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

8  
9 In the Matter of:

10 **Ramon Del Rio**

11 Claim No. 23-ECO-65

**Proposed Decision**

**(Penal Code § 4900, subd. (a))**

12 **I. Introduction**

13 On December 20, 2023, Ramon Del Rio (Del Rio) submitted an application<sup>1</sup> to the California  
14 Victim Compensation Board (CalVCB) seeking compensation as an erroneously convicted person  
15 pursuant to Penal Code section 4900. The claim, as supplemented,<sup>2</sup> is based upon Del Rio's 1977  
16 convictions for two counts of first-degree felony murder, which were vacated pursuant to Penal Code  
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20 <sup>1</sup> Del Rio Application (App.) pp. 1-53. The pagination refers to the continuous page numbers for the  
21 entire 53-page PDF file submitted on December 20, 2023, including the Erroneously Convicted Person  
22 Claim Form (App. at pp. 1-7); letter from claimant's counsel in support of application (*Id.* at pp. 8-17);  
23 Exhibit Table (*Id.* at p. 18); Exhibit 1: claimant's declaration (*Id.* at pp. 19-20); Exhibit 2: reporter's  
24 transcript from March 3, 2022, resentencing hearing (*Id.* at pp. 21-34); Exhibit 3: San Diego Police  
25 Department's Officer Report, dated August 27, 1973 (*Id.* at pp. 35-41); Exhibit 4: Neuron Analysis  
26 Testing of Forensic Evidence (*Id.* at pp. 42-44); Exhibit 5: polygraph testing dated Septmeber 15, 1977  
27 (*Id.* at pp. 45- 48); Exhibit 6: letter from the San Diego County Public Defender confirming ATF has no  
28 records or evidence related to claimant's case (*Id.* at pp. 49- 50); Exhibit 7: Abstract of Judgment dated  
December 15, 1977 (*Id.* at pp. 51-53).

<sup>2</sup> Del Rio Supplement (Supp.) pp. 1-122. The pagination refers to the continuous page numbers for the  
122-page PDF file submitted on May 16, 2024, as a supplement to Del Rio's application. This  
supplement includes a revised Erroneously Convicted Person Claim Form; Sentence Data Sheet from  
California Department of Parole and Probation, External Movements Sheets from California  
Department of Parole and Probation; and Court of Appeal opinion (*People v. Del Rio* (2023) 94  
Cal.App.5th 47).

1 section 1172.6.<sup>3</sup> Del Rio, represented by Russell J. Carr, seeks compensation in the amount of  
2 \$2,287,180, for 16,337 days of alleged imprisonment.

3 The Attorney General, represented by Deputy Attorney General Tami Hennick (DAG Hennick),  
4 opposed the claim on January 23, 2025, asserting that Del Rio failed to prove his innocence by a  
5 preponderance of the evidence.

6 The claim was assigned to Hearing Officer Kristen Sellers, who held a hearing on September  
7 23, 2025, at which both parties appeared – Del Rio in person with counsel and DAG Hennick via  
8 Zoom. The administrative record closed on November 6, 2025. After careful consideration, the claim is  
9 recommended for denial because Del Rio failed to prove by a preponderance of the evidence that he  
10 is innocent of felony murder as it was defined when the crime occurred.

## 11 **II. Procedural Background**

### 12 **A. Del Rio’s 1977 Felony Murder Convictions**

13 Del Rio was arrested on June 16, 1977, and subsequently charged with three counts of first-  
14 degree murder in San Diego County Superior Court case number CR40676. The first two counts  
15 alleged that Del Rio murdered Ronald W. and Helen R.<sup>4</sup> In October 1977, a jury convicted Del Rio of  
16 two counts of first-degree felony murder, and he was later sentenced to life without the possibility of  
17 parole in January 1978.<sup>5</sup>

### 18 **B. Appellate Court Affirmed Del Rio’s Felony Murder Convictions in 1979**

19 On July 17, 1979, the Court of Appeal affirmed Del Rio’s murder convictions, finding there was  
20 sufficient evidence to convict under the felony murder doctrine.<sup>6</sup> The court explained that the  
21 prosecution’s theory of guilt rested on Del Rio’s participation in a robbery that resulted in Ronald and

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22 <sup>3</sup> Pen. Code, § 1170.95 was renumbered to Pen. Code, § 1172.6 eff. June 30, 2022.

