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

9 In the Matter of:

10 **Christopher Casto**

11 Claim No. 24-ECO-48
12

Proposed Decision

(Pen. Code, § 4900, subd. (a))

13 **I. Introduction**

14 On June 27, 2024, Christopher Casto (Casto) submitted an application to the California Victim
15 Compensation Board (CalVCB) as an erroneously convicted person pursuant to Penal Code section
16 4900, which was supplemented on August 13, 2024. The claim is based upon Casto's 2016 conviction
17 for arson of an inhabited structure or property, which has not been reversed or vacated. For this still-
18 valid conviction, Casto seeks compensation in the amount of \$174,580 for 1,274 days in custody,
19 during which he also served a sentence for a misdemeanor utility theft conviction and a violation of
20 probation for an unrelated burglary conviction. The Attorney General opposed the claim on March 16,
21 2025, arguing that the evidence fails to prove Casto's innocence. A hearing ensued on September 3,
22 2025, at which both parties appeared. After receiving post-hearing exhibits, the record closed on
23 October 16, 2025.

24 Throughout the proceedings, Casto represented himself, and the Attorney General was
25 represented by Deputy Attorney General Caitlin Franzen. The claim was assigned to CalVCB Senior
26 Attorney Jessica Schaps.

27 After considering all the evidence in the record, the claim is recommended for denial. Overall,
28 the proffered exculpatory evidence fails to satisfy Casto's burden under subdivision (a) of Penal Code

1 section 4900 to show that he is more likely innocent than guilty of his conviction for willfully and
2 maliciously setting fire to an inhabited structure.

3 **II. Procedural History**

4 **A. Trial Proceedings**

5 Casto was arrested on April 7, 2015, and subsequently charged in Placer County Superior
6 Court case number 62-137196 with arson of an inhabited dwelling (Pen. Code, § 451 subd. (b)),
7 recklessly causing fire to an inhabited dwelling (Pen. Code, § 452 subd. (b)), both felonies, and
8 misdemeanor theft of utility services (Penal Code section 498 subd. (b)(5)).¹ The prosecution
9 subsequently dismissed count two and renumbered count three as count two. On November 30, 2015,
10 a jury found claimant guilty of both counts.² The trial court also found that Casto violated his probation
11 for an unrelated burglary conviction in Placer County Superior Court case number 62-110876.³

12 On March 13, 2016, Casto filed a motion for a new trial in Placer County Superior Court and
13 challenged his arson conviction based on ineffective assistance of counsel, prosecutorial misconduct
14 related to arson expert testimony, and the evidence presented being contrary to the verdict.⁴ After a
15 hearing, the trial court denied the motion on October 5, 2016.⁵

16 On November 3, 2016, the court sentenced Casto to five years in state prison for count one,
17 felony arson, with a concurrent six-month sentence for count two, misdemeanor utility theft for case
18 number 62-137196.⁶ The court also imposed a 20-month sentence for Casto's probation violation in
19 the burglary case, number 62-110876, to be served consecutively.⁷

20 **B. Appellate Proceedings**

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22 ¹Attorney General's Response Letter (AGRL) at p. 2; Attorney General's Exhibits (AGRL Exs.) at pp.
23 26-29.

24 ² AGRL Exs. at p. 2, AGRL Exs. at pp. 188-203.

25 ³ AGRL Exs. at pp. 2, 113-114.

26 ⁴ AGRL Exs. at pp. 190-197.

27 ⁵ AGRL Exs. at p. 337.

28 ⁶ AGRL Exs. at pp. 393, 1687-1693.

⁷AGRL Exs. at p. 1687.

1 Casto appealed his convictions in case number 62-137196.⁸ On August 28, 2018, the
2 California Court of Appeal, Third Appellate District, affirmed both of Casto's convictions for arson and
3 utility theft.⁹ The California Supreme Court denied review on November 28, 2018.¹⁰ Evidently, Casto
4 did not pursue any habeas or collateral relief.

5 **C. Release from Imprisonment**

6 After completing his sentence, Casto was released from prison on September 4, 2018, and his
7 parole terminated thereafter on September 13, 2021. Thus, Casto spent a total of 1,250 days
8 incarcerated from his arrest on April 4, 2015, up to and including his release on September 4, 2018, for
9 his convictions in case number 62-137196, as well as his probation violation in case number 62-
10 110876.¹¹

11 **D. Casto's Erroneously Convicted Person Claim**

12 On June 27, 2024, Casto submitted a claim seeking compensation as an erroneously convicted
13 person pursuant to Penal Code section 4900.¹² Initially, the claim was based upon both of Casto's
14 convictions for felony arson and misdemeanor utility theft in case number 62-137196 and requested
15 \$295,100 in compensation, which included the entire duration of his imprisonment, plus time spent on
16 supervised release and attorney fees.¹³ By letter dated September 19, 2024, a CalVCB hearing officer
17 notified Casto, as well as the Attorney General's representative, that his claim required clarification.¹⁴

19 ⁸AGRL Exs. at pp. 1710-1764.

20 ⁹AGRL Exs. at pp. 1698-1708 (*People v. Casto* (Cal Ct. App., 3d Dist. August 28, 2018, No.
21 C089447) [nonpub. opn.]).

22 ¹⁰ Docket for *People v. Casto*, California Supreme Court case number S251655, available online at
23 <https://appellatecases.courtinfo.ca.gov/search.cfm?dist=3>; see also Cal. Code Regs., tit. 2, § 617.8
(official notice).

24 ¹¹ AGRL at p. 3. This calculation was determined using the online "Date Calculator" located at
<https://www.timeanddate.com/date/duration.html>.

25 ¹² Casto Application (App.) pp. 1-206 The pagination refers to the continuous page numbers for the
entire 206-page PDF file submitted on June 27, 2024.

26 ¹³ AGRL at p. 1.

27 ¹⁴ CalVCB Senior Attorney Laura Simpton was initially assigned as the hearing officer for this claim.
28 Following her unavailability, the claim was reassigned to CalVCB Senior Attorney Jessica Schaps on
November 19, 2025. (Cal. Code Reg., tit. 2, § 615.10.)

1 As the letter explained, relief was not available under section 4900 for misdemeanor convictions or for
2 time spent on parole.

3 Through a series of emails on August 12, 13, and 14, 2024, Casto clarified and revised his
4 claim. As supplemented, Casto solely disputed his felony arson conviction and requested \$174,580 in
5 compensation for the entire duration of his imprisonment, which he calculated as 1,247 days. This
6 calculation included Casto's overlapping sentence of 180 days for his misdemeanor conviction, as well
7 as his 20-month sentence for the probation violation.¹⁵

8 On September 19, 2024, the hearing officer filed Casto's claim and invited the Attorney
9 General's Office to provide a response. On March 18, 2025, following two extensions of time, the
10 Attorney General's Office timely opposed the claim, emphasizing that Casto's still-valid arson
11 conviction was affirmed on appeal and a court had not found him factually innocent.¹⁶ The Attorney
12 General argued overwhelming evidence supported the jury's verdict that Casto willfully and maliciously
13 set fire to his father's house.¹⁷ The Attorney General lodged 13 exhibits, including a video file that was
14 not fully operable, to support the opposition. Casto submitted Polygrapher Peter Jayvan's report of
15 Casto's polygraph exam; a YouTube link to Forensic Files, "Up in Smoke," regarding a falsely accused
16 defendant; a video of Foresthill at night; and a series of emails consolidated into an exhibit
17 summarizing Artificial Intelligence (AI) responses to questions about fire impact on 1,900 homes and
18 the smell of various rubber substances as exhibits.

19 A hearing ensued on September 3, 2025. Casto appeared in person, while the Attorney
20 General's representative, Deputy Attorney General Caitlin Franzen, appeared remotely via Zoom. In
21 support of the claim, Casto testified and elicited testimony from three witnesses, including two
22 character witnesses and a privately retained polygrapher. The Attorney General presented an expert
23 witness concerning the reliability of polygraph examinations. At the conclusion of the hearing, the
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26 ¹⁵ Email from CalVCB to parties, sent Aug. 20, 2024, attaching five emails sent by claimant; Email
27 from claimant to parties, sent Aug. 14, 2024.

28 ¹⁶ AGRL at p. 1.

¹⁷ AGRL at p. 1.

record remained open to allow submission of additional exhibits by October 1, 2025, and any rebuttal response by October 15, 2025.

By a series of emails, Casto timely submitted three additional exhibits; a picture of a red and yellow Grocery Outlet Bargain Market bag; the curriculum vitae of Dave Hall, a fire expert, retained by the district attorney who disagreed with the arson conclusion but was not called as a witness at Casto's trial; a background report for the Deputy Chief of Operations for the South Placer Fire Protection District, Karl Fowler, a key witness against Casto at his trial and a video of Casto attempting to light engine degreaser with a torch. The Attorney General also submitted a corrected version of the fire video (Exhibit 12). This exhibit had originally been included with their response letter, but due to a technical error, the video could not be viewed in its entirety. Neither party submitted a rebuttal response to the other's exhibits, and the record closed thereafter on October 16, 2025.

III. Factual Summary

A. Evidence Presented at the Trial

On April 4, 2015, Casto was at the home of his deceased father located in a rural area of Placer County when a fire started around 8:00 a.m.¹⁸ Casto was the sole occupant, and he had been living at the residence since his father's death.¹⁹ The lienholder of the mortgage, Wells Fargo Bank, had begun foreclosure proceedings on the property.²⁰ The home insurance company had also canceled the insurance on the property in early April.²¹

The day before, Casto's neighbor Alyssa²² observed Casto moving gas cans from his car into his house.²³ Another neighbor, Michelle, heard Casto's car alarm go off in the night and again at approximately 4:45 a.m. and then again at 7:45 a.m. that morning.²⁴ Meanwhile, neighbor Eric saw

¹⁸ AGRL Exs. at pp. 1065, 1089, 1720.

¹⁹ AGRL Exs. at pp. 16, 37.

²⁰ AGRL Exs. at p. 17.

²¹ AGRL Exs. at pp. 16, 37.

²² Civilian witnesses are identified by first name to protect their privacy.

²³ AGRL Exs. at pp. 905, 1223-1225.

²⁴ AGRL Exs. at p. 1094.

