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

9 In the Matter of:

10 **Robert Anderson**

11 Claim No. 23-ECO-42

Proposed Decision

(Penal Code § 4900, subd. (a))

12 **I. Introduction**

13 On October 6, 2023, Robert Anderson (Anderson) submitted an application¹ to the California
14 Victim Compensation Board (CalVCB) seeking compensation as an erroneously convicted person
15 pursuant to Penal Code section 4900, which was supplemented on December 5, 2023.² The claim is
16 based on Anderson's 2009 convictions for second-degree murder and attempted murder for which he
17 was sentenced to 15 years to life in state prison.³ On April 26, 2023, the trial court vacated Anderson's
18 convictions pursuant to Penal Code section 1172.6. Anderson seeks compensation in the amount of
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20 ¹ Anderson Application (App.) pp. 1-10. The pagination refers to the continuous page numbers for the
21 10-page PDF file submitted on October 6, 2023, including the Erroneously Convicted Person Claim
22 Form (App. at pp. 1-7); minute order from the April 26, 2023, hearing (*Id.* at pp. 8-9); and minute order
23 from the May 1, 2023, hearing (*Id.* at p. 10).

24 ² Anderson Supplement (Supp.) pp. 1-183. The pagination refers to the page numbers for the 183-page
25 PDF file submitted on December 5, 2023, as a supplement to Anderson's application. This supplement
26 includes a CDCR Inmate Work Supervisor Time Log (Supp. at pp. 1-20, 145), minute order reflecting
27 hearings from March 14, 2008, through September 25, 2009 (*Id.* at pp. 21-92); Claimant's Penal Code
28 section 1172.6 (d)(3) Hearing Brief in Support of Resentencing filed on April 26, 2023 (*Id.* at pp. 93-102,
152-161); minute order from the April 26, 2023, hearing (*Id.* at pp. 103, 131-132); Abstract of Judgment
(*Id.* at pp. 104-106, 133-134, 162-163); minute order reflecting hearings from September 25, 2009,
through March 14, 2019 (*Id.* at pp. 107-130); revised Erroneously Convicted Person Claim Form (*Id.* at
pp. 135-143); CDCR Inmate Monthly Time Logs (*Id.* at pp. 144-151); and CDCR Inmate Statement
Report from 2013 through 2019 (*Id.* at pp. 164-183).

³ Pen. Code, §§ 664 and 187, subd. (a).

1 \$775,460, or \$140 per day for having been confined for 15 years (e.g., 5,539 days) from the date of his
2 arrest on March 14, 2008, through and including the date of his release on May 13, 2023.⁴

3 The Attorney General's Office objected to Anderson's claim on January 31, 2025, arguing that
4 Anderson failed to prove his innocence by a preponderance of the evidence and is thus not entitled to
5 compensation.⁵ The Attorney General is represented by Deputy Attorney General Cameron Goodman
6 (DAG Goodman), and Anderson is self-represented. The matter was assigned to CalVCB Senior
7 Attorney Kristen Sellers. CalVCB held a hearing on July 31, 2025, at 9:30 a.m. DAG Goodman
8 appeared in person; however, Anderson failed to appear. After waiting 30 minutes, the hearing was
9 adjourned and the administrative record closed on August 4, 2025.

10 After careful consideration, the claim is recommended for denial because Anderson failed to
11 prove by a preponderance of the evidence that he is innocent of murder and attempted murder as
12 those crimes were defined in 2008.

13 II. Procedural Background

14 A. Anderson was Convicted of Murder and Attempted Murder.

15 Anderson was arrested on March 14, 2008, and subsequently charged, along with two co-
16 defendants, Taurus Miller and Michael Hubbard,⁶ in Los Angeles County Superior Court case number
17 MA041498 with one count of second-degree murder (Pen. Code, § 187, subd. (a)) and five counts of
18 attempted, willful, deliberate, and premeditated murder (Pen. Code, § 664/187, subd. (a)).⁷ At trial, the
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21 ⁴ Supp. at p. 137.

22 ⁵ Attorney General Response Letter (AGRL) at pp. 1-19.

23 ⁶ Anderson and Hubbard are brothers.

24 ⁷ AGRL Exhibits (AGRL Exs.) pp. 1-3202. The pagination refers to the combined PDF files, volumes 1
25 through 6, submitted on January 31, 2025, including the Clerk's Transcript on Appeal (AGRL Exs. at
26 pp. 1-824); Reporter's Transcript on Appeal (*Id.* at pp. 825-2613); Court of Appeal opinion (*Id.* at pp.
27 2607-2644); Petition for Review (*Id.* at pp. 2645-2724); California Supreme Court Case S196880 Order
28 (*Id.* at pp. 2725-2726); Los Angeles Superior Court Case MA041498 Petition for Resentencing (*Id.* at
pp. 2727-2741); People's Response to Petition for Resentencing (*Id.* at pp. 2742-2884); Revised
Petition for Resentencing (*Id.* at pp. 2885-2886); Claimant's RAP Sheet (*Id.* at pp. 2887-2889); Los
Angeles County Sheriff's Department Report (*Id.* at pp. 2890-2930); witness police interviews (*Id.* at pp.
2931-3038); Claimant's police interview (*Id.* at pp. 3039- 3061); minute orders from hearings between

1 prosecutor argued Anderson either aided and abetted the murder and attempted murders, or that he
2 aided and abetted an assault with a firearm and could be found guilty under the natural and probable
3 consequences theory.⁸

4 On October 1, 2009, a jury found Anderson guilty of second-degree murder and all five counts
5 of attempted murder.⁹ Anderson was then sentenced to 15 years to life in state prison for the second-
6 degree murder conviction and concurrent life terms for the attempted murder convictions.¹⁰

7 **B. Anderson’s Direct Appeal was Denied.**

8 On August 26, 2011, the California Court of Appeal affirmed Anderson’s convictions.¹¹ Three
9 months later, on November 30, 2011, the Supreme Court of California denied Anderson’s petition for
10 review.¹²

11 **C. The Superior Court Granted Anderson’s Petition for Relief Under Section 1172.6**

12 On September 21, 2022, Anderson filed a petition for resentencing pursuant to Penal Code
13 section 1172.6.¹³ On April 26, 2023, the trial court granted Anderson’s resentencing petition, vacated
14 his convictions, and dismissed the case.¹⁴ On May 13, 2023, Anderson was released from custody,
15 after having served 15 years in prison.¹⁵

16 **D. Anderson’s Erroneously Convicted Person Claim**

17 On October 6, 2023, CalVCB received Anderson’s claim seeking compensation as an
18 erroneously convicted person under Penal Code section 4900. In his claim, Anderson alleged he
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20 December 4, 2008, and May 1, 2023 (*Id.* at pp. 3062-3112); Board of Parole Hearings Risk
21 Assessment (*Id.* at pp. 3113-3126); and Board of Parole Transcript of Suitability Hearing (*Id.* at pp.
22 3127-3202).

23 ⁸ AGRL Exs. at p. 2614.

24 ⁹ AGRL Exs. at pp. 627-630, 635-638, 641-642, 773-774.

25 ¹⁰ AGRL Exs. at pp. 782-787, 790-791, 801-802.

26 ¹¹ AGRL Exs. at pp. 2607-2644.

27 ¹² AGRL Exs. at pp. 2725-2726.

28 ¹³ AGRL Exs. at pp. 2885-2886.

¹⁴ Supp. at p. 131; AGRL Exs. at p. 3112.

¹⁵ Supp. at p. 137.

1 served 15 years (e.g., 5,539 days) in custody, solely as a result of his erroneous convictions, from the
2 date of his arrest on March 14, 2008, to the date of his release on May 13, 2023.

