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6 **BEFORE THE VICTIM COMPENSATION BOARD**
7 **OF THE STATE OF CALIFORNIA**
8

9 In the Matter of:

10 **Humberto Duran**

11 Claim No. 25-ECO-06

Proposed Decision

(Penal Code §§ 1485.55, 4900 et seq.)

12 **I. Introduction**

13 On January 24, 2025, Humberto Duran (Duran) 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. The claim is based upon Duran's 1994 convictions for murder and
16 attempted murder, which were vacated by habeas relief in 2024. Following submission of the claim, a
17 finding of factual innocence was granted for both convictions on April 18, 2025. Duran is represented
18 by attorney Megan Baca of California Innocence Advocates. The claim, as revised, requests
19 compensation in the amount of \$1,485,120 for 10,608 days of incarceration.

20 The Attorney General, represented by Deputy Attorneys General Jonathan Krauss and Seth
21 McCutcheon, responded to the claim on May 6, 2025. The Attorney General agreed that Duran is
22 entitled to compensation in the requested amount.

23 The matter was assigned to CalVCB Senior Attorney Laura Simpton. As mandated by Penal
24 Code section 1485.55 and in accordance with Penal Code section 4904, it is recommended that
25 CalVCB approve the claim in the amount of \$1,485,120 if sufficient funds are available, upon
26 appropriation by the Legislature, as indemnification for the injury sustained by Duran's incarceration for
27 10,608 days as a result of his erroneous convictions.
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II. Procedural Background

On December 26, 1993, Duran was arrested and subsequently charged with one count of murder and one count of attempted murder with enhancements for personal use of a gun in Los Angeles County Superior Court case number BA089147.¹ Following a jury trial, Duran was convicted as charged on December 13, 1994. He was sentenced on January 31, 1995, to two consecutive life sentences with the possibility of parole.² The judgment was affirmed on appeal, and the California Supreme Court denied review on October 30, 1996.³

Duran remained incarcerated for approximately 29 years. On January 11, 2023, he was released on parole.⁴ By then, Duran had spent a total of 10,608 days in custody from the date of his arrest on December 26, 1993, until the date of his release on January 11, 2023.⁵ Duran was discharged from parole the following year on January 24, 2024.⁶

Weeks earlier on January 9, 2024, Duran filed a petition for writ of habeas corpus in the Los Angeles County Superior Court. The petition alleged, inter alia, (1) ineffective assistance of counsel, (2) new evidence of actual innocence, and (3) cumulative error. On March 29, 2024, the court issued an order to show cause and directed the Los Angeles County District Attorney (LADA) to respond. By letter brief filed October 17, 2024, LADA conceded that Duran was entitled to habeas relief on these three grounds. On October 18, 2024, the court granted Duran's petition and vacated both convictions pursuant to Penal Code section 1473.⁷ On October 22, 2024, after LADA announced it was unable to

¹ Pen. Code, §§ 187 (murder), 664/187 (attempted murder); 12022 (gun-use); Duran Application (App.) at pp. 2-3, 25, 38. The application consists of a claim form plus eight attachments that span 50 pages combined. For convenience, citations to the Application refer to the applied Bates numbering for this entire, 50-page document.

² App. at pp. 9, 38.

³ Docket for *People v. Humberto Duran*, Second District Appellate Court case number B091088, available online at <https://appellatecases.courtinfo.ca.gov/>; Cal. Code Regs., tit. 2, § 617.8 (official notice).

⁴ App. at pp. 3, 40.

⁵ This number was determined using the online calculator located at <https://www.timeanddate.com/date/duration.html>.

⁶ App. at p. 42.

⁷ App. at pp. 44, 50.

1 proceed with a retrial, the court dismissed all charges in the interest of justice pursuant to Penal Code
2 section 1385.⁸

3 On October 30, 2024, Duran filed a motion for a finding of factual innocence pursuant to
4 subdivision (b) of Penal Code section 1485.55. Several months later on April 1, 2025, after further
5 review and analysis, LADA acknowledged that Duran had satisfied his burden to demonstrate his
6 innocence by a preponderance of the evidence.⁹ At a hearing on April 18, 2025, the court granted the
7 motion and found Duran was factually innocent of murder and attempted murder in case number
8 BA089147.¹⁰

9 On January 24, 2025, with the assistance of counsel Megan Baca, Duran submitted a claim to
10 CalVCB seeking compensation as an erroneously convicted person under Penal Code section 4900.
11 The claim originally requested \$1,511,580 in compensation, comprised of 10,608 days at a rate of
12 \$140 per day for time spent incarcerated, plus 378 days at a rate of \$70 per day for time spent on
13 parole.¹¹ On January 28, 2025, CalVCB acknowledged receipt of the claim with notice to the Attorney
14 General but requested additional information from Duran to confirm the compensation calculation.¹² In
15 reply, Duran revised the claim to subtract compensation for time spent on parole. As a result, the
16 revised claim requested \$1,485,120 in compensation for 10,608 days of incarceration, all of which
17 solely resulted from Duran's vacated convictions for murder and attempted murder in case number
18 BA089147.¹³

19 On January 28, 2025, CalVCB deemed the claim filed pursuant to subdivision (b) of Penal
20 Code section 4900 because, at that time, Duran's convictions had been vacated and dismissed without
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24 ⁸ App. at pp. 44, 50.