1 Casto at around 4:00 or 5:00 a.m. placing boxes into his car, which was parked in front of his house.²⁵
2 When Eric left for work around 7:45 a.m., he saw that Casto's car had moved to the other side of the
3 street.²⁶

4 Around 8:00 a.m., a fire broke out in Casto's home. At 8:08 a.m., someone reported the fire by
5 calling the Foresthill Fire Department.²⁷ First responders arrived at 8:13 a.m. and began extinguishing
6 the fire.²⁸ Before their arrival, neighbors tried to put the fire out with a garden hose, but Casto did not
7 assist.²⁹ Instead, neighbor Dena saw Casto sitting in his car across the street.³⁰ Neighbors also
8 noticed that Casto's motorcycle, which was normally parked on the walkway behind his home, was
9 parked instead in front of a neighboring home. Casto slowly drove off around the corner sometime
10 after the firefighters arrived.³¹

11 When Placer County Sheriff's Deputy Tedford arrived at the fire, the home was engulfed in
12 flames.³² With the help of neighbors, he located Casto down the street from the fire.³³ Casto told
13 detectives he lit a fire in the fireplace prior to falling asleep and woke up with his home on fire.³⁴
14 Deputy Tedford conducted a pat-down search of Casto and located a Bic lighter in his pocket.³⁵ Casto
15 was wearing multiple layers of clothing.³⁶ He had soot on his face and his clothing appeared soiled.³⁷
16 On the top of his hands, the hair appeared curled and singed, indicating he had been near extreme
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18 ²⁵ AGRL Exs. at pp. 1223, 1224.

19 ²⁶ AGRL Exs. at pp. 1222, 1225.

20 ²⁷ AGRL Exs. at p. 1092.

21 ²⁸ AGRL Exs. at p. 647.

22 ²⁹ AGRL Exs. at p. 1100.

23 ³⁰ AGRL Exs. at p. 1231.

24 ³¹ AGRL Exs. at pp. 1235, 1700.

25 ³² AGRL Exs. at p. 934.

26 ³³ AGRL Exs. at p. 936.

27 ³⁴ AGRL Exs. at p. 373.

28 ³⁵ AGRL Exs. at p. 937.

³⁶ AGRL Exs. at pp. 937-938, 942.

³⁷ AGRL Exs. at p. 938.

1 heat recently.³⁸

2 Placer County Detective Dan Meier located Casto approximately a quarter mile from the
3 scene.³⁹ He spoke with Casto and noticed that Casto's eyes were red and the hair on his face and
4 hands was singed.⁴⁰ When he examined the home, he also observed the unusual burn marks on the
5 floor throughout the home.⁴¹ He detected what he described as a very pungent chemical or possibly
6 acetone smell in the house.⁴² He searched Casto's vehicle and found a rag in the front seat that had
7 an acetone type of smell similar to the odor in the residence.⁴³ The rag was submitted to the
8 Department of Justice (DOJ) for analysis and testing confirmed the presence of a heavy petroleum
9 distillate.⁴⁴ This could include such flammable substances as kerosene, diesel fuel, jet fuel or charcoal
10 starters.⁴⁵ He spoke with Casto, who initially indicated he didn't know what caused the fire.⁴⁶ Later,
11 when he interviewed Casto after his arrest, Casto told him he lit a fire in the fireplace and lit candles on
12 the television and believed those started the fire.⁴⁷ He then supposedly fell asleep in the chair in the
13 family room and woke up to his home on fire.⁴⁸

14 Foresthill Fire Captain Kirk Hill gathered the information about Casto's questionable behavior
15 from neighbors and witnesses at the scene of the fire.⁴⁹ Captain Hill began to suspect it was a
16 suspicious fire and called in the arson task force.⁵⁰

18 ³⁸ AGRL Exs at p. 938.

19 ³⁹ AGRL Exs. at p. 581.

20 ⁴⁰ AGRL Exs at p. 701.

21 ⁴¹ AGRL Exs at p. 706.

22 ⁴² AGRL Exs at p. 707.

23 ⁴³ AGRL Exs at p. 713.

24 ⁴⁴ AGRL Exs at p. 716.

25 ⁴⁵ AGRL Exs. at p. 716.

26 ⁴⁶ AGRL Exs. at pp. 718-719.

27 ⁴⁷ AGRL Exs. at p. 344.

28 ⁴⁸ AGRL Exs. at pp. 373, 737.

⁴⁹ AGRL Exs. at p. 1093.

⁵⁰ AGRL Exs. at pp. 1093-1094.

1 Deputy Chief of Operations for the South Placer Fire Protection District, Karl Fowler, began
2 investigating the fire. He had learned from the firefighters that when they attempted to suppress the fire
3 with water, it flashed back at them.⁵¹ From his experience this was a pretty good indicator of the
4 presence of an ignitable vapor or flammable liquid.⁵² He observed burn patterns on the floor of Casto's
5 residence that he believed were irregular in nature.⁵³ Based on his training and experience, he thought
6 the patterns were caused by somebody pouring an ignitable fluid on the floor.⁵⁴ Deputy Chief Fowler
7 noticed an odor in the Casto residence that, based on his training and education, smelled like ignitable
8 fluid or some form of an accelerant.⁵⁵ He first smelled it when he entered the living room area.⁵⁶
9 Deputy Chief Fowler explained that part of a fire investigation includes the process of delayering,
10 where investigators remove debris from the fire to reveal the floor.⁵⁷ As the investigators
11 systematically removed debris from the living room floor, the smell of an ignitable fluid got stronger to
12 the point where it was almost intolerable.⁵⁸ He also smelled the odor of the ignitable fluid in the
13 bedroom.⁵⁹ The smell again became stronger as they delayered the bedroom.⁶⁰ Deputy Chief Fowler
14 was aware that the projection television in the living room had coolant inside, which could emit an
15 interesting odor when lit, but he did not elaborate on that being a potential source of the smell he was
16 detecting.⁶¹

17 Deputy Chief Fowler described the burn patterns that were present on the floor of the residence.⁶² He

19 ⁵¹ AGRL Exs. at p. 986.

20 ⁵² AGRL Exs. at p. 986.

21 ⁵³ AGRL Exs. at p. 980.

22 ⁵⁴ AGRL Exs. at p. 980.

23 ⁵⁵ AGRL Exs. at pp. 967, 1000.

24 ⁵⁶ AGRL Exs. at p. 968.

25 ⁵⁷ AGRL Exs. at p. 968.

26 ⁵⁸ AGRL Exs. at p. 970.

27 ⁵⁹ AGRL Exs. at p. 970.

28 ⁶⁰ AGRL Exs. at p. 971.

⁶¹ AGRL Exs. at pp. 807-808.

⁶² AGRL Exs. at p. 972.

1 explained how burn patterns are caused by a number of different things as fire moves through a
2 building seeking an oxygen source.⁶³ A fire will migrate towards an oxygen source in a process called
3 ventilation.⁶⁴ From Deputy Chief Fowler's experience and observations, a fire's movement through a
4 home leaves a pattern similar to water flowing through a building.⁶⁵ Deputy Chief Fowler explained that
5 a burn pattern on the floor could be caused by an ignitable liquid being poured on a surface.⁶⁶ He
6 opined that the burn pattern in Casto's residence was unusual and irregular.⁶⁷ The patterns did not
7 reflect the movement of fire towards an oxygen source in a way that he was familiar with.⁶⁸ Instead, he
8 concluded, that the irregular burn patterns, along with the smell of some form of ignitable fluid in one
9 location in the home, was not normal.⁶⁹ Based on his training and experience he felt that the irregular
10 patterns were caused by somebody pouring ignitable liquid on the floor.⁷⁰ He saw these irregular burn
11 patterns in the living room and similar ones in bedroom.⁷¹ He conceded that an irregular burn pattern
12 could also be attributed to wear and tear on the floor.⁷²

13 Deputy Chief Fowler located a burned television that sat on top of the carpet and carpet pad in
14 the living room.⁷³ The television was a large, projection-type that contained chemicals in it to aid in
15 projection.⁷⁴ He noticed that the smell of an ignitable liquid was strong in the area of the television.⁷⁵
16 Based on his training and experience, Deputy Chief Fowler placed the origin of the fire in the corner
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18 ⁶³ AGRL Exs. at p. 972.

19 ⁶⁴ AGRL Exs. at pp. 972-973.

20 ⁶⁵ AGRL Exs. at p. 973.

21 ⁶⁶ AGRL Exs. at p. 973.

22 ⁶⁷ AGRL Exs. at p. 974.

23 ⁶⁸ AGRL Exs. at p. 974.

24 ⁶⁹ AGRL Exs. at p. 974.

25 ⁷⁰ AGRL Exs. at p. 980.

26 ⁷¹ AGRL Exs. at p. 981.

27 ⁷² AGRL Exs. at pp. 998-999.

28 ⁷³ AGRL Exs. at p. 976.

⁷⁴ AGRL Exs. at p. 994.

⁷⁵ AGRL Exs. at pp. 976-977.

1 near the television.⁷⁶ He made that determination based on the observation of the fire damage
2 throughout the home, witness statements indicating they first saw the fire near that corner of the home,
3 and early photographs of the fire.⁷⁷ Deputy Chief Fowler indicated that samples of fluid were taken
4 from the area around the projection television by Placer County Sheriff's Crime Scene Investigators
5 (CSI) for analysis by the Department of Justice (DOJ), which ultimately tested negative.⁷⁸ As the DOJ
6 criminalist later explained, ignitable liquids may have been present, even though the samples were
7 negative, because the liquid evaporated, burned out, had its detection eliminated by suppression
8 activity, or was not concentrated enough in the items sampled.⁷⁹

9 Additionally, Deputy Chief Fowler found three tea light candles in the living room, which were
10 little round candles contained in a metal vessel.⁸⁰ Based on his training and experience, a tea candle
11 will burn for three hours at most.⁸¹ He took the presence of the tea candles into consideration and, in
12 his opinion and based on his training and experience, having an ignitable fluid in the same area did not
13 seem normal to him.⁸²

14 Another factor that Deputy Chief Fowler took into consideration was the behavior of the
15 homeowner.⁸³ He testified that homeowners present at the scene of their burning home often appear
16 in various stages of shock and concern over their property and their belongings.⁸⁴ Typically they
17 attempt to help put out the fire to the point where in many cases, they have to be restrained from re-
18 entering the house.⁸⁵ Casto, however, did not take any action to help but instead remained sitting
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21 ⁷⁶ AGRL Exs. at p. 977.

22 ⁷⁷ AGRL Exs. at p. 977.

23 ⁷⁸ AGRL Exs. at p. 994.

24 ⁷⁹ AGRL Exs. at p. 1326.

25 ⁸⁰ AGRL Exs. at pp. 981-982.

26 ⁸¹ AGRL Exs. at p. 982.

27 ⁸² AGRL Exs. at p. 982.

28 ⁸³ AGRL Exs. at pp. 982-983.

⁸⁴ AGRL Exs. at p. 983.

⁸⁵ AGRL Exs. at p. 983.