3 On November 8, 2023, CalVCB sent a letter to Anderson notifying him that his claim was
4 deficient for multiple reasons. Specifically, it lacked documentation confirming his convictions or
5 incarceration, a statement of factual innocence showing that he did not commit murder or attempted
6 murder as those crimes were defined at the time of commission, and a statement of injury. In addition,
7 the claim failed to raise a basis upon which relief could be granted, as it was solely based on a vacated
8 conviction due to a change in the legal definition of the crime, which is not eligible for relief under
9 section 4900. The letter allowed Anderson 30 days to submit a response that cured the identified
10 deficiencies.

11 By email on December 5, 2023, Anderson timely responded with supplemental documents
12 including: a revised Erroneously Convicted Person Claim Form with amended statements of innocence
13 and injury, as well as documentation confirming his convictions and imprisonment. As amended, his
14 claim seeks \$775,460 in compensation for 5,539 days of alleged imprisonment. However, Anderson's
15 response was misfiled, and therefore, on January 24, 2024, CalVCB sent a letter denying his claim,
16 based on the mistaken belief Anderson had not timely cured the deficiencies in his claim. After
17 receiving a Notice of Case Management Conference, indicating Anderson filed a writ of mandate in
18 superior court challenging the denial of his claim, CalVCB conducted a review of the claim file and
19 discovered Anderson timely submitted a response, which should have been considered before the final
20 decision was issued. Accordingly, on August 2, 2024, CalVCB deemed the January 24, 2024, final
21 decision denying his claim a mistake or clerical error and rescinded the decision. Additionally, after a
22 thorough review of the supplemental documentation provided, CalVCB determined Anderson's
23 response cured the deficiencies identified in CalVCB's November 8, 2023, letter, and requested a
24 response letter from the Attorney General within 60 days in accordance with Penal Code section
25 4902.¹⁶ Following two extensions for demonstrated good cause, the Attorney General timely submitted
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28 ¹⁶ Cal. Code Regs., tit. 2, § 642, subd. (c).

1 a response letter on January 31, 2025, along with 38 exhibits totaling 3,244 pages.¹⁷ Included in the
2 exhibits were clerk's transcripts, reporter's transcripts, Los Angeles County Sheriff's Department's
3 crime reports, the Appellate Court's opinion, and Board of Parole records.

4 On February 4, 2025, CalVCB sent an email to the parties, requesting they confer with each
5 other and inform CalVCB (1) whether claimant wishes to request a hearing before a hearing officer, (2)
6 whether the parties intend to appear in person or remotely, and (3) the preferred timeframe to conduct
7 the hearing. DAG Goodman responded, indicating that he exchanged emails with Anderson and he
8 wanted to move forward with an evidentiary hearing. Both parties requested to appear in person. DAG
9 Goodman further indicated that, while Anderson did not provide a preferred timeline for the hearing, his
10 preference would be that the hearing be held in July 2025 or soon thereafter.

11 On February 27, 2025, Anderson emailed CalVCB and provided his current address.¹⁸

12 On April 21, 2025, the Hearing Officer notified the parties via email that the in-person hearing
13 would be held on July 24, 2025, at 9:30 a.m. at 400 R Street, Third Floor, Conference Room 330,
14 Sacramento, California, 95811. The email further set forth the pre-hearing briefing schedule: an
15 optional pre-hearing brief was due on July 10, 2025, and the mandatory pre-hearing statement was
16 due on July 17, 2025.

17 Due to an unforeseen scheduling conflict with Conference Room 330, on May 21, 2025, the
18 Hearing Officer notified the parties via email that the in-person hearing was rescheduled to July 31,
19 2025, at 9:30 a.m., at 400 R Street, Third Floor, Conference Room 330, Sacramento, California,
20 95811. The briefing schedule outlined in the April 21, 2025, email to the parties remained in place. The
21 Hearing Officer indicated that if the parties were unavailable to appear on July 31, 2025, to notify
22 CalVCB within two weeks (e.g., June 4, 2025), and the hearing would be rescheduled to a date in
23 August. A courtesy hard copy of the Hearing Officer's May 21, 2025, email was sent via US Mail to
24 Anderson's last known address – the one Anderson provided to CalVCB on February 27, 2025.

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27 ¹⁷ AGRL at pp. 1-19; AGRL Exs. at pp. 1-3244.

28 ¹⁸ Anderson sent the email from rdacorp90@gmail.com, which is the same email address listed on his application; see Cal. Code Regs., tit. 2, § 616.2.

1 On July 17, 2025, CalVCB received the Attorney General’s timely, mandatory pre-hearing
2 statement. Having received no further communication from Anderson, and no indication that
3 Anderson’s email address on file was no longer valid, on July 21, 2025, the Hearing Officer emailed
4 the parties, acknowledging receipt of Attorney General’s timely prehearing statement and reminded
5 Anderson that CalVCB had not yet received his mandatory prehearing statement. A courtesy hard
6 copy of the Hearing Officer’s July 21, 2025, email was sent via US Mail to Anderson.¹⁹

7 On July 24, 2025, the Hearing Officer once again reminded the parties via email of the
8 scheduled hearing on July 31, 2025, at 9:30 a.m. The email also provided a Zoom link for the hearing
9 for public observation.²⁰ Anderson neither responded to the email nor did he provide a mandatory pre-
10 hearing statement. CalVCB received no further communication from Anderson and no indication that
11 Anderson’s email address on file was no longer valid.

12 An in-person hearing was conducted on July 31, 2025. DAG Goodman appeared in person, but
13 Anderson failed to appear either in person or via Zoom. After waiting 30 minutes, the hearing was
14 adjourned and the administrative record closed on August 4, 2025.²¹

15 Anderson was notified of the date of the hearing on May 21, July 21, and July 24, 2025. Under
16 the regulations governing CalVCB, if a claimant fails to appear at the hearing the Board may base its
17 decision on previously submitted evidence.²²

18 **III. Factual Background**

19 **A. The Murder**

20 On February 1, 2008, Rashaun was at home with family when five men came by looking for
21 Anthony.²³ When Rashaun told them that Anthony was not there, one of the men responded, “When
22 you see Anthony, tell Anthony he needs to see me.”²⁴ The men left, and shortly thereafter, Anthony

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24 ¹⁹ Cal. Code Regs., tit. 2, § 616.2.

25 ²⁰ Cal. Code Regs., tit. 2, § 644, subd. (b).

26 ²¹ Cal. Code Regs., tit. 2, § 644, subd. (l).

27 ²² Cal. Code Regs., tit. 2, § 644, subd. (g).

28 ²³ AGRL Exs. at pp. 1089, 1095, 1157, 1431-1432, 2608.

²⁴ AGRL Exs. at pp. 1095-1096, 1158-1161.

1 returned home.²⁵ Rashaun told Anthony that some men came by looking for him. Anthony warned that
2 he was “gonna whoop [the] ass” of the person who was looking for him because that person stole his
3 mother’s money.²⁶

4 Anthony and five friends (together “the group”) – Lawrence, Daveon, Brian, George, and
5 Christian – then jumped their fence and began searching for the men.²⁷ The group soon noticed
6 Anderson standing with a girl near a bus stop across the street.²⁸ Anderson stared at the group. Brian
7 stepped off the sidewalk into the street in Anderson’s direction, and yelled, “What’s up? 98 Main
8 Street.”²⁹ Anderson responded, “This West Boulevard Crip,” or “West Boulevard,” or “West Boulevard
9 Mafia.”³⁰ Anderson then ran away and the group chased after him. As Anderson approached an
10 apartment complex, he yelled, “Hey, ‘cuz. Hey, ‘cuz.”³¹ Anderson entered the apartment complex and
11 ran to the patio³² area of one of the ground-level units.