23 <sup>4</sup> The third count was for an unrelated murder that was tried separately.

24 <sup>5</sup> Del Rio was also convicted of the third, unrelated murder; however, he later appealed and, in August  
25 1980, the third murder conviction was reversed, and charges were dismissed by the prosecution  
26 because the witnesses were no longer available to testify. See Attorney General Response Letter  
(AGRL) Exs. at p. 71.

27 <sup>6</sup> *People v. Del Rio* (July 17, 1979, 4 Crim. No. 8866) [nonpub. opn.]; see Cal. Code Regs., tit. 2, §  
28 617.8 (official notice).

1 Helen's deaths. The Court of Appeal emphasized that "evidence of robbery and homicide was  
2 overwhelming," explaining that while circumstantial evidence placing Del Rio near the motel room was  
3 insufficient on its own, witness testimony of Del Rio's "boastful declarations of having obtained the car  
4 and ring and the money from the victims clearly supports the jury's conclusion that he participated in  
5 the robbery which resulted in the killings."<sup>7</sup> The Court also affirmed the trial court's ruling that excluded  
6 the proffered polygraph test results.

### 7 **C. Superior Court Granted Relief Under Penal Code Section 1172.6**

8 In January 2019, Del Rio filed a petition for resentencing pursuant to Penal Code section  
9 1172.6, arguing that he could not now be convicted of murder under the statutory changes enacted by  
10 Senate Bill (SB) 1437.<sup>8</sup> The trial court denied the petition, finding that Del Rio was the person who  
11 hired others to kill and rob the victims and was a direct aider and abettor.<sup>9</sup> Del Rio appealed, and the  
12 Fourth District Court of Appeal reversed and remanded the case with directions to issue an order to  
13 show cause and conduct an evidentiary hearing.<sup>10</sup>

14 On February 24, 2022, the prosecution filed a response to the order to show cause and  
15 explained that, because the transcript of the jury trial was no longer available and section 1172.6  
16 limited what other evidence was admissible at the hearing, the prosecution was prevented from  
17 proving beyond a reasonable doubt that Del Rio was ineligible for resentencing. The prosecution  
18 accordingly conceded that Del Rio was "entitled to relief pursuant to Penal Code section [1172.6]."<sup>11</sup>

19 At the evidentiary hearing on March 3, 2022, the trial court, based on the prosecution's  
20 representation that it had no admissible evidence, vacated Del Rio's murder convictions and ordered  
21 his release. The prosecution then requested the court reimpose any remaining charges and  
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23 <sup>7</sup> *People v. Del Rio* (July 17, 1979, 4 Crim. No. 8866) [nonpub. opn.].

24 <sup>8</sup> SB 1437 added Penal Code section 1170.95, later renumbered as section 1172.6, to establish a  
25 procedure for previously convicted accomplices to petition to vacate their conviction if they would have  
26 been excluded under the new and narrowed definition for felony murder.

26 <sup>9</sup> *People v. Del Rio* (Aug. 5, 2021, D078225) [nonpub. opn.]; see Cal. Code Regs., tit., 2, § 617.8  
(official notice.)

27 <sup>10</sup> *Ibid.*

28 <sup>11</sup> *Ibid.*

1 resentence on those offenses, acknowledging that doing so would require resentencing “on something  
2 that [*sic*] we don’t have any evidence in front of us to do.”<sup>12</sup> The prosecution further indicated that  
3 because the case was in a resentencing phase, the court could base its finding on reliable hearsay  
4 evidence and requested the court consider the facts laid out in the February 1978 probation officer’s  
5 report in choosing an offense to redesignate.