1 across the street in his car, watching his neighbors search for his dog and attempt to put the fire out
2 with garden hoses.⁸⁶ Deputy Chief Fowler learned a witness had observed Casto walking into his
3 house with a couple of gasoline cans the day before the fire, although no gas cans were located inside
4 or outside the home.⁸⁷ Based on all of the circumstances, including the witness statements, Casto's
5 behavior, the unusual burns patterns and the overwhelming smell, Deputy Chief Fowler concluded that
6 the fire was suspicious in nature.⁸⁸ He believed that perhaps it was intentionally set.⁸⁹

7 Deputy Chief Fowler also testified that fire patterns can help determine whether or not a fire
8 started on the floor level of a building or higher up a wall.⁹⁰ It appeared to Deputy Chief Fowler that the
9 fire started near the floor versus higher up.⁹¹ He made this determination based on the different levels
10 of charring and the pattern of charring on the wall as well as witness statements.⁹² He explained that
11 the pattern he observed in the living room appeared to emanate up from the floor somewhere around
12 the television.⁹³

13 The defense retained Ronald Ablott (Ablott), an experienced and certified fire investigator, as
14 an expert witness.⁹⁴ Ablott reviewed the investigation of Casto's home.⁹⁵ He concluded the fire likely
15 originated in the living room near the television.⁹⁶ By analyzing the burn patterns, he traced the fire's
16 spread but could not determine a single definitive cause, instead identifying multiple possible ignition
17 sources.⁹⁷

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19 ⁸⁶ AGRL Exs. at pp. 983-985.

20 ⁸⁷ AGRL Exs. at p. 986.

21 ⁸⁸ AGRL Exs. at p. 986.

22 ⁸⁹ AGRL Exs. at p. 986.

23 ⁹⁰ AGRL Exs. at p. 978.

24 ⁹¹ AGRL Exs. at p. 978.

25 ⁹² AGRL Exs. at pp. 978-979.

26 ⁹³ AGRL Exs. at p. 999.

27 ⁹⁴ AGRL Exs. at p. 1349.

28 ⁹⁵ AGRL Exs. at p. 1342.

⁹⁶ AGRL Exs. at p. 1377.

⁹⁷ AGRL Exs. at p. 1420.

1 Ablott found evidence showing a flashover had occurred in multiple areas of the home.⁹⁸ Ablott
2 found no evidence the fire had spread at floor level in the bedroom, noting the absence of unusual
3 burn patterns in that room.⁹⁹ Instead, Ablott found evidence in the kitchen, dining room and bedroom
4 that the fire spread from a high level and then burned downward.¹⁰⁰

5 Ablott determined the fire likely originated at or above floor level near the television.¹⁰¹ From
6 there it spread upward and outward, eventually engulfing the living room before extending into the
7 dining room and bedroom.¹⁰² The fire appeared to travel across the ceiling, causing the roof to
8 collapsed in the dining room but not significantly charring the dining room table legs. The fire then
9 moved to the bedroom, causing limited heat and smoke damage, without burning the bedsheets.¹⁰³ It
10 then continued into the laundry room where fire patterns were observed on the sheetrock-covered
11 ceiling.¹⁰⁴ Then it spread through the bathroom and into the kitchen.¹⁰⁵ The fire ultimately burned
12 through the roof in the living room and dining room causing the roof to collapse in the dining room.¹⁰⁶

13 Ablott explained that the jewelry workshop inside the home remained largely undamaged
14 because it functioned as a dead air space.¹⁰⁷ Although the door to the room was open, the lack of
15 oxygen caused the fire to pass over the area without burning it.¹⁰⁸ Any damage in the workshop was
16 likely caused by debris falling from the fire in the attic.¹⁰⁹

17 Finally, Ablott explained fire ventilation can intensify fires and create misleading artificial burn
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19 ⁹⁸ AGRL Exs. at pp. 1378- 1379.

20 ⁹⁹ AGRL Exs. at p. 1382.

21 ¹⁰⁰ AGRL Exs. at p. 1382.

22 ¹⁰¹ AGRL Exs. at p. 1397.

23 ¹⁰² AGRL Exs. at pp. 1397-1398.

24 ¹⁰³ AGRL Exs. at pp. 1397-1398.

25 ¹⁰⁴ AGRL Exs. at p. 1398.

26 ¹⁰⁵ AGRL Exs. at p. 1399.

27 ¹⁰⁶ AGRL Exs. at p. 1399.

28 ¹⁰⁷ AGRL Exs. at p. 1399.

¹⁰⁸ AGRL Exs. at pp. 1399-1400.

¹⁰⁹ AGRL Exs. at p. 1400.

1 patterns, including floor-level damage that may appear to be an accelerant but is actually just normal
2 fire progression.¹¹⁰ He explained that ventilation can create patterns which give the impression that the
3 fire originated in one spot due to it having the greatest amount of damage, but in fact, it ignited in
4 another portion of the house.¹¹¹

5 Ablott found no evidence of an accelerant.¹¹² He explained that if an accelerant had been used,
6 it would have produced corresponding low-level burn patterns and more rapid fire spread, neither of
7 which were present in Casto's home.¹¹³ Based on these findings, Ablott rejected the other
8 investigator's conclusions that a flammable liquid had been used.¹¹⁴

9 Ablott assessed the tea candles as a possible ignition source.¹¹⁵ Since tea candles conduct
10 heat through the bottom of the metal base, a tea candle left unattended on top of a combustible
11 surface will, in most cases, eventually ignite that surface.¹¹⁶ Given Casto's statement regarding the tea
12 candles and Chief Kirk's findings of spent metal tea candle vessels, Ablott could not eliminate the tea
13 candles as a possible ignition source and estimated the probability that they caused the fire at greater
14 than 51 percent.¹¹⁷ The electrical circuits and the power strip behind television were other ignition
15 scenarios which he could not eliminate.¹¹⁸

16 Ablott did not find the information about Casto's singed hair on his hands or arms indicative of
17 somebody setting a fire.¹¹⁹ Thermal injuries are only indicative that the person was close to a heat
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21 ¹¹⁰ AGRL Exs. at p. 1403.

22 ¹¹¹ AGRL Exs. at p. 1404.

23 ¹¹² AGRL Exs. at p. 1445.

24 ¹¹³ AGRL Exs. at pp. 1445-1447.

25 ¹¹⁴ AGRL Exs. at p. 1446.

26 ¹¹⁵ AGRL Exs. at p. 1408.

27 ¹¹⁶ AGRL Exs. at p. 1408.

28 ¹¹⁷ AGRL Exs. at pp. 1408-1409, 1415-1416.

¹¹⁸ AGRL Exs. at p. 1408.

¹¹⁹ AGRL Exs. at pp. 1422, 1439.

1 source of some type.¹²⁰ Ablott found no physical evidence to support the conclusion that the fire was
2 intentionally set.¹²¹ Based on the numerous variables and ignition sources, and sequences in and
3 around the origin of the fire that could not be eliminated, Ablott opined that the cause of the fire was
4 undetermined.¹²²

5 He was not influenced by the purported gas cans, as there were no gas cans located and no
6 gasoline residue found inside the residence.¹²³ The samples submitted to the DOJ came back negative
7 for any type of flammable or combustible liquids so he thought that evidence had little value.¹²⁴ Casto's
8 actions before and during the fire did not lead Ablott to believe he had a hand in the fire or that there
9 was anything questionable about the fire.¹²⁵ Given the totality of the circumstances based on the
10 physical evidence, Ablott believed the cause of the fire remained undetermined.¹²⁶

11 **B. Post-Trial Statements**

12 Following the jury's guilty verdict, Casto rendered additional and contradictory statements
13 about the fire. As detailed below, this includes Casto's letter to the probation officer, his interview with
14 the probation officer, his declaration in support of a new trial, as well as his statements to the trial court
15 during sentencing.

16 In his statement to the probation officer, Casto claimed that he had tried to work out the
17 mortgage payments with Wells Fargo after his father died but acknowledged that it was difficult.¹²⁷ He
18 denied receiving foreclosure paperwork from Wells Fargo and asserted he would have moved his stuff
19 out if evicted.¹²⁸ He denied purposely starting the fire and stated that he had merely set a fire in the
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21 ¹²⁰ AGRL Exs. at p. 1339.

22 ¹²¹ AGRL Exs. at pp. 1411, 1419.

23 ¹²² AGRL Exs. at p. 1409.

24 ¹²³ AGRL Exs. at p. 1426.

25 ¹²⁴ AGRL Exs. at p. 1426.

26 ¹²⁵ AGRL Exs. at pp. 1425, 1444.

27 ¹²⁶ AGRL Exs. at p. 1429.

28 ¹²⁷ AGRL Exs. at p. 374.

¹²⁸ AGRL Exs. at p. 374.

1 fireplace prior to falling asleep.¹²⁹ He also stated he was guilty of falling asleep with a lit candle and
2 supposedly woke up to discover the house was on fire.¹³⁰ He insisted he was not guilty of arson.¹³¹

3 In his declaration asking for a new trial, Casto asserted that he always had a candle lit, that he
4 was dog sitting and, therefore, would not have started a fire, and none of his actions were out of the
5 ordinary that night.¹³² He also asserted that he drove away from the scene to report the fire in person
6 at the fire station. He further asserted that he had a cigarette and marijuana butt in his pocket, in
7 addition to the lighter that law enforcement found when they searched his pockets.¹³³

8 As part of his motion for a new trial, Casto argued that evidence of him transporting gas cans
9 from the trunk of his car into the home was untrue because the trunk could not be opened, as
10 documented in the police report.¹³⁴ However, defense counsel later retracted this argument after
11 several jail call recordings revealed Casto chiding officers for failing to discover that he had set the car
12 to “valet mode,” which precluded anyone from opening the trunk.¹³⁵

13 In denying Casto’s motion for new trial, the trial court found sufficient credible evidence to
14 support the jury’s guilty verdict. The court acknowledged there was conflicting expert testimony, but the
15 jury found the prosecution’s witnesses to be credible, which was bolstered by Casto’s suspicious
16 conduct.¹³⁶

17 As the court later commented at sentencing, “I believe you had a fair trial, and you were
18 convicted by a jury and you were represented by competent counsel.”¹³⁷ Based upon that verdict, the
19 court determined that Casto’s crime of arson “shows planning and sophistication” and presented “a
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21 ¹²⁹ AGRL Exs. at p. 373.

22 ¹³⁰ AGRL Exs. at p. 374.

23 ¹³¹ AGRL Exs. at p. 374.

24 ¹³² AGRL Exs. at p. 385.

25 ¹³³ AGRL Exs. at p. 202.

26 ¹³⁴ AGRL Exs. at pp. 427-429.

27 ¹³⁵ AGRL Exs. at pp. 313-315.

28 ¹³⁶ AGRL Exs. at pp.1660-1667.

¹³⁷ AGRL Exs. at p. 1686.