12 Anderson went inside the apartment and returned to the patio area with Hubbard and Miller.
13 Anderson, Hubbard, and Miller exchanged words with the group.³³ Rashaun then drove up and told the
14 group that the men on the patio were not the men who had come by looking for Anthony.³⁴ Brian said
15 to Anderson something along the lines of, “I see now that you have your boys out here, you want to
16 talk mess.”³⁵ Brian and his group then turned and walked away.³⁶ Hubbard drew a gun and shot at the
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18 ²⁵ AGRL Exs. at pp. 1096, 1158, 1160-1161.

19 ²⁶ AGRL Exs. at pp. 1163-1164.

20 ²⁷ AGRL Exs. at p. 2608.

21 ²⁸ AGRL Exs. at pp. 1012, 1014, 1135-1136, 1139, 1211-1212, 1359.

22 ²⁹ AGRL Exs. at pp. 1212-1213, 1359-1363.

23 ³⁰ AGRL Exs. at p. 2608.

24 ³¹ AGRL Exs. at p. 2608.

25 ³² Law enforcement and witnesses use “patio” and “balcony” interchangeably when describing this
26 outdoor area. For consistency, and because Anderson’s apartment unit is ground-level, it will be
27 referred to as a “patio” throughout this proposed decision.

28 ³³ AGRL Exs. at p. 2608.

³⁴ AGRL Exs. at p. 2608.

³⁵ AGRL Exs. at p. 2608.

³⁶ AGRL Exs. at p. 2608.

1 group, hitting Lawrence in the chest. Miller then picked up the gun and fired additional shots.
2 Witnesses heard between two and five additional gunshots.³⁷ Hubbard, Miller, and Anderson
3 immediately fled on foot.³⁸ Lawrence died from a single gunshot wound to the chest.³⁹

4 **B. The Investigation**

5 Law enforcement responded to the area and saw a group of ten to fifteen people standing
6 around Lawrence’s body on the ground.⁴⁰ The responding deputies approached the victim’s body and
7 noticed blood under his skull and torso.⁴¹ Several people in the crowd shouted, “[Anderson] did it,” or
8 “[Anderson] and his friends did it,” pointing toward the apartment on the corner.⁴² The deputies went to
9 the apartment, knocked on the door, and ordered the occupants to come out.⁴³ Elizabeth, Valerie, and
10 Shaunice, along with two or three children exited the apartment.⁴⁴ One of the deputies secured the
11 apartment until a search warrant could be obtained.⁴⁵

12 **1. Evidence Recovered During the Search**

13 During the search, law enforcement found three .45-caliber bullets in a bedroom and a .45-
14 caliber magazine on the bed.⁴⁶ They found another .45-caliber round in the pocket of a pair of jeans
15 lying on the bed.⁴⁷ A cell phone with a screen that said “Taurus” and “Shamrock” along with mail in
16 Miller’s name, was also discovered.⁴⁸ In the living area, investigators found a green notebook with the
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19 ³⁷ AGRL Exs. at p. 2608.

20 ³⁸ AGRL Exs. at p. 2609.

21 ³⁹ AGRL Exs. at pp. 1557-1559.

22 ⁴⁰ AGRL Exs. at pp. 947-949.

23 ⁴¹ AGRL Exs. at p. 950.

24 ⁴² AGRL Exs. at pp. 951-952, 985.

25 ⁴³ AGRL Exs. at pp. 988-989.

26 ⁴⁴ AGRL Exs. at pp. 988-989.

27 ⁴⁵ AGRL Exs. at pp. 990-991.

28 ⁴⁶ AGRL Exs. at pp. 1509-1511, 1517, 1672-1674.

⁴⁷ AGRL Exs. at pp. 1509-1511.

⁴⁸ AGRL Exs. at p. 1510.

1 words “Long Beach” and Hubbard’s name written on the front.⁴⁹ Inside, it referenced gangs in the Long
2 Beach area, including the 49th Street Hustler Crips, West Boulevard Crips, and Boulevard Mafia
3 Crips.⁵⁰ Another notebook, titled “Northside 49th Street Hustler Gangster Crip” and “Long Beach” sat
4 on the kitchen counter.⁵¹ In one bedroom, investigators found a backpack labeled “North Side 49th
5 Hustler Crip, Long Beach” containing papers with Hubbard’s and Anderson’s names.⁵²

6 Law enforcement also recovered three expended .45-caliber casings on the grass inside the
7 apartment complex fence near the shooting.⁵³ Another .45-caliber shell casing, matching the bullets
8 found inside the apartment, lay on the curb outside the fence.⁵⁴ Investigators recovered a bullet
9 fragment from the middle of the street and an expended bullet from the driveway near the victim’s
10 body.⁵⁵ Experts analyzed the expended bullets and casings.⁵⁶ All bullets, cartridges, and casings came
11 from the same firearm.⁵⁷ All four cartridge cases at the crime scene were fired from one gun, indicating
12 use of a single firearm.⁵⁸

13 2. Police Interviews

14 Law enforcement interviewed Rashaun at the scene of the crime. Before the shooting, several
15 men came looking for Anthony to discuss money that had been taken from Anthony’s mother.⁵⁹ When
16 Anthony returned home and learned of the men, he joined Lawrence, Chris, Jack, Brian, and Daveon,
17 in jumping the fence to search for them.⁶⁰ Rashaun and her friend hopped in a car to help with the
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19 ⁴⁹ AGRL Exs. at pp. 1512-1513.

20 ⁵⁰ AGRL Exs. at pp. 1513, 1703.

21 ⁵¹ AGRL Exs. at pp. 1513-1514.

22 ⁵² AGRL Exs. at p. 1512.

23 ⁵³ AGRL Exs. at pp. 1497-1498.

24 ⁵⁴ AGRL Exs. at pp. 1499-1500.

25 ⁵⁵ AGRL Exs. at pp. 1507, 1516-1517.

26 ⁵⁶ AGRL Exs. at p. 1517.

27 ⁵⁷ AGRL Exs. at p. 1663.

28 ⁵⁸ AGRL Exs. at pp. 1690-1691.

⁵⁹ AGRL Exs. at p. 2893.

⁶⁰ AGRL Exs. at p. 2893.

1 search.⁶¹ While driving, Rashaun saw Brian and Anderson arguing across the street.⁶² Anderson ran
2 into a gated apartment complex and toward the patio of a ground-floor unit where a woman stood.
3 When Anderson reappeared, he and four others ran toward the fence perimeter.⁶³ One of them yelled:
4 “[y]ou motherfuckers want problems, I got something.”⁶⁴ She then heard four or five gunshots, coming
5 from the apartment complex.

6 One week after the shooting, Elizabeth told her boyfriend, Markese, that Hubbard shot
7 someone and Miller had loaded the gun.⁶⁵ Elizabeth, who was inside the apartment with her mother,
8 Hubbard, and Miller, heard people outside yelling “cuz.”⁶⁶ Hubbard went out to the patio, and Anderson
9 and Shaunice soon came back inside.⁶⁷ At some point, Anderson went back out to the patio.⁶⁸
10 Elizabeth saw about “twelve boys” near the fence.⁶⁹ A woman in a car warned, “[T]hat’s not the boy,
11 that’s not the boy.”⁷⁰ However, the group of twelve people kept advancing toward Anderson. They
12 eventually walked away and went across the street.⁷¹ Miller, Hubbard, and Anderson came back inside
13 the apartment, into a bedroom, and then went outside again.⁷² Elizabeth heard gunshots.⁷³ From the
14 patio, she saw that “all them boys” were “on the ground.”⁷⁴ Anderson, Miller, and Hubbard ran away
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17 ⁶¹ AGRL Exs. at p. 2893.

18 ⁶² AGRL Exs. at p. 2893.

19 ⁶³ AGRL Exs. at p. 2893.

20 ⁶⁴ AGRL Exs. at p. 2893.

21 ⁶⁵ AGRL Exs. at pp. 1544, 1546, 1549.