6 The trial court vacated the murder convictions and resentenced Del Rio for robbery. Del Rio’s  
7 counsel objected on the grounds that there was no evidence Del Rio was ever charged with robbery,  
8 no evidence suggesting the theory behind the murder conviction, and no reliable evidence that Del Rio  
9 was guilty of robbery. Notwithstanding these objections, the court redesignated robbery as the basis  
10 for the conviction and resentenced Del Rio to three years with time served.

#### 11 **D. Appellate Court Reversed the Redesignated Robbery Conviction**

12 Del Rio appealed the trial court’s decision to redesignate robbery as the basis for his conviction  
13 following the grant of resentencing relief under section 1172.6. On August 23, 2023, the Fourth District  
14 Court of Appeal reversed the redesignated robbery conviction in a published opinion, holding that the  
15 trial court erred by imposing a robbery conviction for which Del Rio had never been charged or tried.<sup>13</sup>  
16 As a result, Del Rio’s convictions were vacated, and he was released from custody on March 8, 2022.

#### 17 **E. Del Rio’s Erroneously Convicted Person Claim**

18 On December 20, 2023, CalVCB received Del Rio’s claim seeking compensation as an  
19 erroneously convicted person under Penal Code section 4900. In his claim, Del Rio alleged he served  
20 over 44 years (i.e., 16,337 days) in custody, solely as a result of his erroneous convictions.<sup>14</sup> On  
21 February 28, 2024, CalVCB sent a letter to Del Rio notifying him that his claim was deficient for  
22 multiple reasons. Specifically, the claim lacked the following: his signature on the claim form attesting  
23 to its contents under penalty of perjury, documentation confirming his conviction, imprisonment, and  
24 release for the challenged convictions, and a statement of factual innocence showing that he did not  
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26 <sup>12</sup> AGRL Exs. at p. 32.

27 <sup>13</sup> *People v. Del Rio* (2023) 94 Cal.App.5th 47.

28 <sup>14</sup> App. at p. 3.

1 commit murder as it was defined at the time of commission. The letter allowed Del Rio 30 days to  
2 submit a response that cured the identified deficiencies.

3           Having received no timely response, on May 1, 2024, CalVCB sent a letter to Del Rio notifying  
4 him that his claim was denied. On May 16, 2024, Del Rio responded in writing, informing CalVCB that  
5 a response had been timely submitted on March 28, 2024, and requesting the final decision be set  
6 aside due to clerical error. CalVCB recalled the final decision on May 21, 2024, but requested Del Rio  
7 provide further clarification, as his timely response had failed to cure the identified deficiencies.  
8 Specifically, CalVCB requested an unredacted copy of the sentencing data sheet listing any  
9 convictions sustained and any sentences imposed or served during Del Rio's imprisonment for the  
10 challenged convictions between June 16, 1977, and March 12, 2022. Del Rio supplemented his claim  
11 on June 18, 2024, and July 25, 2024.<sup>15</sup>

12           On August 4, 2024, CalVCB found Del Rio's supplemental responses cured the deficiencies  
13 outlined in its February 28, 2024, letter, and requested a response letter from the Attorney General  
14 within 60 days in accordance with Penal Code section 4902.<sup>16</sup> Following two extensions for  
15 demonstrated good cause, the Attorney General timely submitted a response letter on January 23,  
16 2025, along with exhibits totaling 71 pages.<sup>17</sup>

17           The Hearing Officer conducted an in-person hearing on September 23, 2025, at which Del Rio  
18 and his attorney appeared in person and DAG Hennick appeared remotely by Zoom. Del Rio testified  
19 subject to cross-examination by the Attorney General. At the conclusion of the hearing, the Hearing  
20 Officer requested the parties submit post-hearing briefs by 5:00 p.m. on October 24, 2025, solely on  
21 the issue of injury and potential overlapping convictions.<sup>18</sup> On October 24, 2025, the Attorney General

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23 <sup>15</sup> Del Rio Clarification (CLAR.) pp. 1-72. The pagination refers to the continuous page numbers for the  
24 72-page PDF file submitted on June 18, 2024, which includes a letter from Del Rio's counsel,  
25 declaration from Del Rio, redacted Sentence Data Sheet, and a copy of the decision in *People v. Del*  
26 *Rio* (July 17, 1979, 4 Crim. No. 8866) [nonpub. opn.]. On July 25, 2024, Del Rio provided the  
unredacted Sentence Data Sheet.