1 threat of great bodily harm to the neighborhood.”¹³⁸ After acknowledging mitigating factors, including
2 Casto’s prior satisfactory performance on probation, the court ultimately imposed the middle term
3 sentence.¹³⁹

4 **C. Appellate Court Decision**

5 In affirming Casto’s conviction on appeal, the Court of Appeal concluded that Casto’s
6 suspicious behavior around the time of the fire provided ample evidence to support his arson
7 conviction, even without any expert testimony. The court characterized “the projection coolant
8 evidence as a possible alternate source of the odor” in Casto’s home “as a relative molehill” in
9 comparison to the other incriminating evidence against Casto.¹⁴⁰ The court further deemed it to be
10 “mere speculation on the state of the record that [Casto] lit and negligently oversaw the burning of the
11 tea candles, let alone that they were the cause of the fire.”¹⁴¹ Ultimately, the appellate court
12 unanimously affirmed Casto’s arson conviction.

13 **D. CalVCB Proceedings**

14 **1. Written Documentation**

15 In support of his claim, Casto submitted a declaration alleging his innocence. In it, Casto stated
16 that, before the fire, he had run a Craigslist add to sell his 1967 El Camino.¹⁴² A man name Dustin
17 responded, and he made arrangements for the buyer to pick up the car between 10:30 a.m. and noon
18 on the day of the fire.¹⁴³ He also went shopping with a former roommate the day before the fire at
19 Grocery Outlet Bargain Market, and she bought him \$50 worth a food because she owed him and it
20 was Easter the next day.¹⁴⁴ Casto asserted the store’s bags were fire engine red and school bus
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23 ¹³⁸ AGRL Exs. at p. 1686.

24 ¹³⁹ AGRL Exs. at p. 1687.

25 ¹⁴⁰ AGRL Exs. at p. 1902.

26 ¹⁴¹ AGRL Exs. at p. 1707.

27 ¹⁴² App. at p. 11.

28 ¹⁴³ App. at p. 11.

¹⁴⁴ App. at p. 11.

1 yellow, and the neighbor mistook them for gas cans.¹⁴⁵ He insisted that they were not gas cans but
2 rather Grocery Outlet bags that he took from the trunk and into his kitchen.¹⁴⁶

3 Casto also indicated that he had performed well on probation and was scheduled to
4 successfully complete probation in May or June.¹⁴⁷ He was six classes away from graduation of
5 jewelry design and repair school,¹⁴⁸ and he was working as an In Home Support Services (IHSS)
6 caretaker.¹⁴⁹ He had his own business as an independent contractor doing mortgage inspections.¹⁵⁰
7 Additionally, he was planning a grand re-opening of Casto's jewelry on July 4th.¹⁵¹ He had a business
8 license and fictitious name application pending, and he also had applied to work at a UPS pick/up drop
9 off like his father.¹⁵² He was also adamant that he was clean and sober.¹⁵³

10 Casto went on to describe the things that he lost in the fire, including an electric bass guitar,
11 free clothing he had received, a place to park his cars and motorcycles, a house with a house payment
12 less than the average rent in Foresthill, nice furniture, an expensive television, various rocks, crystals
13 and geodes, a large expensive safe, and a fully equipped jewelry shop as well as a new a convection
14 oven and gas grill island top that he had installed in his kitchen.¹⁵⁴ Casto further denied the utility theft
15 charge, alleging the utility company had shut off the valve but it was leaking.¹⁵⁵

16 Casto also provided the Origin and Cause Report from Ablott, which concluded that the fire
17 originated within the home above the floor in the area near the projection television and opined that the
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19
20 ¹⁴⁵ App. at p. 11.

21 ¹⁴⁶ App. at p. 11.

22 ¹⁴⁷ App. at p. 11.

23 ¹⁴⁸ App. at p. 11.

24 ¹⁴⁹ App. at p. 12.

25 ¹⁵⁰ App. at p. 12.

26 ¹⁵¹ App. at p. 12.

27 ¹⁵² App. at p. 12.

28 ¹⁵³ App. at p. 12.

¹⁵⁴ App. at pp. 12-14.

¹⁵⁵ App. at p. 15.

1 cause of the fire was undetermined.¹⁵⁶ Casto submitted the motion for a new trial, which included his
2 declaration as previously summarized.¹⁵⁷

3 Casto also submitted the results of a computerized Psychophysiological Detection of Deception
4 Test performed by Peter Javan, a Polygraph Examiner at Professional Polygraph Services on July 23,
5 2025. During the test, the polygrapher posed the following four questions:

- 6 1) Did you light your house on fire the morning of April 4th 2015, while leaving home?
- 7 2) Did [neighbor] Alissa ... mistake grocery outlet bargain market plastic bags for gas cans, when
8 she saw you empty your car trunk the night before?
- 9 3) Was a guy from craigslist [*sic*] coming to buy your 1967 El Camino between 1030am-12pm the
10 morning of the fire?
- 11 4) Did you wake up with the house on fire with your dog behind the 60x60 projection television on
12 April 4th 2015, at about 8:03am?

13 Casto replied “no” to the first question and “yes” to the remaining three questions. Without disclosing
14 any of the underlying data, the examiner concluded that Casto was likely telling the truth when
15 answering the questions.¹⁵⁸

16 In opposition to the claim, the Attorney General submitted the complete trial record, as
17 summarized above. The Attorney General also submitted impeachment materials related to Casto’s
18 proffered polygraph examination, as well as a 5-minute and 46 second video of Casto’s burning
19 residence while responders attempted to extinguish the flames.

20 **2. Hearing Testimony**

21 At his CalVCB hearing on September 3, 2025, Casto testified and called the polygrapher and
22 two character witnesses. Though the burden rested upon Casto to demonstrate his innocence, the
23 Attorney General called a law enforcement official as an expert on polygraphs. Each witness’
24 testimony is summarized below.

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26 ¹⁵⁶ App. at p. 19.

27 ¹⁵⁷ App. at p. 101.

28 ¹⁵⁸ See Computerized Polygraph Examination: Chris C. Casto (July 23, 2025).

1 **a. Peter Javan**

2 Casto called the Polygraph Examiner Peter Javan (Javan) to testify in support of his claim.¹⁵⁹
3 Jayvon testified that he administered a polygraph examination to Casto on July 23, 2025, that was
4 comprised of ten questions. They included four relevant questions from Casto and six control or
5 irrelevant questions.¹⁶⁰ He indicated that the results of the four relevant questions (listed above)
6 indicated that Casto was being truthful.¹⁶¹ On cross-examination, Javan acknowledged that Casto
7 wrote all four questions in advance of the exam, whereas the remaining control questions were
8 developed on the spot.¹⁶² Javan further acknowledged that he destroyed all underlying data charts
9 within 24 hours of completing the exam, ostensibly for privacy concerns, which precluded an
10 independent evaluation of the results by other polygraphers.¹⁶³

11 **b. Casto**

12 At the hearing, Casto denied intentionally starting the fire that burned his father's home.
13 Notably, Casto did not mention whether he lit a fire in the fireplace beforehand. Although Casto
14 insisted that he lit candles every night, he acknowledged that all of the candles in the living room were
15 extinguished by 10:00 p.m., well before the fire started ten hours later at 8:00 a.m.¹⁶⁴ He speculated,
16 instead, that "it was electrical" from a "plug ... [located] high off the wall..."¹⁶⁵

17 According to Casto, he was asleep in his brand new \$1,500 leather Lazy Boy, in front of his 60-
18 inch projection television when the first started.¹⁶⁶ He was awoken by his dog and an abnormal bark.¹⁶⁷

21 ¹⁵⁹ Audio Recording of September 3, 2025, Hearing Testimony of Peter Jayvan at 00:13:22-
22 00:41:56.

23 ¹⁶⁰ Id. at 00:15:21-00:15:31.

24 ¹⁶¹ Id. at 00:16:07-00:18:43.

25 ¹⁶² Id. at 00:39:07-00:40:05.

26 ¹⁶³ Id. at 00:33:00-00:33:35.

27 ¹⁶⁴ Id. at 3:17:50-3:18:19.

28 ¹⁶⁵ Ibid.

¹⁶⁶ Audio Recording of September 3, 2025, Hearing Testimony of Chris Casto at 02:24.00-02:24:13.

¹⁶⁷ Id. at 1:40:23-01:40:41.

1 He then fell back asleep, and the dog started barking again. At that point he woke up and could see
2 flames in his dog's eyes. He looked at the wall and watched the flames go up the wall and over the
3 ceiling.¹⁶⁸ He made it out of the living room, through the kitchen, and out the back door.¹⁶⁹ He pushed
4 his motorcycle off the back porch.¹⁷⁰ He then stepped into his Mercedes-Benz and supposedly "hailed
5 ass" to the fire department.¹⁷¹ He allegedly rang the bell and knocked on the door and expected
6 someone to show up a lot quicker than they did.¹⁷² Casto stated that he did not call 911 because he
7 did not have his phone, as it was in the house.¹⁷³ He then returned to his car and drove back home,
8 parking around the corner.¹⁷⁴ He started praying to God not to let the fire burn down his neighbor's
9 house.¹⁷⁵ He claimed that he couldn't bear to watch the fire so he drove off.¹⁷⁶ After the fire was
10 extinguished, law enforcement spoke to him and then arrested him for utility theft and arson.¹⁷⁷

11 Casto insisted that his neighbor mistakenly thought she saw him moving gas cans into the
12 kitchen the day before the fire when, instead, he had been carrying Grocery Outlet Bargain Market
13 bags that were colored fire engine red and school bus yellow.¹⁷⁸ He claimed that he would not have
14 put gas cans in his new Mercedes-Benz car.¹⁷⁹ He denied owning a gas can and noted that none had
15 been found on the property.¹⁸⁰

16 Casto offered a new explanation for the source of the smell in the house that investigators had
17

18 ¹⁶⁸ Id. at 1:40:45-01:41:00.

19 ¹⁶⁹ Id. at 01:41:15-01:41:23.

20 ¹⁷⁰ Id. at 01:41:43-01:41:52.

21 ¹⁷¹ Id. at 01:41:52-01:42:02.

22 ¹⁷² Id. at 01:42:05-01:42:14.

23 ¹⁷³ Id. at 02:32:37-02:32:43.

24 ¹⁷⁴ Id. at 01:42:39-01:42:46.

25 ¹⁷⁵ Id. at 01:43:00-01:43:14.

26 ¹⁷⁶ Id. at 01:43:18-01:43:22, 02:34:00-02:34:05.

27 ¹⁷⁷ Id. at 01:44:08-01:44:52.

28 ¹⁷⁸ Id. at 01:46:16-01:46:34; 01:58:16 -01:58:24.

¹⁷⁹ Id. at 01:47:05-01:47:12.

¹⁸⁰ Id. at 01:47:05-01:47:12.