22 ⁶⁶ AGRL Exs. at pp. 495-496, 499.

23 ⁶⁷ AGRL Exs. at p. 497.

24 ⁶⁸ AGRL Exs. at pp. 498-499.

25 ⁶⁹ AGRL Exs. at p. 501.

26 ⁷⁰ AGRL Exs. at p. 501.

27 ⁷¹ AGRL Exs. at p. 502.

28 ⁷² AGRL Exs. at p. 504.

⁷³ AGRL Exs. at pp. 504-505.

⁷⁴ AGRL Exs. at pp. 505, 511-512.

1 after the gunshots were fired.⁷⁵ Elizabeth had not seen anyone with a gun that day, but she had seen
2 them with a gun at their apartment about four months before the shooting.⁷⁶

3 Anderson's mother, Valerie, told deputies that Anderson lived with her and that he was on
4 probation for "strong armed robbery" at the time.⁷⁷ Anderson's then-girlfriend, Shaunice, said the group
5 confronted Anderson as he walked with her to a bus stop.⁷⁸ According to Shaunice, Miller provided the
6 gun.⁷⁹

7 Christina, who had been dating Miller for about three years, overheard Miller and Hubbard
8 discussing their affiliation with the 49th Hustler Crip gang in Long Beach.⁸⁰ Miller's nickname was
9 Shamrock; Hubbard's nickname was Stunnamic.⁸¹ After the crime, Miller called Christina from the
10 Palmdale/Lancaster area and said he would come to Compton to see her.⁸² Later that day, Miller,
11 Hubbard, and Anderson showed up at her residence in Compton.⁸³ Miller recounted that while he was
12 in Palmdale, Anderson had gone to the store and ran back saying some people were trying to jump
13 him.⁸⁴ Hubbard then grabbed a gun, and he and Anderson ran out of the apartment. Miller then heard
14 a gunshot and ran outside.⁸⁵ Miller told Christina that when the first shot hit the victim in the head,
15 Hubbard dropped the gun.⁸⁶ Miller then picked up the gun and fired it.⁸⁷ Anderson, Miller, and Hubbard
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18 ⁷⁵ AGRL Exs. at pp. 505, 511.

19 ⁷⁶ AGRL Exs. at pp. 506-507, 509-510.

20 ⁷⁷ AGRL Exs. at pp. 2897, 2887.

21 ⁷⁸ AGRL Exs. at pp. 2898, 2904, 2936-2938.

22 ⁷⁹ AGRL Exs. at pp. 2898, 2944.

23 ⁸⁰ AGRL Exs. at p. 1304.

24 ⁸¹ AGRL Exs. at pp. 1305-1306.

25 ⁸² AGRL Exs. at p. 1307.

26 ⁸³ AGRL Exs. at pp. 1307-1308.

27 ⁸⁴ AGRL Exs. at pp. 1309, 1335.

28 ⁸⁵ AGRL Exs. at pp. 1335, 1339.

⁸⁶ AGRL Exs. at pp. 1335-1336, 1339.

⁸⁷ AGRL Exs. at pp. 1335-1336, 1339.

1 then ran and Miller threw away the gun.⁸⁸ About a week later after Anderson, Miller, and Hubbard left
2 Christina's residence, she received a call from Miller, who said he was in Las Vegas. The call became
3 a three-way telephone conversation between Christina, Miller, and Rodney.⁸⁹ During this call, Christina
4 overheard Hubbard in the background explain to Rodney that Anderson ran back from the store and
5 told him there were some people around the corner trying to jump him. Hubbard then came outside
6 with a gun and fired the first shot, hitting the victim in the head.⁹⁰

7 A bystander driving down 10th Street around the time of the shooting saw three people running
8 with their arms raised as if holding guns.⁹¹ He did not see a gun but heard several shots and reported
9 the three men standing on a corner.⁹²

10 A service technician working in the area heard an argument, then saw four men "creep along
11 the wall" of an apartment complex and spread out inside the fence's grassy area.⁹³ The shooter wore a
12 black hooded sweatshirt with gold or red writing.⁹⁴ As the shooter and accomplices fled, one of them
13 put a gun into a backpack.⁹⁵ The technician also saw three males on the sidewalk outside the
14 apartment complex's white fence and believed two were pointing what looked like air-soft handguns.⁹⁶

15 **3. Anderson, Miller, and Hubbard's Post-Arrest Statements**

16 Law enforcement arrested Anderson in Los Angeles more than one month after the shooting.
17 Anderson gave a false name and denied knowledge of the shooting.⁹⁷

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21 ⁸⁸ AGRL Exs. at pp. 1339-1340.

22 ⁸⁹ AGRL Exs. at p. 1315.

23 ⁹⁰ AGRL Exs. at pp. 1317-1318.

24 ⁹¹ AGRL Exs. at pp. 1106-1108, 1116, 1128-1130.

25 ⁹² AGRL Exs. at pp. 1108-1109, 1116-1118, 1130-1131, 1705.

26 ⁹³ AGRL Exs. at pp. 1130-1131, 1270-1271.

27 ⁹⁴ AGRL Exs. at pp. 1272-1274.

28 ⁹⁵ AGRL Exs. at pp. 1271-1272, 1276-1277.

⁹⁶ AGRL Exs. at p. 2909.

⁹⁷ AGRL Exs. at pp. 2919-2920.

1 After law enforcement arrested Miller and Hubbard, the officers placed recording devices in two
2 cells directly across from each other at the detention area.⁹⁸ Officers placed Miller and Anderson in
3 one cell and Hubbard in the other.⁹⁹ Hubbard accused Miller of “talking” to the police.¹⁰⁰ Miller inquired
4 about the attempted murder charges, to which Anderson replied, “Attempt is like when you attempt to
5 try to kill them, but you don’t hit them hard or nothing.”¹⁰¹ When Miller asked why there were so many
6 attempted murder charges, Anderson replied, “It’s only five people. And there was like – there was way
7 more than five people.”¹⁰² Miller asked if Hubbard admitted that he committed the charged crimes.
8 Hubbard denied telling the police anything.¹⁰³ Anderson, whom Hubbard repeatedly referred to as
9 “cuz,” also denied telling the police anything.¹⁰⁴

10 Hubbard said the police knew the other group “started it.”¹⁰⁵ Miller admitted that he told police
11 he had fired three shots.¹⁰⁶ Miller said the police believed that two guns were used during the
12 shooting.¹⁰⁷ Anderson said, “And I assume they found that shit in our house.”¹⁰⁸ Hubbard responded:
13 “I’m gonna handle this shit. Don’t trip. I’m gonna handle this shit. If I get out, none of the niggers is
14 coming to court.”¹⁰⁹ Hubbard also said that the police “really ain’t got too much evidence.” He added,
15 “We could fight this shit, homie.”¹¹⁰ Anderson asked Hubbard whether he should take a “deal” if one
16
17

18 ⁹⁸ AGRL Exs. at pp. 1650-1651, 1713-1714.

19 ⁹⁹ AGRL Exs. at pp. 1714-1715.

20 ¹⁰⁰ AGRL Exs. at p. 523.

21 ¹⁰¹ AGRL Exs. at p. 527.

22 ¹⁰² AGRL Exs. at pp. 527.

23 ¹⁰³ AGRL Exs. at pp. 529-530.

24 ¹⁰⁴ AGRL Exs. at pp. 531-532.

25 ¹⁰⁵ AGRL Exs. at p. 530.

26 ¹⁰⁶ AGRL Exs. at p. 532.

27 ¹⁰⁷ AGRL Exs. at p. 533.

28 ¹⁰⁸ AGRL Exs. at p. 533.

¹⁰⁹ AGRL Exs. at p. 535.

¹¹⁰ AGRL Exs. at p. 535.