26 <sup>16</sup> Cal. Code Regs., tit. 2, § 642, subd. (c).

27 <sup>17</sup> AGRL at pp. 1-10; AGRL Exs. at pp. 1-71.

28 <sup>18</sup> Cal. Code Regs., tit. 2, § 644, subd. (e).

1 and counsel for Del Rio both submitted timely post-hearing briefs and the administrative record was  
2 closed on November 6, 2025.<sup>19</sup>

### 3 **III. Factual Background<sup>20</sup>**

#### 4 **A. The Murders**

5 On June 27, 1973, the body of a victim later identified as Ronald, who was about 30 years old  
6 and from Pittsburgh, Pennsylvania, was discovered on the south side of the Sea World parking lot. The  
7 body had been stripped to the waist and a jacket and other items were found lying beside it. Some of  
8 the pockets of his clothing had been turned inside out. Papers and other items were on the ground.  
9 Ronald's diamond cluster ring was missing from his finger. According to the coroner's report, Ronald  
10 was fatally stabbed in the chest and shot in the neck. Evidence at the scene included an airline ticket  
11 receipt for United Airlines Flight 77, dated June 26, 1973, from Cleveland, Ohio, to San Diego,  
12 California, in the name of Mr. and Mrs. Ronnie R., the broken butt of a revolver, and several small  
13 hairs lodged in the expanded watchband of the victim. Sea World was located close to the Vacation  
14 Village Motel.

15 Three days later, on June 30, 1973, the body of a second victim, later identified as Helen, who  
16 was about 21 years old and also from Pittsburgh, Pennsylvania, was located in a field on the northeast  
17 side of the Sea World parking lot. The body appeared to have several stab wounds and possible  
18 gunshot wounds. No apparent physical evidence was gathered at the scene. The coroner's report  
19 indicated the cause of death was fatal stab wounds to the abdomen.

20 Evidence later revealed that the two victims had been residing at the Vacation Village Motel.  
21 They had registered for a room as Mr. and Mrs. Ron R. on June 26, 1973. On July 2, 1973, after hotel  
22 personnel determined the occupants were not going to return, their belongings were impounded. An  
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24 <sup>19</sup> Cal. Code Regs., tit. 2, § 644, subd. (g).

25 <sup>20</sup> Because the trial transcript no longer exists, the statement of facts is drawn primarily from the Fourth  
26 District Court of Appeal's unpublished opinion in *People v. Del Rio* (July 17, 1979, 4 Crim. No. 8866)  
27 [nonpub. opn.] and the published opinion in *People v. Del Rio* (2023) 94 Cal.App.5th 47.; see *People*  
28 *v. Woodell* (1998) 17 Cal.4th 448 [factual statements in an appellate opinion that are part of the record  
of conviction are admissible as reliable hearsay in postconviction proceedings, and a trier of fact is  
entitled to find that those statements accurately reflect the trial record.]

1 interview with hotel personnel revealed that the room appeared to have been ransacked and that a  
2 possible struggle ensued. A blood spot was located on the bedspread and a ring, later identified as  
3 belonging to Ronald, was located in a dresser drawer.

#### 4 **B. Del Rio's Relationship with the Victims**

5 In 1973, Beverly and Ronald were married and living together in Pittsburgh, Pennsylvania.  
6 Beverly testified that Ronald and Richard Cannon (Cannon) trafficked in heroin and traveled to San  
7 Diego frequently to buy narcotics from Del Rio. Ronald often wore a diamond cluster ring (Ring #1),  
8 which Del Rio admired. Cannon and Ronald had also given Del Rio a similar diamond cluster ring  
9 (Ring #2) as a gift, representing that it was worth more than \$1,200, although they had paid  
10 substantially less for it. Beverly and Ronald had traveled to San Diego in May 1973 with Cannon, at  
11 which time the two men purchased heroin from Del Rio using \$10,000 in cash. Ronald carried \$100  
12 bills to avoid large packages of money.