1 believed to be from ignitable fluids. He explained that his dad had been a jeweler for 35 years and had
2 a home jewelry workshop that supposedly used vulcanized rubber.¹⁸¹ He claimed that over a thousand
3 balls of vulcanized rubber had been stored on a wall in the home. Casto brought a sample of the
4 alleged burnt vulcanized rubber, which the hearing officer described as having a burnt plastic smell.¹⁸²
5 He also claimed that the alleged “pour patterns” were actually traffic wear patterns caused by a
6 mobility scooter that his dad had used in the house.¹⁸³ Casto further claimed the flammable rag found
7 in his car contained engine degreaser, which he maintained was hard to ignite.¹⁸⁴

8 Casto submitted a video of Forest Hill at night to show how dark it was. He said on the morning
9 of the fire, he had been up at 4:30 a.m. to take pictures of the third and fourth blood moon, which he
10 testified will probably never happen again in our lifetime.¹⁸⁵ He acknowledged going to his car and
11 inadvertently setting off the alarm.¹⁸⁶ Then Casto allegedly walked down the street, came back inside,
12 went to sleep and woke up with his dog trying to wake him.¹⁸⁷ Casto did not address the cause of his
13 car alarm around 7:45 a.m. Casto emphasized that the police did not find any boxes inside his car, just
14 two empty water bottles, a dog bowl, a leash, some leather cleaner, some Windex and the flammable
15 rag.¹⁸⁸

16 c. Sarah Campbell

17 Sarah Campbell testified that she had known Casto for 18 years. On the morning of the fire,
18 Casto was watching her dog. Sarah was not present when the fire occurred, but she had plans to
19 move in with Casto.¹⁸⁹ She did not believe that Casto would have started a fire while watching her

21 ¹⁸¹ Id. at 01:49:08-01:49:29.

22 ¹⁸² Id. at 01:59:09-01:59:58.

23 ¹⁸³ Id. at 01:50:25-01:50:36.

24 ¹⁸⁴ Id. at 01:48:44-01:48:54.

25 ¹⁸⁵ Id. at 01:50:47- 01:51:38.

26 ¹⁸⁶ Id. at 01:51:40-01:51:47.

27 ¹⁸⁷ Id. at 01:51:47-01:51:53.

28 ¹⁸⁸ Id. at 01:51:54-01:52:13.

¹⁸⁹ Audio Recording of September 3, 2025, Hearing Testimony of Sarah Campbell at 42:06-42:17.

1 dog.¹⁹⁰ On the morning of the fire, her dog showed up at her door when she got home at about 8:00
2 a.m., though she could not remember exactly what time.¹⁹¹ She knew that Casto had been going to
3 school for jewelry design and repair.¹⁹² She had also given him some gems to make her rings and all
4 those were melted and destroyed in the fire.¹⁹³ Sarah opined that Casto was doing really good in his
5 life at the time of the fire.¹⁹⁴

6 Sarah acknowledged that Casto was having trouble paying the mortgage, supposedly because
7 he did not know the exact amount of the payment and the bank was not accepting it.¹⁹⁵ She knew that
8 Casto owned a motorcycle and two cars, one of which was a Mercedes Benz that had supposedly
9 come with a lot of clothing.¹⁹⁶ Evidence that Casto was seen moving gas cans into the house, that he
10 was wearing multiple layers of clothing on the morning of the fire, that he had a rag with ignitable liquid
11 on it in his car, that he had moved his motorcycle away from the house just prior to the fire starting,
12 and that he did not call 911, did not change Sarah's mind about Casto's culpability for arson.¹⁹⁷ She
13 still believed the fire was an accident.¹⁹⁸

14 **d. Rhonda Hart**

15 Rhonda Hart met Casto in an AA meeting.¹⁹⁹ She became Casto's sponsor.²⁰⁰ He was almost
16 one year sober when he went to jail for a different crime.²⁰¹ They reconnected two and a half years
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19 ¹⁹⁰ Id. at 00:43:04-00:43:14.

20 ¹⁹¹ Id. at 00:47:15-00:47:48.

21 ¹⁹² Id. at 00:43:52-00:44:06.

22 ¹⁹³ Id. at 00:43:20-00:43:42.

23 ¹⁹⁴ Id. at 00:44:37-00:44:37.

24 ¹⁹⁵ Id. at 00:48:49-00:49:28

25 ¹⁹⁶ Id. at 00:51:41-00:51:46.

26 ¹⁹⁷ Id. at 00:49:33-00: 51:19.

27 ¹⁹⁸ Id. at 01:41:15-01:41:23.

28 ¹⁹⁹ Audio Recording of September 3, 2025, Hearing Testimony of Rhonda Hart at 02:52:35-02:52:45.

²⁰⁰ Id. at 02:52:56-02:53:04.

²⁰¹ Id. at 02:53:31-02:53:52.

1 before the fire.²⁰² She testified that he was doing really well and he had everything going for him.²⁰³ He
2 had one business and was starting another.²⁰⁴ He was on Step 12 for the first time, he had multiple
3 cars, and he was just happy with life.²⁰⁵ He was also an avid long drive golfer and headed to the World
4 Championship.²⁰⁶

5 After the fire, Casto went to jail and they lost contact again.²⁰⁷ Following his release, they
6 reconnected two and a half years ago and had been together ever since.²⁰⁸ Rhonda was satisfied that
7 Casto has told her everything about the fire.²⁰⁹ Rhonda admitted, however, that she was not present
8 when the fire occurred.²¹⁰

9 **e. Detective Sabra**

10 In opposition to the claim, the Attorney General presented testimony from Sacramento Police
11 Detective Tamer Sabra as an expert in conducting polygraph examinations.²¹¹ Detective Sabra had
12 performed over 700 polygraphs in his role as a detective. Detective Sabra discussed the various ways
13 a polygraph test can be manipulated by an examinee's countermeasures.²¹² For instance, the subject
14 might use drugs, induce pain by biting the cheek or tongue, or swallow at certain times.²¹³ Detective
15 Sabra also discussed the importance of having relevant questions that are formulated correctly.²¹⁴ He
16 opined that when proper questions are posed, the polygraph results are statistically accurate 70 to 90
17

18 ²⁰² Id. at 02:54:32-02:54:35.

19 ²⁰³ Id. at 02:54:36-02:54:50.

20 ²⁰⁴ Id. at 02:55:00-02:55:09.

21 ²⁰⁵ Id. at 02:55:14-02:55:34.

22 ²⁰⁶ Id. at 02:55:42-02:55:52.

23 ²⁰⁷ Id. at 02:56:28-02:56:35.

24 ²⁰⁸ Id. at 02:56:39-02:56:47.

25 ²⁰⁹ Id. at 02:58:04-02:58:25.

26 ²¹⁰ Id. at 02:59:29-02:59:34.

27 ²¹¹ Audio Recording of September 3, 2025, Hearing Testimony of Tamer Sabra at 00:52:51-01:23:43.

28 ²¹² Id. at 01:03:50-01:03:58.

²¹³ Id. at 01:03:02-01:03:43.

²¹⁴ Id. at 01:04:48-01:05:14.

1 percent of the time.²¹⁵

2 Detective Sabra examined each of the questions that Casto was asked during his polygraph.²¹⁶
3 He did not find them to be well formulated questions.²¹⁷ He disagreed with the framing and wording of
4 the four relevant questions on multiple grounds, explaining that some lacked specificity, others were
5 needlessly too complex, or depended upon the thoughts or feelings of others, all of which allowed
6 Casto to avoid having to truthfully answer whether or not he started the fire.²¹⁸ Detective Sabra would
7 have reworded the questions in a simple and direct format to eliminate any evasive techniques.²¹⁹

8 The hearing officer asked Detective Sabra whether there was room for an examiner's
9 interpretation when evaluating the results of a polygraph examination.²²⁰ Detective Sabra said there
10 was and explained that the examiner reviews the data and assigns a score for the subject's breathing,
11 galvanized skin response, and cardiac measurements, and those scores, in turn, are added together
12 for a single number that is indicative of truthfulness or deception.²²¹ Consequently, the reliability of any
13 polygraph examination depends on the consideration of multiple data points, all of which are subject to
14 the individual judgment of the examiner.²²² The inherent subjectivity of the scoring may lead to differing
15 opinions on the subject's truthfulness.²²³

16 **IV. Determination of Issues**

17 Penal Code section 4900 allows a person, who has been erroneously convicted and
18 imprisoned for a felony offense that they did not commit, to submit a claim for compensation to
19 CalVCB. Typically, the claimant bears the burden to prove by a preponderance that (1) the crime with
20

21 ²¹⁵ Id. at 01:06:13-01:06:56.

22 ²¹⁶ Id. at 01:07:43-01:12:54.

23 ²¹⁷ Id. at 01:07:43-01:12:54.

24 ²¹⁸ Id. at 01:07:53-01:12:49.

25 ²¹⁹ Id. at 01:09:09-01:09:09.

26 ²²⁰ Id. at 01:18:10-01:18:32.

27 ²²¹ Id. at 01:19:41-01:19:55.

28 ²²² Id. at 01:19:56-01:20:43.

²²³ Id. at 01:19:56-01:20:43.

1 which they were convicted either did not occur or was not committed by them and (2) they suffered
2 injury as a result of their erroneous conviction.²²⁴ In this context, injury means that, but for the
3 erroneous conviction, the claimant would have been free from custody.²²⁵ Once a properly submitted
4 claim is filed, Penal Code section 4902 requires the Attorney General to submit a written response,
5 after which an informal administrative hearing ensues pursuant to Penal Code section 4903. If the
6 claimant satisfies their burden at the hearing, then Penal Code section 4904 requires CalVCB to
7 approve payment for the purpose of indemnifying the claimant for the demonstrated injury, at the rate
8 of \$140 per day of their incarceration, if sufficient funds are available, upon appropriation by the
9 Legislature.²²⁶ No compensation is authorized for any time spent on supervised released.²²⁷

10 In limited circumstances, a different and expedited procedure may apply to properly filed claims
11 by claimants whose convictions have been reversed under specified circumstances. First, under Penal
12 Code section 1485.55 or 851.865, if the claimant received a court finding of factual innocence, then
13 CalVCB must approve the claim, without a hearing and within 90 days, for the demonstrated injury.²²⁸
14 Second, under subdivision (b) of Penal Code section 4900, if the claimant's conviction was vacated by
15 a grant of habeas relief or pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2), and
16 the charges were dismissed or acquitted on remand, and the Attorney General declined to object with
17 clear and convincing proof of guilt, then CalVCB must approve the claim, without a hearing and within
18 90 days, for the demonstrated injury.²²⁹ Third, under subdivision (d) of section 1485.55, if a court
19 granted a motion for relief based upon a conviction that was vacated by a grant of habeas relief or
20

21 ²²⁴ Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

22 ²²⁵ Cal. Code of Regs., tit. 2, § 640, subd. (f).

