from Arias sent on May 17, 2024, at 12:25 p.m.

³⁶ CalVCB email to parties sent on May 17, 2024, at 12:54 p.m.

³⁷ Email from Arias sent May 17, 2024, at 12:55 p.m.

1 General had “investigated the claim” and “does not object to compensation.”³⁸ However, the Attorney
2 General did object to the amount of compensation requested by Arias. As calculated by the Attorney
3 General, Arias spent a total of 615 days incarcerated. The Attorney General arrived at this sum by
4 adding 124 days for time spent in jail presentencing per the court’s credit determination on March 29,
5 2019, and 13 days in jail after sentencing while awaiting transfer to prison (i.e., March 29, 2019, to and
6 including April 10, 2019), plus 478 days in prison until release (i.e., April 10, 2019, to and including July
7 30, 2020).³⁹ The Attorney General attached two exhibits to the response, both related to
8 compensation.⁴⁰ The response did not address whether or not the superior court had issued a finding
9 of factual innocence pursuant to Penal Code section 851.8.

10 On September 20, 2024, CalVCB confirmed receipt of the Attorney General’s response.
11 Nonetheless, CalVCB requested the Attorney General provide an electronic copy of all documents
12 relied upon when drafting that response, such as the record on appeal and trial record. In addition,
13 CalVCB offered the parties an opportunity to appear at a hearing before the hearing officer in order to
14 present additional evidence or argument related to the merits of Arias’ claim.⁴¹

15 As requested, the Attorney General promptly submitted an electronic copy of the trial record on
16 appeal, which consisted of 13 volumes of the Clerk’s Transcript and four volumes of the Reporter’s
17 Transcript. The Attorney General also submitted a copy of the 11-page Reporter’s Transcript from the
18 hearing on May 17, 2024. Notably, this transcript confirmed that the Riverside County Superior Court
19 had, in fact, previously found Arias to be factually innocent on April 26, 2023.⁴² As confirmation of that
20 finding, the judge directed the clerk to provide Arias with a certified copy of the minutes from the April
21 26, 2023, hearing.⁴³

23 ³⁸ AGRL at p. 1.

24 ³⁹ AGRL at p. 1. As discussed *infra*, this calculation double counts a single day (i.e., April 10, 2019).

25 ⁴⁰ AGRL Exs. 1 (Abstract of Judgment) and 2 (CDCR Release Statement).

26 ⁴¹ CalVCB email to parties sent on Sep. 20, 2024.

27 ⁴² Reporter’s Transcript (RT) at pp. 5, 7, 9, submitted by the Attorney General by email sent Sep. 27,
2024.

28 ⁴³ RT at p. 9.

1 On September 25, 2024, Arias elected to waive a hearing on the condition that the
2 administrative record include the Reporter's Transcript from the May 17, 2024, hearing.⁴⁴ The Attorney
3 General also waived any hearing.⁴⁵

4 On September 28, 2024, CalVCB confirmed that the May 17, 2024, transcript was included in
5 the administrative record and, therefore, closed the administrative record.⁴⁶ Six months later on April
6 17, 2025, after the assigned hearing officer's unavailability, the claim was reassigned to CalVCB
7 Senior Attorney Laura Simpton.⁴⁷

8 III. Factual Background

9 In 2016, Arias and Morales, who was an attorney, "concocted a plan to file gender
10 discrimination lawsuits against minority owned hair salons and dry cleaners."⁴⁸ To that end, they "went
11 together to the hair salons and each received haircuts, ... and, if Arias paid more for her haircut,
12 Morales would file a lawsuit against the business under ... the Gender Tax Repeal Act of 1995
13 (Gender Act)."⁴⁹ "They employed the same practice against dry cleaners, each dropping off a shirt, and
14 if Arias was charged more than Morales for the cleaning, Morales would file a gender discrimination
15 lawsuit....."⁵⁰ "Morales contacted some of the businesses after filing suit and offered a settlement."⁵¹

16 Pursuant to this scheme, Morales filed gender discrimination lawsuits on behalf of Arias against
17 seven hair salons and four dry cleaners located in Riverside County between April and June 2016. The
18 lawsuits were filed even if the service provided to Arias was more complex, which justified a higher
19 price, such as when Arias' shirt was made of silk while Morales' shirt was cotton, or Arias' haircut
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21 ⁴⁴ Email from Arias sent Sep. 25, 2024.