1 was offered. Hubbard replied, "We gonna see what they say in court."¹¹¹ Miller said, "We'll see if they
2 throw us a deal, then they going to want you to snitch."¹¹² Anderson responded that he would not
3 snitch and said, "They throw me a deal, I ain't taking no fucking deal."¹¹³ Hubbard said to Anderson,
4 "They want me, you or him to snitch. Or they want me and you to snitch on him. That's what the fuck
5 they want."¹¹⁴

6 Later, Hubbard said, "[W]e could beat this shit."¹¹⁵ He added that Miller needed to say that
7 "maybe he was faded or something and he don't know what the fuck he was talking about."¹¹⁶ Hubbard
8 added, "Like I said, they got to prove us guilty, homie."¹¹⁷ Hubbard reiterated that, because Miller had
9 already talked, Miller needed to say "he don't know what the fuck he was talking about. He don't know
10 what the fuck happened."¹¹⁸ Hubbard also said that the police did not have enough evidence. Hubbard
11 and Anderson both said that any gun the police found in the apartment was not their gun, and Hubbard
12 added, "police coulda [sic] laid it on the couch for all we know."¹¹⁹ When Hubbard asked, "what kind of
13 evidence they got," Miller replied, "I'd say they got enough."¹²⁰ Miller said the police had "like 12
14 witnesses."¹²¹ Anderson threatened that he would "go in there and mad dog the whole court," adding,
15 "Snitch if you want to. Whatever. You know what happens to snitches. They can come to court on me if
16 they want to."¹²² Miller insisted he did not say anything about Hubbard to the police and that he tried to
17 lie, but the police told him that his admission he was in the apartment at the time of the crime was

18
19 ¹¹¹ AGRL Exs. at p. 536.

20 ¹¹² AGRL Exs. at p. 536.

21 ¹¹³ AGRL Exs. at p. 536.

22 ¹¹⁴ AGRL Exs. at p. 536.

23 ¹¹⁵ AGRL Exs. at p. 541.

24 ¹¹⁶ AGRL Exs. at p. 541.

25 ¹¹⁷ AGRL Exs. at p. 541.

26 ¹¹⁸ AGRL Exs. at pp. 541-542.

27 ¹¹⁹ AGRL Exs. at pp. 542-543.

28 ¹²⁰ AGRL Exs. at p. 544.

¹²¹ AGRL Exs. at p. 544.

¹²² AGRL Exs. at p. 544.

1 “enough evidence.”¹²³ Hubbard said, “Well, we gonna have to come up with something.”¹²⁴ Miller
2 responded, “they blaming us all” for the same murder” and added “[b]ut they can’t prove us all on the
3 same shit.”¹²⁵ Then Hubbard said to Anderson:

4 “They going to try and find – they probably going to try and stick
5 somebody with the murder. Somebody with accessory to murder. They’ll
6 do some shit like that. Fight it. Just let that shit ride, ‘cuz. Let it ride. We
7 here now. If I have to, ‘cuz, I’ll make sure you get out. If I have to, I’ll
8 make sure ... If worse come to worse, if it go all bad, then it is what it is.
9 See – ‘cause see – it’s either me and you or him.”¹²⁶

8 C. Hubbard’s Trial Testimony

9 While Anderson and Miller did not testify at trial or present any evidence, Hubbard testified on
10 his own behalf.¹²⁷ At the time of the shooting, he was at his mother’s apartment when he heard a
11 commotion outside and saw a group of people chasing his brother, Anderson.¹²⁸ Hubbard “hopped
12 over the [patio],” went outside, and walked closer to the group.¹²⁹ He heard people in the group
13 chasing Anderson, saying, “Where are you runnin’ you bitch ass nigger. Bring your ass back here.”¹³⁰
14 Hubbard asked, “What’s goin on?”¹³¹ A vehicle drove by and someone inside said, “That’s not the
15 people. That’s not the people.”¹³² The group chasing Anderson responded, “So what,” and “Fuck
16 that.”¹³³

19
20 ¹²³ AGRL Exs. at p. 545.

21 ¹²⁴ AGRL Exs. at p. 547.

22 ¹²⁵ AGRL Exs. at p. 547.

23 ¹²⁶ AGRL Exs. at p. 548.

24 ¹²⁷ AGRL Exs. at pp. 1846-1848.

25 ¹²⁸ AGRL Exs. at pp. 1758-1759.

26 ¹²⁹ AGRL Exs. at pp. 1759-1761.

27 ¹³⁰ AGRL Exs. at pp. 1760-1761.

28 ¹³¹ AGRL Exs. at p. 1761.

¹³² AGRL Exs. at pp. 1761, 1828-1829.

¹³³ AGRL Exs. at pp. 1761-1829.

1 Miller came outside and said, "They got a gun. They got a gun."¹³⁴ Miller then handed a gun to
2 Hubbard, who walked toward the fence near the street corner and pointed the gun in the air to scare
3 off Anderson's assailants.¹³⁵ Hubbard thought there were 10 to 15 people in the group.¹³⁶ The group
4 ran off, and Hubbard, who was scared, walked around the corner to make sure they had all left.¹³⁷ One
5 or two people turned, and then the gun "went off" in Hubbard's hand.¹³⁸ Hubbard was "surprised" and
6 "puzzled."¹³⁹ He looked down and saw the gun at his feet.¹⁴⁰ Miller picked up the gun, and Anderson
7 ran up to Hubbard and said, "What the fuck you just do?"¹⁴¹ All three of them ran away.¹⁴² Hubbard did
8 not remember hearing any additional shots.¹⁴³

9 **D. Anderson's Sworn Statements**

10 **1. Parole Board Proceedings**

11 In April 2021, a psychologist interviewed Anderson as part of a comprehensive risk assessment
12 for his upcoming parole suitability hearing.¹⁴⁴ Anderson admitted that Hubbard and "his older half-
13 brother" were in a gang.¹⁴⁵ Anderson also disclosed that he began carrying a firearm when he was 13
14 or 14 years old, explaining that he "wasn't going to let somebody take advantage of [him] no more."¹⁴⁶
15 When the psychologist confronted Anderson with the facts of the shooting, Anderson denied using
16
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18 ¹³⁴ AGRL Exs. at p. 1762.

19 ¹³⁵ AGRL Exs. at pp. 1762-1764.

20 ¹³⁶ AGRL Exs. at p. 1764.

21 ¹³⁷ AGRL Exs. at pp. 1764-1765.

22 ¹³⁸ AGRL Exs. at pp. 1766-1767.

23 ¹³⁹ AGRL Exs. at p. 1767.

24 ¹⁴⁰ AGRL Exs. at pp. 1767-1768, 1794, 1796.

25 ¹⁴¹ AGRL Exs. at pp. 1768, 1794.

26 ¹⁴² AGRL Exs. at pp. 1768, 1796-1797.

27 ¹⁴³ AGRL Exs. at pp. 1769, 1794.

28 ¹⁴⁴ AGRL Exs. at pp. 3113-3126.

¹⁴⁵ AGRL Exs. at p. 3115.

¹⁴⁶ AGRL Exs. at p. 3115.