23 ²²⁶ Pen. Code, § 4904.

24 ²²⁷ Pen. Code, § 4904; see also proposed Pen. Code, § 4904, subd. (d), conditionally operative July
25 1, 2024, subject to appropriation, as added by Stats.2022, c. 771 (A.B. 160), § 21; Governor's May
26 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>.

27 ²²⁸ Pen. Code, §§ 851.865; 1485.55, subds. (a), (b), and (e); 4902, subd. (a); see also Cal. Code of
28 Regs., tit. 2, § 640, subds. (e)(1)-(2).

²²⁹ Pen. Code, §§ 4900, subd. (b); 4902, subd. (d); 4904.

1 pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2), the charges were dismissed or
2 acquitted on remand, and the Attorney General declines to object with clear and convincing proof of the
3 claimant's guilt, then CalVCB must approve the claim, without a hearing and within 90 days, for the
4 demonstrated injury.²³⁰ While a court order under subdivision (d) of section 1485.55 does not
5 constitute a finding of factual innocence, it nevertheless requires expedited approval of a filed claim.²³¹
6 Unless one of these narrow statutory exceptions applies, then the claimant bears the burden to prove
7 innocence and injury by a preponderance of the evidence under subdivision (a) of Penal Code Section
8 4900.

9 Subdivision (a) of section 4900 requires the claimant to bear the burden of proving by a
10 preponderance that (1) the crime with which they were convicted either did not occur or was not
11 committed by them and (2) they suffered injury as a result of their erroneous conviction.²³² When
12 determining whether the claimant has satisfied their burden of proof, the Board may consider the
13 "claimant's denial of the commission of the crime; reversal of the judgment of conviction; acquittal of
14 claimant on retrial; or the decision of the prosecuting authority not to retry claimant of the crime...."²³³
15 The Board may also "consider as substantive evidence the prior testimony of witnesses [that] claimant
16 had an opportunity to cross-examine, and evidence admitted in prior proceedings for which claimant
17 had an opportunity to object."²³⁴ Ultimately, the Board may consider "any other information that it
18 deems relevant to the issue before it," even if inadmissible under the traditional rules of evidence, so
19 long as "it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct
20 of serious affairs."²³⁵

21
22
23 ²³⁰ Pen. Code, § 1485.55, subd. (e).

24 ²³¹ 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 that the person charged and convicted of an offense did not commit the crime").

26 ²³² Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

27 ²³³ Cal. Code Regs., tit. 2, § 641, subd. (a).

28 ²³⁴ Cal. Code Regs., tit. 2, § 641, subd. (b).

²³⁵ Cal. Code Regs., tit. 2, § 641, subds. (c), (d), and (f).

1 CalVCB's broad authority to consider all relevant evidence when deciding a claimant's
2 application for compensation may be limited by various court decisions during the criminal
3 proceedings. By statute, CalVCB is bound by "factual findings" and "credibility determinations"
4 rendered by a court during proceedings on a claimant's petition for habeas corpus, motion to vacate
5 judgment pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2), or an application for a
6 certificate of factual innocence.²³⁶ A claim under Penal Code section 4900 may not be denied solely
7 because the claimant failed to obtain a court finding of factual innocence.²³⁷

8 **A. Penal Code Section 4900, subdivision (a), Governs Casto's Claim**

9 Casto seeks compensation for his 2016 felony conviction for arson in Placer County Superior
10 Court case number 62-137196. This conviction was not vacated by grant of habeas or pursuant to
11 Penal Code section 1473.6 or 1473.7, subdivision (a)(2). As such, the burden shifting provisions in
12 subdivision (b) of Penal Code section 4900 and subdivision (d) of Penal Code section 4902 do not
13 apply. Moreover, Casto lacks a finding of factual innocence by any court under Penal Code section
14 1485.55 or 851.865. Thus, Casto's claim does not fall within any of the limited statutory exceptions to
15 subdivision (a) of section 4900. Accordingly, subdivision (a) governs the disposition of his claim. Casto
16 therefore bears the burden to demonstrate his innocence by a preponderance of the evidence.

17 **B. No Binding Court Findings**

18 When considering whether Casto has satisfied his burden of proof, CalVCB is bound by
19 "factual findings" made and "credibility determinations" rendered during proceedings on a petition for
20 habeas corpus, motion to vacate a judgment pursuant to Penal Code section 1473.6 or 1473.7,
21 subdivision (a)(2), or an application for a certificate of factual innocence.²³⁸ Notably, these statutory
22
23

24
25 ²³⁶ Pen. Code, §§ 1485.5, subd. (c); 4903, subd. (c).

26 ²³⁷ Pen. Code, § 1485.55, subd. (d); Cal. Code of Regs., tit. 2, § 645, subd. (f).

27 ²³⁸ Pen. Code, §§ 1485.5, subd. (c); 4903, subd. (c); see also *Gonzales v. California Victim*
28 *Compensation Board* (2023) 98 Cal.App.5th 427 (defining "factual findings" in this context to exclude
"the habeas court's summary of, observations about, and characterizations of the trial record when
the habeas court is not finding facts after entering new evidence").

provisions omit decisions rendered by an appellate court on direct appeal.²³⁹ Given the procedural posture of Casto's still-valid conviction for arson, no binding findings were rendered by a court. Nonetheless, CalVCB remains free to consider the appellate court's affirmance of Casto's conviction as relevant evidence in this informal administrative proceeding.²⁴⁰ No presumption is made as a result of Casto's failure to obtain a finding of factual innocence.²⁴¹

C. Insufficient Proof of Innocence

In this administrative proceeding, Casto fails to satisfy his burden to demonstrate his innocence of arson by a preponderance. On balance, the weight of inculpatory evidence far exceeds the proffered exculpatory evidence. As detailed below, the inculpatory evidence includes Casto's still valid jury conviction for arson that was affirmed on appeal, whereas the exculpatory evidence largely consists of Casto's self-serving statements and an unreliable polygraph report. Having failed to prove that the crime of arson either did not occur or was not committed by him, Casto's claim for compensation must be denied.

1. Compelling Inculpatory Evidence

The record contains overwhelming evidence of Casto's guilt. Most significantly, Casto remains lawfully convicted of arson. His conviction has never been reversed or vacated by a court of law. While Casto's still valid conviction does not preclude him from seeking compensation, it nevertheless carries significant incriminating weight.²⁴²

Also, a jury found Casto guilty of arson beyond a reasonable doubt. This verdict followed a formal trial, during which the jurors observed physical evidence, heard live testimony from

²³⁹ *Ibid.*; see also *Jack v. Ring LLC* (2023) 91 Cal.App.5th 1186, 1211-1212 ("Appellate courts do not make factual findings; we review 'the correctness of a judgment [or order] as of the time of its rendition'"); *People v. Cervantes* (2020) 46 Cal.App.5th 213, 224 ("appellate courts are not equipped to accept new evidence and make factual findings").

²⁴⁰ Cal. Code Regs., tit. 2, § 641.

²⁴¹ Pen Code, § 1485.55, subd. (d).

²⁴² See Pen. Code, § 4901, subd. (a) (allowing any person to submit a claim "after ... pardon granted, or release from custody"); cf. Pen. Code, § 4901, subd. (c) (imposing a 60-day waiting period only after a claimant's conviction is reversed to ensure finality of the reversal).

1 eyewitnesses, investigators, and expert witnesses, and made credibility determinations after careful
2 consideration of all admissible evidence. Those determinations necessarily included the jury's
3 unanimous belief, beyond a reasonable doubt, that Casto intentionally set fire to his residence. As
4 such, the jury necessarily determined that any contrary evidence proffered by the defense was not
5 credible. The findings of the jury carry great weight in this informal administrative proceeding.

6 Moreover, compelling evidence in the record supports the jury's guilty verdict. Namely, Casto's
7 suspicious actions during and after the fire further support the jury's conclusion and are inculpatory.
8 Neighbors testified that they had seen Casto removing boxes from the home before the fire. Another
9 neighbor testified they had seen Casto moving what appeared to be gas cans into his home the day
10 before the fire, though none were found in the home after the fire. Another witness noted that they had
11 heard Casto's car alarm going off during the night and again at 4:45 a.m. and 7:45 a.m. before the fire
12 started shortly thereafter at approximately 8:00 a.m. When they looked out the window after the
13 second alarm, they saw Casto moving boxes to his car. Another neighbor noted seeing Casto sitting in
14 his car with his dog before the fire broke out. Meanwhile, Casto's motorcycle, which was normally
15 parked on the walkway behind his home, was parked on the street in front of a neighboring home.

16 Rather than calling 911, Casto allegedly chose to drive to the fire station. Instead of returning to
17 assist or alert neighbors, he parked down the street and watched his home burn. When officers
18 contacted Casto, he had on multiple layers of clothing, a lighter in his pocket and the hair on his face
19 and arms appeared singed and he had soot on his face. These are suspicious actions and facts that
20 strongly suggest Casto purposely started the fire.

21 The nature of the fire itself was indicative of arson, as explained by the prosecution's expert
22 witnesses. The fire engulfed almost all areas of the home quickly. The firefighters experienced flash
23 back as they doused the flames with water, indicating the use of an accelerant. The suspicious odor
24 detected by investigators further indicated the use of an ignitable fluid. The observations and
25 interpretation of the fire patterns by seasoned local arson investigators likewise suggested an
26 accelerant was used, despite the defense's expert who offered a contrary opinion of the cause of the
27 fire.

1 This weight is bolstered by the trial court’s denial of Casto’s motion for a new trial after a
2 lengthy evidentiary hearing, which examined the expert testimony provided at trial, the statements of
3 witnesses, the actions of the prosecutor and the competency of his trial counsel. The court denied the
4 motion in its entirety, observing that sufficient evidence supported the jury’s verdict in finding Casto
5 guilty of arson.²⁴³

6 This weight is further enhanced by the Court of Appeal’s decision that unanimously affirmed
7 Casto’s arson conviction.²⁴⁴ As the appellate court observed, Casto’s “suspicious behavior of itself
8 would provide sufficient circumstantial evidence of his guilt even without the expert testimony.”²⁴⁵ The
9 court characterized “the projection coolant evidence as a possible alternate source of the odor [as] a
10 relative molehill.”²⁴⁶ The court added that it was “mere speculation on the state of the record that
11 [Casto] lit and negligently oversaw the burning of the tea candles, let alone that they were the cause of
12 the fire.”²⁴⁷ Though not binding, the unanimous decision by the appellate court further incriminates
13 Casto.

14 Overall, the record contains overwhelming proof of Casto’s guilt for his still valid conviction for
15 felony arson, which has never been reversed or vacated.