22 ⁴⁵ Email from Attorney General sent Sep. 25, 2024.

23 ⁴⁶ CalVCB email to parties sent on Sep. 20, 2024, from CalVCB Senior Attorney Caitlin Christian.

24 ⁴⁷ Cal. Code Regs., tit. 2, § 615.10.

25 ⁴⁸ Supp. App. at p. 18; *People v. Morales, supra*, 2021 WL 2493058 at *1. The appellate court decision
26 is considered to the extent it is consistent with the superior court's finding of factual innocence. (Cal.
Code Regs., tit. 2, § 641, subd. (f).)

27 ⁴⁹ Supp. App. at p. 18; *People v. Morales, supra*, at *1.

28 ⁵⁰ *Ibid.*

⁵¹ *Ibid.*

1 required scissors while only clippers were needed for Morales. Charging a higher price for a more
2 complex service is not prohibited by the Gender Act.⁵² Nonetheless, the lawsuits requested damages
3 in amounts ranging from \$40,000 to \$124,000. Shortly after filing the lawsuits, Morales telephoned the
4 businesses in order to demand a cash settlement ranging from \$5,000 to \$50,000.⁵³

5 For these activities, the Riverside County District Attorney charged Arias with 31 counts of
6 extortion, attempted grand theft, and burglary.⁵⁴ According to the prosecution's "novel theory," the
7 baseless civil lawsuits amounted to a threat of "unlawful injury" for purposes of extortion within the
8 meaning of Penal Code section 523.⁵⁵ Specifically, the "prosecutor argued the lawsuits filed by
9 Morales were not 'righteous lawsuits' so they were unlawful" because there was "evidence ... that
10 differences in price for the haircuts and dry cleaning were based on differences in time and skill."⁵⁶
11 Relying upon this "novel theory," the prosecution similarly reasoned that the "unlawful" lawsuits
12 constituted attempted grand theft by false pretenses.⁵⁷ The prosecution likewise asserted that Arias'
13 entry into each business with the intent to file an "unlawful" lawsuit qualified as second-degree
14 burglary.⁵⁸

15 However, the Court of Appeal rejected the prosecution's theory as a matter of law. As
16 explained by the appellate court, the lawsuits were not "unlawful" merely because they might
17 eventually be found to lack merit.⁵⁹ The appellate court further found "there was no proper evidence
18 presented upon which the jury could determine that the gender discrimination lawsuits were unlawful
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20 ⁵² Supp. App. at p. 47; *People v. Morales, supra*, at p. *14 (citing Cal. Civ. Code, § 51.6, subd. (c) as
21 exception to Gender Act).

22 ⁵³ Supp. App. at pp. 22-32; *People v. Morales, supra*, at pp. *3-*7.

23 ⁵⁴ Supp. App. at pp. 82-84 (listing 31 counts); cf. Supp. App. at pp. 21, 106 (referencing 40 counts).

24 ⁵⁵ Supp. App. at p. 45-49; *People v. Morales, supra*, at pp. *13-*15; see also Pen. Code, §§ 523
(defining extortion by letter to include a "threat"), 519 (defining requisite "threat" for extortion as "[t]o do
25 an unlawful injury to the person or property").

26 ⁵⁶ Supp. App. at p. 49; *People v. Morales, supra*, at p. *15.

27 ⁵⁷ Supp. App. at pp. 60-65; *People v. Morales, supra*, at pp. *19-*21.

28 ⁵⁸ *Ibid.*

⁵⁹ Supp. App. at p. 54; *People v. Morales, supra*, at p. *17 ("Evidence that a lawsuit will fail on the
merits does not make it unlawful").

1 when filed.”⁶⁰ For instance, “no evidence suggested that the defendants believed the lawsuits to be
2 false or unmeritorious.” Indeed, as noted by the appellate court, the lawsuits remained pending and
3 had not been dismissed. Accordingly, the evidence was insufficient to prove Arias’ guilt for any of her
4 convictions for extortion, attempted grand theft, or burglary.⁶¹