13 Cannon owned a white Lincoln Continental, which he kept in California and allowed Del Rio to  
14 use. Ronald returned to San Diego on June 26, 1973, with his girlfriend, Helen. Cannon did not  
15 accompany them. He had \$20,000 in large bills. Ronald notified Del Rio that he was coming and was  
16 wearing Ring #1 when he left home. Ronald and Helen checked into the Vacation Village Motel using  
17 Helen's last name.

#### 18 **C. Witness Observations at Vacation Village**

19 Robert was the doorman at Vacation Village. On the night of the crime, he saw a white Lincoln  
20 Continental parked near the room occupied by Ronald and Helen. He also saw a man of Mexican  
21 ancestry walking from the hotel office toward Ronald and Helen's room. Before trial, Robert had  
22 identified Cannon as the man he had seen, but he changed his mind at trial, describing the weight of  
23 the man as being similar to Del Rio. He testified he could not be "100%" sure that Del Rio was the man  
24 he saw. Cannon was established to have been in Pennsylvania at the time of the crime.

25 The day after Ronald and Helen checked in, Robert entered their room and observed a few  
26 personal items in and near the bathroom. At trial, counsel stipulated that Robert had reported on July  
27 6, 1973, seeing a woman's purse and several items strewn about on the floor.

1           **D. Del Rio's Conduct After the Murders**

2           Del Rio frequently purchased older automobiles for restoration and resale. On July 16, 1973,  
3 about three weeks after the murders, he bought a 1969 Mustang for \$1,400, using an assumed name  
4 and 14 \$100 bills. Two days later, he bought a 1931 Model A Ford under an assumed name for  
5 \$964.70, using \$100 bills. He purchased another antique Ford in July using an assumed name, paying  
6 \$1,245 and using \$100s, \$50s, and \$20s, but mostly \$100 bills. These purchases began on June 29,  
7 1973, two days after the murders, and were made with new-appearing bills in \$100 and \$50  
8 denominations, similar to the bills Ronald allegedly had in his possession.

9           In early July, Del Rio took a diamond cluster ring to a jeweler for appraisal, representing it as a  
10 gift from his girlfriend. He wore the same ring when he made the third automobile purchase described  
11 above. Del Rio maintained throughout the trial that the ring he wore was the one given to him by  
12 Ronald and Cannon (Ring # 2). The prosecution's witnesses, however, identified it as the ring Ronald  
13 was wearing (Ring # 1) at or near the time of his death. Ring # 2 was subsequently recovered by  
14 police from Del Rio's girlfriend, whom Del Rio had told to hold it for him.

15           Del Rio was subsequently apprehended by U.S. Customs Agents at the International Border at  
16 San Ysidro in possession of an ounce of heroin. Among other items discovered were receipts for the  
17 purchase of vehicle and motorcycle parts totaling \$6,000.

18           **E. Rivera's Testimony**

19           David Rivera (Rivera), Del Rio's cousin, lived in National City in 1973. Before reading or  
20 hearing about the murders in the news, Rivera was visited by Del Rio and several others. They arrived  
21 in a white Lincoln Continental and two other cars. Rivera testified that Del Rio told him the Continental  
22 he drove belonged to a couple of people who had been killed at the Sea World parking lot. Del Rio  
23 also told him the ring he wore belonged to one of the persons killed. Further, Rivera stated that the  
24 persons killed had flown to San Diego to buy narcotics and "they ripped them off" for \$30,000. Del Rio  
25 admitted that he had taken money from the victims.