1 gang slurs or knowing anybody would be shot.¹⁴⁷ However, Anderson admitted to “initiating” the
2 confrontation and not responding in a “citizen type of way.”¹⁴⁸

3 Anderson’s parole suitability hearing occurred on May 20, 2021.¹⁴⁹ During the hearing,
4 Anderson admitted he associated with gang members, including Hubbard, and carried a gun because
5 he was dealing drugs in gang territory.¹⁵⁰ Anderson had been living with Hubbard for six months when
6 the shooting occurred.¹⁵¹

7 Anderson admitted to “mad dogging” the group.¹⁵² When the group asked Anderson where he
8 was from, Anderson replied that he was “from [L]ong [B]each.”¹⁵³ Anderson admitted that he ran back
9 to Hubbard’s apartment but denied knowing that Hubbard carried a gun.¹⁵⁴ He entered the apartment
10 building and came back out with Hubbard and Miller.¹⁵⁵ The two groups exchanged words and as the
11 victim’s group turned to leave, Hubbard raised a gun and fired once, hitting Lawrence in the chest.¹⁵⁶
12 Miller then took the gun and fired additional shots., after which he, Hubbard, and Miller fled.¹⁵⁷
13 Anderson conceded that his “communication skills [were] poor at the time” and that he “should have”
14 called 9-1-1 when he first arrived at his apartment.¹⁵⁸ He acknowledged that “gang violence” played the
15 biggest role in the crimes.¹⁵⁹

16
17
18 ¹⁴⁷ AGRL Exs. at p. 3122.

19 ¹⁴⁸ AGRL Exs. at pp. 3122-3123.

20 ¹⁴⁹ AGRL Exs. at pp. 3127-3202.

21 ¹⁵⁰ AGRL Exs. at pp. 3151-3152, 3163-3164.

22 ¹⁵¹ AGRL Exs. at pp. 3159-3160, 3164.

23 ¹⁵² AGRL Exs. at pp. 3157-3159.

24 ¹⁵³ AGRL Exs. at pp. 3156-3157, 3170.

25 ¹⁵⁴ AGRL Exs. at pp. 3157-3158, 3161-3162.

26 ¹⁵⁵ AGRL Exs. at p. 3155.

27 ¹⁵⁶ AGRL Exs. at pp. 3155-3156.

28 ¹⁵⁷ AGRL Exs. at p. 3156.

¹⁵⁸ AGRL Exs. at pp. 3160, 3170.

¹⁵⁹ AGRL Exs. at p. 3163.

1 erroneous conviction, the claimant would have been free from custody.¹⁶⁸ Once a properly submitted
2 claim is filed, Penal Code section 4902 requires the Attorney General to submit a written response,
3 after which an informal administrative hearing ensues pursuant to Penal Code section 4903. If the
4 claimant satisfies their burden at the hearing, then Penal Code section 4904 requires CalVCB to
5 approve payment for the purpose of indemnifying the claimant for the demonstrated injury, at the rate of
6 \$140 per day of their incarceration, if sufficient funds are available, upon appropriation by the
7 Legislature.¹⁶⁹ No compensation is authorized for any time spent on supervised released.

8 In limited circumstances, a different procedure may apply for claimants whose convictions have
9 been reversed. First, under Penal Code section 1485.55 or 851.865, if the claimant received a court
10 finding of factual innocence during a proceeding that resulted in either a grant of habeas relief or a
11 vacated conviction pursuant to Penal Code section 1473.6, then CalVCB must automatically approve
12 the claim, within 90 days and without a hearing, pursuant to Penal Code section 4904 for the injury
13 sustained.¹⁷⁰ Second, under subdivision (b) of Penal Code section 4900, if the claimant's conviction
14 was vacated by a grant of habeas relief or pursuant to Penal Code section 1473.6 or 1473.7,
15 subdivision (a)(2), and the charges were dismissed or acquitted on remand, and the Attorney General
16 declines to object with clear and convincing proof of guilt, then CalVCB must approve the claim within
17 90 days pursuant to Penal Code section 4904 for the injury sustained.¹⁷¹ Third, under recently-added
18 subdivision (d) of section 1485.55, if a court granted a motion for relief based upon a conviction that
19 was vacated by a grant of habeas relief or pursuant to Penal Code section 1473.6 or 1473.7,
20 subdivision (a)(2), the charges were dismissed or acquitted on remand, and the district attorney failed
21 to timely object with clear and convicting proof of the claimant's guilt, then CalVCB must approve the
22 claim, without a hearing and within 90 days, for the demonstrated injury.¹⁷² While a court order under
23

24 ¹⁶⁸ Cal. Code of Regs., tit. 2, § 640, subd. (f).

25 ¹⁶⁹ Pen. Code, § 4904.

26 ¹⁷⁰ Pen. Code, §§ 851.865, 1485.55, subd. (a), and 4902, subd. (a), eff. Jan. 1, 2024; see also Cal.
27 Code of Regs., tit. 2, § 640, subs. (e)(1)-(2).

28 ¹⁷¹ Pen. Code, §§ 4900, subd. (b), 4902, subd. (d), 4904.

¹⁷² Pen. Code, § 1485.55, subd. (e).

1 subdivision (d) of section 1485.55 does not constitute a finding of factual innocence, it nevertheless
2 requires expedited approval of a filed claim.¹⁷³ Unless one of these narrow statutory exceptions applies,
3 then the claimant bears the burden to prove innocence and injury by a preponderance of the evidence
4 under subdivision (a) of Penal Code section 4900.

5 Under subdivision (a) of section 4900, claimants bear the burden of proving by a
6 preponderance that (1) the crime with which they were convicted either did not occur or was not
7 committed by them and (2) they suffered injury as a result of their erroneous conviction.¹⁷⁴ When
8 determining whether the claimant has satisfied their burden of proof, the Board may consider the
9 “claimant’s denial of the commission of the crime; reversal of the judgment of conviction; acquittal of
10 claimant on retrial; or the decision of the prosecuting authority not to retry claimant of the crime....”¹⁷⁵
11 The Board may also “consider as substantive evidence the prior testimony of witnesses [that] claimant
12 had an opportunity to cross-examine, and evidence admitted in prior proceedings for which claimant
13 had an opportunity to object.”¹⁷⁶ Ultimately, the Board may consider “any other information that it
14 deems relevant to the issue before it,” even if inadmissible under the traditional rules of evidence, so
15 long as “it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct
16 of serious affairs.”¹⁷⁷

17 **A. Anderson Bears the Burden of Proving His Innocence Under Penal Code Section**
18 **4900, subdivision (a).**

19 Anderson seeks compensation for his convictions for second-degree murder and attempted
20 murder in Los Angeles County Superior Court case number MA041498, which were vacated pursuant
21 to Penal Code section 1172.6. None of these convictions were reversed or vacated by grant of habeas
22 or pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2). As such, the burden-shifting

23
24 ¹⁷³ See *Larsen v. CalVCB* (2021) 64 Cal.App.5th 112, 129 (confirming that “a court finding of factual
25 innocence must be made by at least a preponderance of the evidence and must reflect a determination
26 that the person charged and convicted of an offense did not commit the crime”).

26 ¹⁷⁴ Pen. Code, §§ 4900, subd. (a) and 4903, subd. (a).

27 ¹⁷⁵ Cal. Code Regs., tit. 2, § 641, subd. (a).

27 ¹⁷⁶ Cal. Code Regs., tit. 2, § 641, subd. (b).

28 ¹⁷⁷ Cal. Code Regs., tit. 2, § 641, subds. (c), (d), and (f).

1 provisions in subdivision (b) of Penal Code section 4900 and subdivision (d) of Penal Code section
2 4902 do not apply. Moreover, Anderson lacks a finding of factual innocence by any court under Penal
3 Code section 1485.55 or 851.865. Thus, Anderson’s claim does not fall within any of the limited
4 statutory exceptions to subdivision (a) of section 4900. Accordingly, subdivision (a) governs the
5 disposition of Anderson’s claim.