5 Following the appellate court’s decision, the superior court declared Arias factually innocent of
6 all charges on April 26, 2023. As reflected in the certified minutes and later confirmed by the May 17,
7 2024 transcript, Arias filed a “Petition to Seal and Destroy Arrest Record” pursuant to “PC 851.8” in
8 2023, which the “People [did] not oppose,” and it was granted by the superior court at a hearing on
9 April 26, 2023.⁶² At that 2023 hearing, the court specifically found “defendant factually innocent of the
10 charge(s) for which the arrest was made” in case RIF1701355.⁶³ The court ordered the case sealed
11 pursuant to “851.8,” as correctly reflected in the minute order, even though the signed order form
12 referenced Penal Code section 851.91.⁶⁴

13 At the May 17, 2024, hearing on Arias’ second “Petition ... Requesting Order and Finding of
14 Factual Innocence Pursuant to Cal. Penal Code 851.8,” the court reiterated that “26th April, last year,
15 Judge Johnson found you factually innocent, and he ... granted the petition to seal and destroy the
16 arrest records.”⁶⁵ In response to Arias’ request for a “certificate” to confirm that finding, the court
17 responded, “We don’t have any document readily that is entitled as Certificate of Factual Innocence.
18 You have one, we’ll happily take a look and see. It’s just not something that we see regularly.”⁶⁶ After
19 Arias explained that she needed a “certificate” for her administrative claim, the court questioned why
20 “the minutes” would not suffice to confirm the finding of factual innocence.⁶⁷ After breaking for lunch for
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22 ⁶⁰ Supp. App. at p. 55; *People v. Morales, supra*, at p. *17.

23 ⁶¹ Supp. App. at pp. 55, 63-65, 76; *People v. Morales, supra*, at pp. *17, 20-21, 25.

24 ⁶² Supp. App. at p. 79; RT 9.

25 ⁶³ Supp. App. at p. 79; RT 9.

26 ⁶⁴ Supp. App. at pp. 79-81; RT 9.

27 ⁶⁵ RT 9.

28 ⁶⁶ RT 6.

⁶⁷ RT 7.

1 the parties to conduct additional research, the court reiterated that Arias was found factually innocent
2 on April 26, 2023, and directed the clerk to provide Arias with a certified copy of the minute order
3 reflecting that finding as confirmation of that determination.⁶⁸ The court opined that the certified minute
4 order was “All you needed” and “what you’re looking for.”⁶⁹

5 **IV. Determination of Issues**

6 Penal Code section 4900 allows a person, who has been erroneously convicted and
7 imprisoned for a felony offense that they did not commit, to submit a claim for compensation to
8 CalVCB. Typically, the claimant bears the burden to prove by a preponderance that (1) the crime with
9 which they were convicted either did not occur or was not committed by them and (2) they suffered
10 injury as a result of their erroneous conviction.⁷⁰ In this context, injury means that, but for the
11 erroneous conviction, the claimant would have been free from custody.⁷¹ Once a properly submitted
12 claim is filed, Penal Code section 4902 requires the Attorney General to submit a written response,
13 after which an informal administrative hearing ensues pursuant to Penal Code section 4903. If the
14 claimant satisfies their burden at the hearing, then Penal Code section 4904 requires CalVCB to
15 approve payment for the purpose of indemnifying the claimant for the demonstrated injury, at the rate
16 of \$140 per day of their incarceration, if sufficient funds are available, upon appropriation by the
17 Legislature.⁷² Contrary to Arias’ statutory interpretation,⁷³ no compensation is authorized for any time
18 spent on supervised released.⁷⁴

21 ⁶⁸ RT 9.

22 ⁶⁹ RT 9.

23 ⁷⁰ Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

24 ⁷¹ Cal. Code of Regs., tit. 2, § 640, subd. (f).

25 ⁷² Pen. Code, § 4904.

26 ⁷³ Supp. App. at p. 106.

27 ⁷⁴ Pen. Code, § 4904; see also proposed Pen. Code, § 4904, subd. (d), conditionally operative July 1,
28 2024, subject to appropriation, as added by Stats.2022, c. 771 (A.B. 160), § 21; Governor’s May
Revision (2024-25), Introduction at pp. 9-10 (rejecting A.B. 160’s conditional expenditures due to “the
negative multiyear projections” to the General Fund), available at [https://ebudget.ca.gov/2024-25/pdf/
Revised/BudgetSummary/FullBudgetSummary.pdf](https://ebudget.ca.gov/2024-25/pdf/Revised/BudgetSummary/FullBudgetSummary.pdf).