25 ⁹ LADA Letter, dated Apr. 1, 2025, submitted via email sent by counsel Baca on Apr. 1, 2025.

26 ¹⁰ Minute Order, dated Apr. 18, 2025, submitted via email sent by counsel Baca on Apr. 18, 2025.

27 ¹¹ App. at p. 3.

28 ¹² CalVCB email to parties sent on Jan. 28, 2025, at 1:42 p.m.

¹³ Email sent by counsel Baca on Jan. 28, 2025, at 1:51 p.m.

1 a finding of factual innocence.¹⁴ CalVCB therefore requested a response from the Attorney General on
2 the issue of guilt and injury within 45 days pursuant to Penal Code section 4902, subdivision (d).¹⁵
3 Upon the Attorney General's timely request, the deadline was extended another 45 days to April 28,
4 2025. On April 7, 2025, the Attorney General requested a stay of the administrative proceedings until
5 the superior court issued a ruling on the pending motion for a finding of factual innocence in order to
6 further extend the deadline to submit a response.¹⁶ Duran swiftly objected.¹⁷ CalVCB denied the stay,
7 confirming that the Attorney General's response to Duran's claim under subdivision (b) of Penal Code
8 section 4900 remained due on April 28, 2025.¹⁸ In its denial, CalVCB acknowledged that if the superior
9 court should grant a finding of factual innocence, rendering subdivision (b) of section 4900 no longer
10 applicable to the claim, then a response from the Attorney General on the issue of injury only would be
11 requested pursuant to Penal Code section 4904.¹⁹

12 On April 18, 2025, Duran notified CalVCB that the superior court found him factually innocent
13 earlier that same day. The court's finding was confirmed by a minute order and transcript from the
14 hearing.²⁰

15 On May 6, 2025, the Attorney General agreed that Duran was entitled to compensation in the
16 requested amount of \$1,485,120 for 10,608 days incarceration, which excludes any time spent on
17 parole.²¹ The administrative record closed the following day on May 7, 2025.

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19 ¹⁴ Pen. Code, § 4900, subd. (b) ("If a state or federal court has granted a writ of habeas corpus or if a
20 state court has granted a motion to vacate pursuant to Section 1473.6 or paragraph (2) of subdivision
21 (a) of Section 1473.7, and the charges were subsequently dismissed, or the person was acquitted of
22 the charges on a retrial, the California Victim Compensation Board shall, upon application by the
23 person, and without a hearing, approve payment to the claimant if sufficient funds are available, upon
24 appropriation by the Legislature, pursuant to Section 4904, unless the Attorney General establishes
25 pursuant to subdivision (d) of Section 4902, that the claimant is not entitled to compensation.").

26 ¹⁵ CalVCB email to parties sent on Jan. 28, 2025, at 2:39 p.m.

27 ¹⁶ Email sent by Deputy Attorney General Seth McCutcheon on Apr. 7, 2025, at 10:28 a.m.

28 ¹⁷ Email sent by counsel Megan Baca on Apr. 7, 2025, at 11:03 a.m.

¹⁸ CalVCB email to parties sent on Apr. 7, 2025, at 11:31 a.m.

¹⁹ *Ibid.*

²⁰ Email sent by counsel Baca on Apr. 18, 2025, attaching Minute Order and Reporter's Transcript.

²¹ Email sent by Deputy Attorney General Jonathan Krauss on May 6, 2025, at 8:06 p.m.

III. Factual Background

Shortly before midnight on December 18, 1993, 18-year-old Albert G. (Albert) was fatally shot multiple times by two different shooters. The shooting commenced while Albert was standing in the driveway of his home in Los Angeles, shortly after one of the assailants proclaimed membership in the Rascals Maravilla gang. The first shooter fired several times, striking Albert in the face and torso. Albert fell to the ground, and his friend, 17-year-old Monica (Monica), knelt down beside him. The second shooter fired a single shot that struck Albert's leg. The second shooter turned the gun towards Monica and pulled the trigger, but the gun did not fire. The second shooter threatened Monica, "Don't tell 'cause I know who you are."²² The shooters fled to a waiting car and drove away.²³