16 **2. Insubstantial Exculpating Evidence**

17 The weight of Casto’s proffered exculpating evidence pales in comparison. For starters, the
18 polygraph examination conducted by Javan carries little, if any, exonerating weight. Polygraph
19 examinations are not generally admissible in court due to their lack of scientific reliability.²⁴⁸ Notably, in
20 this case, the polygrapher who administered Casto’s exam admitted that he purposefully destroyed the
21 underlying charts and data he used to score Casto’s answers, which precluded independent

22
23 ²⁴³ AGRL Exs. at pp. 1660-1661.

24 ²⁴⁴ AGRL Exs. at pp. 1698-1708; *People v. Casto* (Cal Ct. App., 3d Dist., Aug. 28, 2018, C083447),
25 [nonpub. Opn.].

26 ²⁴⁵ AGRL Exs. at p. 1699.

27 ²⁴⁶ AGRL Exs. at p. 1702.

28 ²⁴⁷ AGRL Exs. at p. 1707.

²⁴⁸ Cal. Evid. Code, § 351.1 subd. (a).

1 examination of the results. The polygrapher appeared defensive when probed about the questions he
2 asked Casto and the scores he obtained. Additionally, as noted by Detective Sabra, the questions
3 posed to Casto in the exam were poorly worded and not carefully formulated to leave little room for
4 doubt in the truthfulness of the answers. Accordingly, the polygraph examination and related testimony
5 by Javan is not, at all, persuasive.

6 The testimony from Casto's character witnesses similarly fails to demonstrate innocence. Both
7 witnesses opined that things were going well in Casto's life at the time of the fire. However, neither of
8 them was present when the fire occurred and thus could not provide any eyewitness testimony
9 regarding the cause of the fire, nor Casto's actions before, during and after the fire. Therefore, any
10 exculpating weight that may be gleaned from their opinion as to Casto's unlikely propensity to commit
11 arson is ultimately insignificant.

12 Casto's proffered videos, as well as the jar of alleged burnt vulcanized rubber, likewise fail to
13 demonstrate innocence. His video showing the darkness in Foresthill was apparently captured a few
14 weeks prior to the hearing, not on the day of the fire nor even on the same or similar date or time of
15 year as the fire. Therefore, it is not demonstrative of the lighting circumstances on the night and
16 morning before the fire when various neighbors observed Casto's suspicious actions. Indeed, on the
17 night of the fire it appears there was a blood moon, but not when Casto took the video. Moreover, it
18 remains possible that additional lights, such as from a car, may have illuminated Casto's movements
19 or that his neighbors' eyesight may have adjusted to the darkness better than Casto's camera.
20 Accordingly, the lighting depicted in Casto's video has little if any evidentiary value.

21 Casto also submitted a video showing his unsuccessful attempts to ignite engine degreaser. He
22 offered this evidence purportedly to show that this substance is a heavy petroleum distillate that is not
23 flammable. Casto claimed that engine degreaser was the substance found on the rag in his car,
24 however there is no other independent evidence that corroborates this assertion. The DOJ analysis of
25 the substance on the rag only identified it as a heavy petroleum distillate without identifying a specific
26 type. The report regarding the test results of the substance on the rag noted several examples of such
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1 distillates that were flammable, such as kerosene and diesel fuel.²⁴⁹ Thus Casto's video of his failed
2 attempt to light engine degreaser, without evidence that the substance on the rag was engine
3 degreaser, is not exculpatory.

4 Casto's jar that allegedly contained burned vulcanized rubber similarly fails to carry any
5 exculpating weight. At the threshold, it lacks an appropriate foundation to confirm the contents of the
6 jar or the presence of the same substance inside Casto's home. But even so, the hearing officer
7 described the odor as "burnt plastic," whereas the investigators on scene all described the smell as a
8 chemical accelerant. In fact, Chief Kirk specifically testified that burnt plastic has a recognizable smell
9 and that was not the odor he detected in the home.²⁵⁰ Therefore, Casto's jar and related testimony
10 lacks any exculpatory weight.

11 As for Casto's testimony proclaiming his innocence, it is not credible. Aspects of his version of
12 events are refuted either by other direct evidence or his own inconsistencies. For instance, Casto
13 insisted that he had worked out the mortgage payments with the bank prior to the fire, but foreclosure
14 proceedings had already begun and the insurance on the home had been canceled by the insurer.
15 Despite Casto's insistence that he was asleep when the fire commenced and had only been awake
16 during the night to watch the moon, neighbors observed him carrying gas cans (or something) from his
17 car into his house and boxes from his house to his car. The neighbors' observations were corroborated
18 by Casto's car alarm, which went off during the night and again at 4:45 a.m. and 7:45 a.m. It is not
19 plausible that Casto would have inadvertently set off his car alarm at 7:45 a.m. in the morning,
20 ostensibly while looking at the moon, yet have been fast asleep inside his living room just 15 minutes
21 later when the fire started at 8:00 a.m.

22 Moreover, Casto's version of events has dramatically shifted over time, initially suggesting the
23 fire started in the fireplace, then by candles, and eventually claiming it was electrical. Casto belatedly
24 claimed he drove his car to the fire station and banged on the door to alert them of the fire, but no
25 witnesses support his account of those events. After authorities were alerted to the fire, rather than
26

27 ²⁴⁹ AGRL Exs. at pp. 522-523.

28 ²⁵⁰ AGRL Exs. at p. 611.

1 returning to his home to assist his neighbors who were trying to extinguish the fire with garden hoses,
2 Casto drove around the corner and sat in his car. Casto's credibility is further impeached by his prior
3 felony conviction for burglary, as well as his own recorded statements while in jail that refuted his legal
4 argument that his car trunk was not operable. Overall, Casto's account is not persuasive. Any
5 exculpatory weight is, therefore, de minimis.

6 Finally, Ablott's report and Casto's related arguments regarding the arson expert evidence fail
7 to demonstrate innocence. The jury rejected Ablott's testimony by convicting Casto of arson.
8 Experienced fire investigators at the scene were inundated by a pungent odor of an ignitable fluid and
9 burn patterns that indicated to them that an accelerant was used. Firefighters who fought to extinguish
10 the flames and others found the cause of the fire to be undetermined though likely caused by the tea
11 candles in the home sitting on the television. The jury was presented with thorough explanations of
12 both theories during trial. They were present to watch the live testimony of all the witnesses and
13 evaluate the soundness of their investigations and conclusions and assess their credibility. After
14 hearing all the evidence, the jury sided with the fire investigators at the scene immediately after the
15 fire. The jury's verdict was reasonable and amply supported by the trial evidence. None of Casto's
16 proffered new evidence persuades otherwise.

17 **3. Insufficient Proof of Innocence**

18 In this administrative proceeding, Casto fails to satisfy his burden of proving factual innocence
19 by a preponderance of the evidence. On balance, the weight of inculpatory evidence far outweighs the
20 proffered exculpatory evidence. There is substantial and compelling evidence supporting Casto's
21 conviction for arson. The home was being foreclosed at the time of the fire. Witnesses observed Casto
22 moving gas cans into the home and boxes out of the home, prior to the fire. Two investigators
23 concluded that the fire exhibited burn patterns consistent with the use of an accelerant and detected a
24 strong, unusual odor indicative of a flammable substance fueling the fire's spread. A jury unanimously
25 found this evidence sufficient to establish guilt beyond a reasonable doubt and that determination was
26 affirmed on appeal.

27 Taking those findings into account, Casto's evidence of innocence falls short. He presented, at
28 most, alternative explanations for the fire and attempts to reinterpret witness testimony. However, he

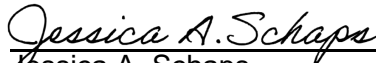
1 must affirmatively demonstrate his innocence by a preponderance of the evidence. This requires more
2 than competing theories and incredible assertions of innocence. The expert testimony he offered does
3 not disprove arson nor does it demonstrate that the prosecution's evidence was false. Similarly, his
4 polygraph evidence carries little weight given a polygraph's inherent lack of scientific reliability,
5 especially under the circumstances of Casto's examination. Finally, neither of Casto's character
6 witnesses were present at the fire and, therefore, could not provide direct evidence of Casto's
7 innocence.

8 Overall, Casto failed to demonstrate that he did not commit the crime of arson. His proffered
9 evidence of innocence fails to overcome the compelling evidence of guilt, which includes Casto's intact
10 conviction for arson. Casto has, therefore, failed to meet his burden and his claim for compensation
11 must be denied.

12 V. Conclusion

13 In accordance with subdivision (a) of Penal Code section 4900, the hearing officer recommends
14 that CalVCB deny Casto's claim. He failed to demonstrate by a preponderance of evidence that he did
15 not commit the crime of arson for which he was convicted and imprisoned. Casto is, therefore,
16 ineligible for compensation as an erroneously convicted person.

17 Date: August 3, 2026

18 
19 Jessica A. Schaps
20 Hearing Officer
21 California Victim Compensation Board
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RESPONSE RECEIVED

From: [Christopher Casto](#)
To: [Victims board.meeting](#)
Subject: 24-ECO-48
Date: Friday, August 28, 2026 4:31:05 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Constitutional and Statutory Analysis of Prosecutorial Misconduct: Suppression of Exculpatory Fire Investigation Findings and Denigration of Defense Experts in Arson Prosecutions Executive Summary and Legal Framework

In criminal prosecutions, the government is bound by constitutional, statutory, and ethical mandates to seek justice rather than merely secure convictions. Grounded in the Due Process Clause of the Fourteenth Amendment, these legal obligations establish strict boundaries governing the state's handling of exculpatory evidence and the permissible limits of advocate rhetoric during trial summation. [1][2][3][4][5][6][7]

When a prosecuting attorney encounters conflicting scientific evidence in an arson investigation—specifically determinations by state or municipal investigators that a fire was non-incendiary or was evaluated using discredited methodologies—and subsequently suppresses or bypasses those findings while launching a repetitive, ad hominem attack against a defense expert during closing argument, severe constitutional violations occur. [1][2][3][4][5][6][7] This research report provides a comprehensive legal analysis of two intertwined categories of prosecutorial misconduct:

Evidentiary Misconduct: Suppression of Exculpatory Scientific Opinions and Flawed Methodologies Constitutional Disclosure Mandates Under Brady v. Maryland

Under the doctrine established in *Brady v. Maryland*, the prosecution has an affirmative, non-delegable duty to disclose all material evidence favorable to the defense, regardless of whether the defense explicitly requests it or whether the prosecutor acted in good faith or bad faith. Evidence is legally material if there is a reasonable probability that its disclosure would have produced a different trial outcome, thereby undermining confidence in the jury's verdict. [1][2][3][4][5]