6 Under subdivision (a) of section 4900, claimants bear the burden of proving that the crime with
7 which they were convicted either did not occur, or was not committed by them, and that they suffered
8 injury as a result of their erroneous conviction.¹⁷⁸ While “[i]nnocence might well be predicated upon a
9 reasonable doubt of guilt,” the “[CalVCB’s] section 4900 determination is a civil determination of
10 culpability” that requires the claimant to “carry the burden of proof of innocence by a preponderance of
11 the evidence.”¹⁷⁹ Consequently, to prevail in this claim, Anderson bears the burden of affirmatively
12 establishing, by a preponderance of the evidence, that he is actually innocent of the crimes of which he
13 was convicted because the charged crimes were either not committed at all or not committed by him
14 under the law in effect at the time the crimes allegedly occurred.¹⁸⁰ In other words, Anderson must
15 affirmatively prove that he is actually innocent of murder and attempted murder under any plausible
16 theory of culpability, including the natural and probable consequences doctrine. To satisfy his burden,
17 Anderson cannot solely rely on the fact that his murder conviction was vacated, but rather, he must
18 affirmatively show that he is innocent of murder as it was defined in 2008.

19 **B. Relief Under Section 1172.6 Alone Does Not Establish Factual Innocence**

20 The superior court’s order vacating Anderson’s conviction pursuant to Penal Code section
21 1172.6 does not establish his innocence for purposes of this administrative proceeding.

22 Penal Code section 1172.6 allows a person convicted of murder to petition to have their
23 conviction vacated if (1) the complaint allowed the prosecution to proceed under a theory of murder
24 under the natural and probable consequences doctrine, (2) the petitioner was convicted of first- or
25

26 ¹⁷⁸ Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

27 ¹⁷⁹ *Diola v. State Bd. of Control* (1982) 135 Cal.App.3d 580, 588 n.7.

28 ¹⁸⁰ Pen. Code, § 4900.

1 second-degree murder, and (3) the petitioner could not be convicted of murder after SB 1437's
2 changes to sections 188 and 189, which no longer permit murder convictions based on the natural and
3 probable consequences theory.¹⁸¹ Consequently, the legal issue presented in the section 1172.6
4 proceeding was whether Anderson could be convicted, beyond a reasonable doubt, of murder and
5 attempted murder, as those crimes were defined after the passage of SB 1437, e.g., under a theory
6 other than the natural and probable consequences doctrine.¹⁸² An order granting a section 1172.6
7 resentencing petition "does not mean, without more," that the petitioner "is factually innocent" of murder
8 or attempted murder.¹⁸³ Rather, the order reflects that insufficient evidence supports guilt "under the
9 current law."¹⁸⁴ However, "insufficient evidence ... is not enough for a finding of factual innocence."¹⁸⁵

10 The issue presented in Anderson's claim under Penal Code section 4900, on the other hand, is
11 whether Anderson can prove by a preponderance of evidence that the crime he was convicted of was
12 not committed at all, or not committed by him, according to the law in effect at the time the crime was
13 committed.¹⁸⁶ In other words, Anderson must prove that he is actually innocent of murder under any
14 plausible theory, including under the natural and probable consequences theory, as that remained a
15 valid theory for conviction at the time this crime was committed. The issue of Anderson's actual
16 innocence was never previously litigated in the superior court, or the appellate court, nor was there a
17 final decision on the merits of Anderson's innocence.

18 Rather, the superior court simply found that, based on a change in legislation, a jury could not
19 find him guilty beyond a reasonable doubt of murder as it is now defined. The court did not, however,
20 find Anderson was innocent based on the law in effect at the time the underlying crime was committed,
21 as is required for relief under section 4900, subdivision (a).

22
23 ¹⁸¹ Pen. Code, § 1172.6, subds. (a)(1)-(3).

24 ¹⁸² SB 1437 prohibits a participant in a first-degree murder from being liable for murder unless the
25 person either was the actual killer, aided and abetted the killer with the intent to kill, or was a major
26 participant in the underlying felony and acted with reckless indifference to human life.

26 ¹⁸³ *People v. Hollie* (2023) 97 Cal.App.5th 513, 521.

26 ¹⁸⁴ *Id.* at p. 521.

27 ¹⁸⁵ *Ibid.*, citing *People v. Adair* (2003) 29 Cal.4th 895, 905.

28 ¹⁸⁶ Pen. Code, § 4900.

1 **C. Anderson Fails to Prove He is Innocent of Second-Degree Murder**

2 Anderson failed to carry his burden of affirmatively establishing, by a preponderance of the
3 evidence, that he is innocent of second-degree murder and attempted murder, as those crimes were
4 defined at the time the offense was committed, in 2008. In particular, Anderson failed to prove he was
5 innocent of second-degree murder and attempted murder under the implied malice theory or under the
6 natural and probable consequences doctrine, neither of which require an intent to kill. Thus, Anderson
7 failed to meet his burden. Having failed to prove that he did not commit the murder or attempted
8 murder, or that those crimes were not committed at all, Anderson’s claim for compensation must
9 therefore be denied.

10 **1. Second-Degree Murder as It Was Defined at the Time of the Crime**

11 In 2008, a defendant could be convicted of second-degree murder under either the implied
12 malice theory or the natural and probable consequences doctrine. Implied malice is a direct liability
13 doctrine. A defendant is guilty of second-degree murder under the implied malice theory if (1) the killing
14 resulted from an intentional act; (2) the natural consequences of the act are dangerous to human life
15 and (3) the act was deliberately performed with knowledge of the danger to, and with conscious
16 disregard for, human life.¹⁸⁷ Implied malice requires a defendant’s “awareness of the danger that his or
17 her conduct will result in another’s death.”¹⁸⁸ A defendant’s conscious disregard of the risk of bodily
18 injury alone is not enough.¹⁸⁹ “To be liable for an implied malice murder, the direct aider and abettor
19 must, by words or conduct, aid in the commission of the life endangering act, but need not aid in the
20 result of that act.”¹⁹⁰

21 The natural and probable consequences doctrine does not require malice but, instead, pertains
22 to the indirect liability of an aider and abettor. A defendant is guilty of second-degree murder under the
23 natural and probable consequences doctrine if the defendant (1) with knowledge of a confederate’s
24 unlawful purpose; (2) with the intent of committing, encouraging, or facilitating the commission of any

25 _____
26 ¹⁸⁷ CALJIC 8.11.

27 ¹⁸⁸ *People v. Knoller* (2007) 41 Cal.4th 139,156.

28 ¹⁸⁹ *Ibid.*

¹⁹⁰ *People v. Powell* (2021) 63 Cal.App.5th 689, 713.

1 target crime; (3) aided, promoted, encouraged, or instigated the commission of the target crime; (4) the
2 defendant's confederate committed an offense *other* than the target crime; and (5) the murder was a
3 natural and probable consequence of the target crime that the defendant encouraged or facilitated.¹⁹¹
4 The intent of an aider and abettor with respect to the murder is irrelevant.¹⁹² Instead, the accomplice
5 need only intend to facilitate a crime ("the target offense"), such as an assault with a firearm, which
6 foreseeably led to another's commission of murder.

7 In other words, to establish he was innocent of second-degree murder in this administrative
8 proceeding, Anderson had to prove he did not actually aid and abet (i.e., aid, promote, encourage, or
9 instigate) the target crime – assault with a firearm – which naturally, probably, and foreseeably led to
10 the victim's death.

11 **2. Insufficient Proof of Innocence**

12 After careful consideration of all the evidence, the record fails to demonstrate by a
13 preponderance that Anderson is innocent of second-degree murder and attempted murder under the
14 natural and probable consequences doctrine because Anderson failed to show that he did not aid,
15 promote, encourage, or instigate the assault with a deadly weapon that naturally and probably led to
16 the victim's death.

17 In Anderson's original application, he provided a statement of innocence, signed under penalty
18 of perjury, with a blanket denial, asserting he did not commit the charged crimes. Anderson later
19 supplemented his application with a more detailed statement of innocence, affirmatively denying he
20 committed the crime that resulted in the victim's death. Anderson stated that he was being chased by a
21 group of men and fled to the safety of his home. He did not know Miller and Hubbard were inside the
22 apartment as he yelled, "Hey, 'cuz. Hey, 'cuz." He did not know Miller and Hubbard went outside,
23 armed with a firearm, intending to shoot and kill one of the men.¹⁹³ Anderson claimed that when he
24 heard the gunshot, he was "scared and in shock." He did not know where the shot came from, he just
25

26 ¹⁹¹ *People v. Chiu* (2014) 59 Cal.4th 155, 161, 171-172.