When speaking to investigators and later at trial, Monica identified Eddie Vargas (Vargas) as the first shooter and Duran as the second shooter. Vargas was a known member of the Rascals Maravilla gang. Monica claimed that Duran associated with this gang and knew Vargas.²⁴ During an interrogation after his arrest, Duran denied any involvement in the shooting and insisted he had been with his girlfriend and other friends and family members that evening, but his defense attorney failed to present any alibi witnesses.²⁵ Following a joint trial, Duran and Vargas were both convicted in 1994.²⁶

Starting in 2011, Monica recanted her identification of Duran as one of the two shooters. Monica initially told Duran's cousin, whom she knew from high school, that she had falsely identified Duran. Monica subsequently repeated this admission to Duran's sister and a private investigator. In 2021, Monica signed a declaration admitting that she had falsely identified Duran "even though he had nothing to do with the shooting...."²⁷ Monica explained that she had been afraid to identify the true

²² App. at p. 26.

²³ App. at pp. 11-12, 26.

²⁴ App. at p. 32.

²⁵ App. at pp. 27-28.

²⁶ See Docket for *People v. Humberto Duran*, *supra*, case number B091088 (listing Edward Vargas as codefendant).

²⁷ App. at p. 31.

1 culprit but had been “haunted” ever since “for sending an innocent man to prison.”²⁸ Monica added
2 that, contrary to her previous statements, Duran did not associate with the Rascals Maravilla gang and
3 she had never seen Duran and Vargas together.²⁹ Monica wanted “to take responsibility ... even if that
4 means I have to go to prison myself for lying at trial.”³⁰ Monica reaffirmed her declaration when
5 speaking to LADA investigators in 2023.³¹ Monica’s account was inferentially corroborated by seven
6 declarations from former Maravilla Rascals members, who all confirmed that Duran was not a member
7 and that Vargas, who was a member, would not have committed a crime with a nonmember.³²

8 Significantly, additional exculpatory evidence implicates a third-party culprit. Approximately ten
9 days after the shooting, a member of the Rascals (i.e., informant) was in custody for an unrelated
10 offense when he told law enforcement the name of the second shooter (i.e., suspect).³³ The informant
11 provided specific details about the shooting, all of which had allegedly been confessed by the suspect
12 to the informant. The informant added that the “girl” who was there “saw him do it, she knows who he
13 is.”³⁴ There is no known connection between the informant and Monica. When speaking to Duran’s
14 defense team in 2022, Monica identified the same suspect as the second shooter that had been
15 named by the informant.³⁵

16 Finally, LADA conceded Duran’s factual innocence in its letter dated April 1, 2025. Specifically,
17 based upon LADA’s “review and analysis of this case,” the prosecution “acknowledges that Mr. Duran
18 has met his legal burden to establish entitlement to a finding of factual innocence by a preponderance
19 of the evidence pursuant to section 1485.55, subdivision (b).³⁶ Following the April 18, 2025 hearing,

21 ²⁸ App. at p. 31.

22 ²⁹ App. at p. 32.

23 ³⁰ App. at p. 31.

24 ³¹ App. at pp. 31-32.

25 ³² App. at p. 32.

26 ³³ Duran’s application identifies the informant and suspect by their first and last names, while LADA’s
27 habeas concession avoids doing so. (App. at pp. 18-20, 28-29.)

28 ³⁴ App. at p. 29.

³⁵ App. at p. 29.

³⁶ LADA Letter at p. 2.

1 the superior court conclusively determined that “Duran did not murder Albert [G.], nor attempt to
2 murder [Monica], as he was not present at the crime scene and is innocent.”³⁷ As support for its
3 finding, the court emphasized “compelling” statements from Monica, “wherein she recanted her trial
4 testimony to several people,” as well as Duran’s “solid alibi...”³⁸

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.³⁹ In this context, injury means that, but for the
11 erroneous conviction, the claimant would have been free from custody.⁴⁰ 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.⁴¹ No compensation is authorized for any time spent on supervised released.⁴²

18 Significantly, a different and expediated process occurs for claimants with a court finding of
19 factual innocence. Under subdivision (b) of Penal Code section 1485.55, when a court has vacated a
20 judgment by grant of habeas relief, “the person may move for a finding of factual innocence by a

21 ³⁷ Minute Order, dated Apr. 18, 2025.

22 ³⁸ *Ibid.*

23 ³⁹ Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

24 ⁴⁰ Cal. Code of Regs., tit. 2, § 640, subd. (f).

25 ⁴¹ Pen. Code, § 4904, subd. (a).