1 Significantly, a different and expediated process occurs for claimants with a court finding of
2 factual innocence. Under Penal Code section 851.865, “If a person has secured a declaration of
3 factual innocence from the court pursuant to Section 851.8...,” then “[u]pon application by the person,
4 [CalVCB] shall, without a hearing, approve payment to claimant pursuant to [Penal Code] Section
5 4904....”⁷⁵ Specifically, when section 851.865 applies, CalVCB “shall, within 90 days of the filing of
6 claim, calculate compensation for the claimant pursuant to Section 4904 and approve payment to the
7 claimant if sufficient funds are available, upon appropriation by the Legislature.”⁷⁶ Nonetheless,
8 CalVCB is statutorily obligated by section 4904 to determine the extent of injury caused by the
9 erroneous conviction and incarceration.⁷⁷ To that end, CalVCB may “request from both parties
10 additional documents or arguments as needed to calculate compensation.”⁷⁸ The burden to prove
11 injury rests with the claimant by a preponderance of the evidence.⁷⁹

12 **A. Innocence**

13 Pursuant to the superior court’s finding under Penal Code section 851.865, CalVCB accepts
14 that Arias is factually innocent of all charges in case number RIF10701355. The superior court’s
15 finding of factual innocence pursuant to Penal Code section 851.8 is convincingly demonstrated by the
16 certified minute order from April 26, 2023, combined with Arias’ second petition for a finding of factual
17 innocence filed on April 15, 2024, and the court’s comments as reflected in the transcript of the May
18 17, 2024 hearing.⁸⁰ This finding by the superior court in 2023, which is not disputed by the Attorney
19 General, is significant in this administrative proceeding.⁸¹ It conclusively determined that Arias is
20 “factually innocent of the charge(s) for which the arrest was made.”⁸² Moreover, this finding is

22 ⁷⁵ Pen. Code, § 851.865, subd. (a).

23 ⁷⁶ Pen. Code, § 4902, subd. (a).

24 ⁷⁷ Pen. Code, § 4904.

25 ⁷⁸ Pen. Code, § 4904, as amended by Stats. 2023, c. 702 (S.B. 78), § 5, eff. Jan. 1, 2024.

26 ⁷⁹ Pen. Code, § 4904; see also Evid. Code, § 115.

27 ⁸⁰ Supp. App. at pp. 79-80; Petition at pp. 1-2; RT 7, 9.

28 ⁸¹ AGRL at p. 1 (declining to object to the Arias’ claim of compensation).

⁸² Supp. App. at p. 79; see also RT 9 (confirming accuracy of minute order).

1 corroborated, though not compelled, by the appellate court's 2021 decision, which found the
2 prosecution's novel theory of guilt was incorrect as a matter of law.⁸³ Accordingly, the administrative
3 record satisfactorily demonstrates Arias' innocence for purposes of compensation under Penal Code
4 section 4900.⁸⁴

5 **B. Injury**

6 The record further demonstrates Arias' injury amounts to \$85,960 for 614 days of incarceration.
7 Penal Code section 4904 specifies that the amount of compensation to be approved for the claimant's
8 injury "shall be a sum equivalent to one hundred forty dollars (\$140) per day of incarceration served,
9 and shall include any time spent in custody, including a county jail, that is considered to be part of the
10 term of incarceration."⁸⁵ This compensation is "for the purpose of indemnifying the claimant for the
11 injury" sustained "through their erroneous conviction and imprisonment...."⁸⁶ In this context, the term
12 "injury" refers to "the unique harm suffered when factually innocent persons are imprisoned."⁸⁷ Stated
13 differently, the requisite injury contemplated by section 4904 is "each day ... spent illegally behind bars,
14 away from society ... and their loved ones" solely as a result of the erroneous conviction.⁸⁸ To that end,
15 injury "may be established by showing that, but for the erroneous conviction, the claimant would not
16 have been in custody."⁸⁹ Thus, injury under section 4904 is limited to a claimant's confinement in a
17 correctional facility and excludes any period of release even if supervised.

18 Here, the record demonstrates that Arias spent 614 days incarcerated for her erroneous
19 convictions in case number RIF1701355. For these convictions, Arias received a prison sentence of
20

21 ⁸³ See *Gonzales v. CalVCB* (2023) 98 Cal.App.5th 427, 443-444 ("a finding of legal insufficiency due to
22 the 'prosecution's failure of proof' at trial is not necessarily equivalent to a finding of factual innocence
23 by a preponderance of the evidence.").