27 ¹⁹² *Id.* at p. 164.

28 ¹⁹³ Supp. at 138.

1 started running and did not look to see who had the gun or who was shooting. He emphasized that he
2 had no knowledge that anyone would be shot and killed and that he never wanted anyone to die.

3 While Anderson's denial of the commission of the crime may be considered by CalVCB, it is not
4 enough to establish innocence.¹⁹⁴ Moreover, Anderson's failure to appear at the administrative hearing
5 severely undermines his claim of innocence. Anderson was notified of the hearing date on multiple
6 occasions – May 21, July 21, and July 24, 2025. Despite these notices, Anderson failed to appear
7 either in person or via Zoom on July 31, 2025. His failure to appear is particularly significant because
8 Anderson bears the burden of proving his innocence by a preponderance of the evidence. Had
9 Anderson appeared, he could have testified under oath, been subject to cross-examination, and had his
10 credibility assessed by the Hearing Officer. His written statements of innocence cannot substitute for
11 live testimony where his credibility and the details of his involvement could be properly evaluated. As a
12 result, his sworn statements are afforded little evidentiary weight.

13 Evidence in the record strongly suggests Anderson knew about the gun. Anderson lived at the
14 apartment with Hubbard for six months prior to the shooting. Miller had also been living there for about
15 two weeks. Elizabeth told police that she saw Anderson, Hubbard, and Miller go inside the apartment
16 from the patio, into the bedroom, and then back outside, after which she heard gunshots.¹⁹⁵ During a
17 search of the apartment, police found three .45-caliber bullets, an empty .45-caliber ammunition
18 magazine on the bed, and another .45-caliber round in the pocket of a pair of jeans.¹⁹⁶ Moreover,
19 Elizabeth testified that she had seen Anderson, Hubbard, and Miller with a gun at the apartment
20 approximately four months before the shooting.¹⁹⁷ Following their arrest, Miller told Anderson and
21 Hubbard that the police believed two guns had been used during the shooting, to which Anderson
22 replied, "And I assume they found that shit in our house."¹⁹⁸ Anderson was not only aware of the gun,
23 but he had been inside the apartment with both Hubbard and Miller just moments before the shooting,

24
25 ¹⁹⁴ Cal. Code Regs., tit. 2, § 641, subd. (a).

26 ¹⁹⁵ AGRL Exs. at pp. 504-505.

27 ¹⁹⁶ AGRL Exs. at pp. 1509-1511, 1517, 1672-1674.

28 ¹⁹⁷ AGRL Exs. at pp. 506-507, 509-510.

¹⁹⁸ AGRL Exs. at p. 533.

1 when they retrieved the firearm. This leads to a reasonable inference that he knew Hubbard and Miller
2 were armed when they returned to confront the victim's group.

3 Anderson instigated and escalated the confrontation. The evidence shows that when the
4 victim's group initially encountered Anderson at the bus stop, Brian yelled, "What's up? 98 Main Street"
5 – a gang challenge. Anderson responded by stating, "This West Boulevard Crip," or "West Boulevard,"
6 or "West Boulevard Mafia."¹⁹⁹ This was not a passive response but an active assertion of gang identity
7 that escalated tensions. Anderson then ran toward the apartment complex while yelling "Hey, 'cuz. Hey,
8 'cuz" – a deliberate call for backup. During his parole hearing, Anderson admitted to "mad dogging" the
9 group and telling them he was from Long Beach when they asked where he was from. Anderson also
10 admitted at his parole hearing that he "initiated" the confrontation and failed to respond in a "citizen type
11 of way."²⁰⁰ These admissions directly contradict his later claims of innocence and demonstrate that
12 Anderson actively provoked and perpetuated the confrontation rather than simply fleeing to safety.

13 Anderson's conduct demonstrates active participation and facilitation of the crimes. After
14 running to the apartment and summoning help, Anderson did not remain safely inside or call 9-1-1.
15 Instead, Anderson, Hubbard, and Miller all went to the patio area together where they exchanged words
16 with the victim's group. Elizabeth testified that she saw all three men go from the patio into a bedroom
17 and then back outside immediately before the shooting. This bedroom is where ammunition was later
18 found. The sequence of events – Anderson's gang challenge, his call for backup, the three men
19 entering the bedroom together, and their return to the patio immediately before shots were fired –
20 demonstrates a coordinated action in furtherance of a common purpose.

21 Rashaun heard someone yell "you motherfuckers want problems, I got something" moments
22 before shots were fired. The victim's group had turned and begun to walk away when Hubbard opened
23 fire shooting one person fatally and Miller firing four to five additional shots. The maintenance
24 technician working in the area saw four men "creep along the wall" of an apartment complex and
25 spread out inside the fence's grassy area before the shooting, suggesting coordinated tactical

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27 ¹⁹⁹ AGRL Exs. at p. 2608.

28 ²⁰⁰ AGRL Exs. at pp. 3122-3123.

1 positioning. Anderson does not dispute that he was present during this sequence of events. His
2 presence, combined with his earlier gang challenge and his call for backup, supports the inference that
3 he aided and encouraged the assault with a firearm that followed.

4 Anderson's post-shooting conduct demonstrates consciousness of guilt undermining his claims
5 of innocent surprise. After the shooting, Anderson immediately fled the scene with Hubbard and Miller.
6 Rather than calling the police or rendering aid, Anderson traveled with his associates to Compton,
7 where he stayed with Christina for a few days before Miller continued on to Las Vegas. When arrested
8 more than one month later in Los Angeles, Anderson gave police a false name. This flight and
9 deception are inconsistent with Anderson's claim that he was an innocent bystander who was shocked
10 and scared by unexpected gunfire. Moreover, in the recorded jail conversation, when Hubbard
11 suggested they could "beat this shit" and that they needed to get Miller to recant his statements,
12 Anderson actively participated in the discussion, stating he would not take any deal and would "mad
13 dog the whole court." Anderson later said, "Snitch if you want to. Whatever. You know what happens to
14 snitches. They can come to court on me if they want to. They know what happened to them."²⁰¹

15 **3. Overall Evidence Fails to Demonstrate Innocence**

16 The overall evidence fails to show by a preponderance of the evidence that Anderson is more
17 likely than not innocent of second-degree murder or attempted murder as an aider and abettor under
18 the natural and probable consequences doctrine, which was still valid in 2008.

19 The burden rests upon Anderson to affirmatively demonstrate that he did not commit these
20 crimes, or that they never occurred. To that end, it is Anderson's burden to show that, on the night of
21 the crime, he did not aid and abet the assault with a firearm, which naturally and probably led to the
22 victim's death.²⁰²

23 After considering the evidence provided by the parties, as detailed above, Anderson failed to
24 prove he is more likely than not innocent of second-degree murder or attempted murder as it was
25

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27 ²⁰¹ AGRL Exs. at p. 544.


28 ²⁰² CALCRIM 401.

1 defined in 2008. Accordingly, Anderson entirely fails to meet his burden on this record, for all of the
2 reasons detailed above.

3 **V. Conclusion**

4 In accordance with subdivision (a) of Penal Code section 4900, the undersigned Hearing
5 Officer recommends that CalVCB deny Anderson's claim. He has failed to demonstrate by a
6 preponderance of evidence that he did not commit the offense for which he was convicted and
7 imprisoned. Anderson is, therefore, ineligible for compensation as an erroneously convicted person.

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9 Date: February 19, 2026

10  for
11 _____
12 Kristen Sellers
13 Hearing Officer
14 California Victim Compensation Board
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