26 ⁴² Pen. Code, § 4904, subd. (a); see also proposed Pen. Code, § 4904, subd. (d), conditionally
27 operative July 1, 2024, subject to appropriation, as added by Stats.2022, c. 771 (A.B. 160), § 21;
28 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>.

preponderance of the evidence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the petitioner.”⁴³ If the court makes such a finding, then under subdivision (c) of section 1485.55, “the [CalVCB] board shall, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section 4904.”⁴⁴ Even then, CalVCB is statutorily obligated by Penal Code section 4904 to determine the extent of injury caused by the erroneous conviction and incarceration.⁴⁵ To that end, CalVCB may “request from both parties additional documents or arguments as needed to calculate compensation.”⁴⁶ The burden to prove injury rests with the claimant by a preponderance of the evidence.⁴⁷

A. Innocence

Pursuant to the court’s finding under Penal Code section 1485.55, CalVCB unequivocally accepts that Duran is factually innocent of all charges in case number BA089147. As conclusively determined by the superior court, Duran “was not present at the crime scene and is innocent.”⁴⁸ Accordingly, the administrative record amply demonstrates Duran’s innocence for purposes of compensation under Penal Code section 4900 as an erroneously convicted offender.⁴⁹

B. Injury

The record further demonstrates Duran’s injury amounts to \$1,485,120. Penal Code section 4904 specifies that the amount of compensation to be approved for the claimant’s injury “shall be a sum equivalent to one hundred forty dollars (\$140) per day of incarceration served, and shall include any time spent in custody, including a county jail, that is considered to be part of the term of

⁴³ Pen. Code, § 1485.55, subd. (b).

⁴⁴ Pen. Code, § 1485.55, subd. (c).

⁴⁵ Pen. Code, § 4904, subd. (a).

⁴⁶ Pen. Code, § 4904, as amended by Stats. 2023, c. 702 (S.B. 78), § 5, eff. Jan. 1, 2024.

⁴⁷ Pen. Code, § 4904; see also Evid. Code, § 115.

⁴⁸ Minute Order, dated Apr. 18, 2025.

⁴⁹ Pen. Code, §§ 1485.55, 4902, subd. (a).

1 incarceration.”⁵⁰ This compensation is “for the purpose of indemnifying the claimant for the injury”
2 sustained “through their erroneous conviction and imprisonment....”⁵¹ In this context, the term “injury”
3 refers to “the unique harm suffered when factually innocent persons are imprisoned.”⁵² Stated
4 differently, the requisite injury contemplated by section 4904 is “each day ... spent illegally behind bars,
5 away from society ... and their loved ones” solely as a result of the erroneous conviction.⁵³ To that end,
6 injury “may be established by showing that, but for the erroneous conviction, the claimant would not
7 have been in custody.”⁵⁴

8 Here, the record demonstrates that Duran spent over 29 years incarcerated for his erroneous
9 convictions for murder and attempted murder in case number BA089147. Specifically, as both parties
10 agree, Duran spent a total of 10,608 days incarcerated from the date of his arrest on December 26,
11 1993, until his release from prison on January 11, 2023.⁵⁵ But for these erroneous convictions, Duran
12 would have been free for all 10,608 days.⁵⁶ At the statutory rate of \$140 per day specified by Penal
13 Code section 4904, Duran’s demonstrated injury as an erroneously convicted offender amounts to
14 \$1,485,120.⁵⁷ As both parties further agree, Duran’s injury for purposes of section 4904 excludes any
15 time spent subject to post-release supervision.⁵⁸

16 **V. Conclusion**

17 As mandated by Penal Code section 1485.55, the undersigned hearing officer recommends
18 CalVCB approve payment to Duran in the amount of \$1,485,120 for his claim as an erroneously
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20 ⁵⁰ Pen. Code, § 4904.

21 ⁵¹ Pen. Code, § 4904.

22 ⁵² Senate Floor Analysis of Sen. Bill No. 635 (Reg. Sess. 2015-2016), as amended Sep. 3, 2015, at
pp. 4-5.

23 ⁵³ *Holmes v. Calif. Victim Comp. & Gov’t Claims Board* (2015) 239 Cal.App.4th 1400, 1405.

24 ⁵⁴ Cal. Code of Regs., tit. 2, § 640, subd. (f).

25 ⁵⁵ App. at p. 3; Attorney General Response, dated May 6, 2025. CalVCB accepts and relies upon the
parties’ calculation.


26 ⁵⁶ Cal. Code of Regs., tit. 2, § 640, subd. (f).

27 ⁵⁷ Pen. Code, § 4904, subd. (a).

28 ⁵⁸ Email sent by counsel Baca on Jan. 28, 2025; Attorney General Response, dated May 6, 2025; see
also Pen. Code, § 4904, subd. (a).

1 convicted offender under Penal Code section 4900 if sufficient funds are available, upon appropriation
2 by the Legislature, as indemnification for the injury sustained by his 10,608 days of imprisonment
3 solely as a result of his vacated convictions.

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5 Date: June 16, 2025



6 Laura Simpton
7 Hearing Officer
8 California Victim Compensation Board
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