24 ⁸⁴ Pen. Code, §§ 851.865, 4902, subd. (a).

25 ⁸⁵ Pen. Code, § 4904.

26 ⁸⁶ Pen. Code, § 4904.

27 ⁸⁷ Senate Floor Analysis of Sen. Bill No. 635 (Reg. Sess. 2015-2016), as amended Sep. 3, 2015, at
28 pp. 4-5.

⁸⁸ *Holmes v. Calif. Victim Comp. & Gov't Claims Board* (2015) 239 Cal.App.4th 1400, 1405.

⁸⁹ Cal. Code of Regs., tit. 2, § 640, subd. (f).

1 seven years and eight months. Solely as a result of that sentence, Arias spent a total of 614 days in
2 custody.⁹⁰ This calculation includes 124 days presentencing, plus 490 days from the date of her
3 sentencing on March 29, 2019, to and including the date of her release on July 30, 2020.⁹¹ This
4 calculation excludes any time that Arias was released on bail between her arrest on April 20, 2017,
5 and her convictions on December 3, 2019.⁹² It also excludes any time that Arias was released on
6 parole between her discharge from prison on July 30, 2020, and the termination of parole on July 28,
7 2021.⁹³ Combined, Arias spent a total of 614 days incarcerated for her erroneous convictions.

8 By comparison, the Attorney General's calculation totals 615 days. The Attorney General
9 arrived at this sum by adding 124 days for presentence credit, 13 days awaiting transfer to prison (i.e.,
10 March 29, 2019, to and including April 10, 2019), plus 478 days in prison until release (i.e., April 10,
11 2019, to and including July 30, 2020).⁹⁴ Thus, the Attorney General concludes that Arias was
12 incarcerated for a total of 491 days post-sentencing (i.e., 13 + 478) between March 29, 2019 and July
13 30, 2020. However, there are just 490 days between these two dates, even when the end date is
14 included in the calculation.⁹⁵ Thus, it appears that the one-day discrepancy is the result of double
15 counting a single day (i.e., April 10, 2019).

16 In sum, the record demonstrates that Arias was incarcerated for a total of 614 days for all 31 of
17 her erroneous convictions in case number RIF1701355. At the statutory rate of \$140 per day,⁹⁶ her
18 recommended compensation amounts to \$85,960 for her demonstrated injury.

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22 ⁹⁰ Supp. App. at p. 107.

23 ⁹¹ Supp. App. at p. 85; AGRL Ex. at p. 3508; see also *People v. King* (1992) 3 Cal.App.4th 882, 886
(construing "days" for custody credit to include partial days).

24 ⁹² Supp. App. at pp. 12, 14-85.

25 ⁹³ Supp. App. at p. 13.

26 ⁹⁴ AGRL at p. 1.


27 ⁹⁵ The number of days was confirmed using the online calculator located at <https://www.timeanddate.com/date/duration.html>. (Cal. Code Regs., tit. 2, § 617.8 (official notice).)

28 ⁹⁶ Pen. Code, § 4904, subd. (a).

1 **V. Conclusion**

2 As mandated by Penal Code section 851.865, the undersigned hearing officer recommends
3 CalVCB approve payment to Arias in the amount of \$85,960 for her claim as an erroneously convicted
4 offender under Penal Code section 4900 if sufficient funds are available,⁹⁷ upon appropriation by the
5 Legislature, as indemnification for the injury sustained by her 614 days of imprisonment solely as a
6 result of her vacated convictions. No compensation is recommended for the remaining 358 days
7 requested by Arias because the record fails to demonstrate by a preponderance of evidence that she
8 was incarcerated during that time.

9
10 Date: April 24, 2025



11 Laura Simpton
12 Hearing Officer
13 California Victim Compensation Board
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24 ⁹⁷ Of the initial \$8 million appropriated by Assembly Bill 107 (i.e., the Budget Act of 2024) for CalVCB's
25 payment of approved claims under Penal Code section 4900 for the 2024-2025 fiscal year,
26 approximately \$445,460 in funds currently remain. Nonetheless, as Assembly Bill 107 recognized,
27 "Upon order of the Department of Finance, [this] amount ... may be increased by an amount not in
28 excess of any total unpaid claim amounts pursuant to Sections 4900 and 4904 of the Penal Code."
(A.B. 107, Ch. 22 at pp. 777-778.) 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.