When official arson investigators determine that a fire's origin is non-incendiary or "undetermined," or when an investigator explicitly warns that a proposed theory of arson relies on "junk science," such conclusions constitute direct, highly material exculpatory evidence. Because the corpus delicti of arson requires proof that the fire was willfully and maliciously set, an official finding that the cause is non-incendiary directly negates the primary element of the charged offense. [1][2][3][4][5]

If the prosecution elects not to call an investigator as a trial witness to conceal testimony that refutes the state's arson narrative, two distinct constitutional errors arise:

Statutory Standards Governing False Scientific Testimony

The systematic modernization of fire science—principally codified in National Fire Protection Association Statement 921 (NFPA 921)—has led appellate courts to re-examine historic arson convictions founded on obsolete forensic indicators, such as crazed glass, floor char patterns, or sagged furniture springs. [1][2][3][4][5]

In progressive criminal procedure frameworks, such as California Penal Code Section 1473, the statutory definition of "false evidence" explicitly encompasses expert opinions that have been undermined by subsequent scientific developments or where the expert's underlying methodology was scientifically invalid. [1][2][3][4][5]

When a prosecutor is informed by qualified arson investigators that a charge rests on unreliable methodology, continuing to pursue a conviction on that basis violates multiple statutory and ethical rules:

Summation Misconduct: Impermissible Ad Hominem Attacks and Invective Rhetoric

The Boundary Between Bias Inquiry and Unlawful Disparagement

While prosecutors are permitted to cross-examine defense experts regarding their financial compensation and historical retention to demonstrate potential bias, this latitude is strictly bounded during closing arguments. A prosecutor may highlight factual conflicts or point out that an expert is compensated for their time, but may not transform summation into a forum for personal denigration. [1][2][3][4][5]

Appellate jurisprudence consistently condemns prosecutorial arguments that characterize defense expert witnesses as "hired guns," "politicians," or mercenary actors hired to fabricate excuses.

Permissible Summation Argument

Unconstitutional Prosecutorial Misconduct

Commenting on established expert witness compensation rates.

Accusing the defense of purchasing fabricated testimony.

Pointing out factual inconsistencies in expert opinions.

Characterizing experts as "hired guns" or "paid guys".

Challenging the scientific methodology or underlying data.

Repetitive ad hominem rhetoric ("reasonable doubt for a reasonable fee").

Drawing reasonable inferences supported by trial evidence.

Implying defense counsel or experts committed perjury or fraud.

Legal Analysis of the "Reasonable Doubt for a Reasonable Fee" Rhetoric

The phrase "a reasonable doubt for a reasonable fee"—along with the repetitive designation of a defense expert as "the paid guy"—moves beyond legitimate advocacy into improper denigration when used systematically during closing argument. [1][2][3][4]

This form of argument constitutes prosecutorial misconduct on three independent legal grounds:

1. Unsubstantiated Accusations of Defense Fabrication

Under the rule established in *People v. Bain*, a prosecutor commits severe misconduct by arguing or implying that defense counsel or defense witnesses have fabricated a defense, unless that assertion is supported by specific evidence in the record. Stating that the defense "purchased" reasonable doubt implies that the expert lied under oath in exchange for money, constituting an unsworn, unsubstantiated allegation of perjury and subornation of perjury. [1][2][3][4]

2. Appeals to Passion, Prejudice, and Outrage

Under *People v. Vance* and *People v. Hill*, closing arguments designed to divert the jury's attention from physical evidence to emotional outrage or disdain for defense expenditures are impermissible. Framing an expert witness as a paid mercenary calculatedly induces jury hostility toward the defendant for exercising their Sixth Amendment right to present defense evidence. [1][2][3][4]

3. Quantitative Excess and Pervasiveness

In *People v. Hill*, the California Supreme Court established that pervasive, repeated misconduct throughout trial or argument amplifies prejudice, preventing the jury from fairly evaluating the evidence. Repeating an improper disparaging phrase twenty-seven times transforms an isolated improper remark into a deliberate strategy to sway the jury through unevidentiary character assassination, establishing prejudicial error. [1][2][3][4]

Comparative Matrix of Judicial Standards and Precedential Outcomes

Appellate courts evaluate instances of scientific evidence suppression and defense expert disparagement under structured constitutional and statutory standards. The following table synthesizes key authorities, the specific forms of misconduct evaluated, and the resulting legal outcomes:

Case Citation

Specific Form of Misconduct Evaluated

Constitutional or Statutory Ground

Judicial Outcome and Precedential Holding

Brady v. Maryland (373 U.S. 83)

Suppression of exculpatory statement by accomplice regarding primary liability.

Fourteenth Amendment Due Process Clause (Material Evidence Suppression).

Conviction Reversed: The prosecution must disclose all material evidence favorable to the accused regardless of prosecutorial intent.

People v. Hill (17 Cal.4th 800)

Pervasive misconduct, misstating facts, and denigrating defense counsel and expert witnesses.

Cumulative Error Standard / Guaranteed Right to Fair Trial.

Conviction Reversed: Cumulative impact of repeated prosecutorial missteps deprived the defendant of a fair trial.

People v. Bain (5 Cal.3d 839)

Unsubstantiated claims during summation that defense counsel and expert fabricated defense.

Improper Summation / Unsworn Prosecutorial Vouching.

Conviction Reversed: Prosecutors may not imply defense fabrication without direct record evidence.

State v. Sipsas / Garner v. State (Nev. / CA Standards)

Characterizing defense expert as a "hired gun from Hot Tub Country" during closing argument.

Prejudicial Disparagement / Judicial Sua Sponte Intervention Duty.

Conviction Reversed: Vituperative remarks against defense experts warrant reversal under cumulative prejudice rules.

People v. Higgins (CA Ct. App.)

Accusing defense expert of being a "hired gun" paid to make up an excuse.

Pervasive Misconduct / Fundamental Unfairness Standard.

Conviction Reversed: A pervasive pattern of improper summation remarks rendered the trial fundamentally unfair.

In re Parks / PC § 1473

Reliance on outdated arson science where updated standards classify cause as "undetermined".

California Penal Code Section 1473 (False Evidence Standard).

Habeas Relief Granted: Outdated forensic arson testimony constitutes false evidence requiring post-conviction relief.

Synthesis of Cumulative Prejudice, Judicial Standards, and Remedies

The Cumulative Error Doctrine in Arson Prosecutions

When reviewing misconduct on appeal or habeas corpus, courts examine the cumulative impact of multiple errors

rather than evaluating each incident in isolation. Under the framework articulated in *People v. Hill* and *State v. Sipsas*, when a trial is infected by both evidentiary suppression and summation misconduct, the combined errors distort the fact-finding process. [1][2][3][4][5][6][7]

In an arson case where the prosecution conceals official investigator findings designating a fire non-incendiary or based on junk science, an evidentiary vacuum is created. When the defense attempts to fill this vacuum by calling an independent expert, and the prosecutor neutralizes that expert through twenty-seven iterations of ad hominem attacks ("paid guy", "reasonable doubt for a reasonable fee"), the state deprives the accused of a fair trial. The jury is left with a distorted narrative wherein state scientific dissent is hidden and defense scientific testimony is unfairly vilified. [1][2][3][4][5][6][7]

Preservation of Error and Plain Error Exceptions

While defense counsel ordinarily must raise a contemporaneous objection and request a jury admonition to preserve claims of prosecutorial misconduct, appellate courts recognize key exceptions:

Conclusion

A prosecution conducted by withholding non-arson investigator opinions while launching twenty-seven ad hominem attacks against a defense expert during summation represents a severe departure from constitutional and statutory mandates. [1][2][3]

The withholding of official investigator reports stating that a fire was not arson or was based on discredited science violates *Brady v. Maryland* and constitutes the presentation of false evidence under statutory provisions such as California Penal Code Section 1473. Furthermore, systematically disparaging a defense expert as a "paid guy" selling "reasonable doubt for a reasonable fee" violates *People v. Bain* and *People v. Hill* by alleging defense fabrication without evidence and appealing to juror prejudice. [1][2][3]

When presented on direct appeal or post-conviction habeas corpus, these combined violations establish cumulative prejudice, requiring the vacation of the conviction, an order for a new trial, and potential disciplinary or statutory sanctions against the prosecutor.

1. https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1325&context=faculty_publications (Closing Argument: Prosecution Misconduct)
2. <https://supreme.findlaw.com/supreme-court-insights/brady-v--maryland-case-summary.html> (*Brady v. Maryland Case Summary* - Supreme Court - FindLaw)
3. <https://claremontlawjournal.sites.pomona.edu/?p=203> (Shady Brady: A Case for Open File Discovery)
4. https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1325&context=faculty_publications (Closing Argument: Prosecution Misconduct)
5. <https://supreme.findlaw.com/supreme-court-insights/brady-v--maryland-case-summary.html> (*Brady v. Maryland Case Summary* - Supreme Court - FindLaw)
6. <https://claremontlawjournal.sites.pomona.edu/?p=203> (Shady Brady: A Case for Open File Discovery)
7. <https://stacy-raskin-q7hj.squarespace.com/s/Synopsis-of-the-Law-of-Prosecutorial-Misconduct.pdf> (a synopsis of the law - of prosecutorial misconduct in california)
8. <https://law.justia.com/cases/california/supreme-court/3d/5/839.html> (*People v. Bain* - California Case Law)
9. [https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=\(sc.PracticalLaw\)&transitionType=Document&needToInjectTerms=False](https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=(sc.PracticalLaw)&transitionType=Document&needToInjectTerms=False) (*Sipsas v. State* | Practical Law)
10. [https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=\(sc.PracticalLaw\)&transitionType=Document&needToInjectTerms=False](https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=(sc.PracticalLaw)&transitionType=Document&needToInjectTerms=False) (*Sipsas v. State* | Practical Law)
11. [https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=\(sc.PracticalLaw\)&transitionType=Document&needToInjectTerms=False](https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=(sc.PracticalLaw)&transitionType=Document&needToInjectTerms=False) (*Sipsas v. State* | Practical Law)
12. <https://cases.justia.com/california/supreme-court/2014-s208398.pdf?ts=1408381246> (IN THE SUPREME COURT OF CALIFORNIA)
13. <https://supreme.findlaw.com/supreme-court-insights/brady-v--maryland-case-summary.html> (*Brady v. Maryland Case Summary* - Supreme Court - FindLaw)
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15. [https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=\(sc.PracticalLaw\)&transitionType=Document&needToInjectTerms=False](https://uk.practicallaw.thomsonreuters.com/Document/I2d0ed131f39611d9b386b232635db992/View/FullText.html?originationContext=docHeader&contextData=(sc.PracticalLaw)&transitionType=Document&needToInjectTerms=False) (*Sipsas v. State* | Practical Law)