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1           **F. The 1973 Police Report and Ring Evidence**

2           In August 1973, officers with the San Diego Police Department traveled to Pittsburgh,  
3 Pennsylvania to interview Beverly. Officers showed her two gold rings and asked if she could identify  
4 them. When shown the gold ring set with five diamonds, Beverly identified that as Ronald's ring (Ring  
5 #1) and the ring Ronald had been wearing when he left Pittsburgh for San Diego on June 26, 1973.<sup>21</sup>  
6 When shown the gold ring set with seven diamonds in a cluster that had been found in Del Rio's  
7 girlfriend's possession, Beverly initially stated, "Yes, this is [Ronald's] ring."<sup>22</sup> However, after looking at  
8 it more closely, she changed her mind and said, "No, this is not [Ronald's] ring, this was the ring that  
9 [Ronald] and [Cannon] bought for [Del Rio] in San Diego" (Ring # 2).<sup>23</sup> She stated that they bought the  
10 ring (Ring # 2) at Levy's Loan in Pittsburgh in the middle of May 1973 and gave it to Del Rio on  
11 Memorial Day weekend. Beverly also stated that Ronald's ring (Ring # 1) was similar to the one given  
12 to Del Rio (Ring # 2), but the stones on Ring # 1 were not as large and not as "flashy and gaudy," and  
13 that Ronald would not wear anything like the ring that was shown to her. Beverly gave officers a  
14 jeweler's receipt showing they purchased two diamond rings on May 30, 1973.

15           When Beverly was asked what else she could remember, she mentioned that on June 21,  
16 1973, at about 10:30 a.m., a friend of Ronald's known as "Scrappy" came to their house and informed  
17 Ronald that Cannon told Del Rio that Ronald was with the FBI and not to deal with Ronald unless  
18 Cannon was there.<sup>24</sup> Ronald and Scrappy then left to call Del Rio. They were gone for about 15  
19 minutes and upon his return, Ronald told Beverly to get the money together because they were going  
20 to San Diego. He also told Beverly that Del Rio told him to come alone.

21           Officers then visited the jeweler and showed the assistant manager the gold ring set with seven  
22 stones in a cluster that had been found in Del Rio's girlfriend's possession.<sup>25</sup> The assistant manager  
23 did not recognize the ring and insisted they would not sell anything like that in their store. An employee

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25 <sup>21</sup> App. at p. 36.

26 <sup>22</sup> App. at p. 36.

27 <sup>23</sup> *Ibid.*

28 <sup>24</sup> App. at p. 37.

<sup>25</sup> *Ibid.*

1 who claimed expertise in stone appraisal said that the stones were inferior in quality and that he would  
2 not have sold the ring over the counter for more than \$400. When shown the receipt, the assistant  
3 manager remembered Beverly bringing in two gold rings with diamonds to have the stones from an  
4 older ring removed and placed in a new setting on May 30, 1973. The assistant manager identified  
5 Cannon as the person who sold the rings to the store.

#### 6 **G. The DNA Evidence**

7 On August 21, 1973, the Chief of Police for the San Diego Police Department sent four hair  
8 samples to the National Laboratory Office of the United States Bureau of Alcohol, Tobacco, and  
9 Firearms (ATF) for neutron activation analysis.<sup>26</sup> The samples included hairs from Cannon, Del Rio,  
10 Ronald, and the unknown hairs found in Ronald's watchband.

11 On September 20, 1973, the ATF issued its report. The neutron activation analysis determined  
12 that Del Rio's hair was "distinguishable" from the hair found on the watchband. The microscopic  
13 analysis found that the hairs of Ronald and Del Rio were "similar" to the unknown hair on the watch,  
14 but the neutron activation analysis found no match between the watch hair and Del Rio.<sup>27</sup> The  
15 probation report noted that hairs of Del Rio "sent to Washington D.C. for neutronic analysis were  
16 microscopically similar to unknown hairs found in the watchband of the victim's" but that "a complete  
17 final analysis was still pending at the time."<sup>28</sup> At sentencing, the prosecutor characterized the hair  
18 evidence as "kind of a piece of neutral evidence" that "didn't hurt or help either side" and chose not to  
19 introduce it at trial due to the expense of bringing the expert from Washington.<sup>29</sup>

#### 20 **H. The 1977 Polygraph Examination**

21 On September 15, 1977, Del Rio took a polygraph examination at the San Diego County Jail.<sup>30</sup>  
22 During his pre-test interview, Del Rio denied killing Ronald or Helen, denied any responsibility for their  
23 deaths, and denied planning the murders with anyone else. Del Rio further denied profiting in any way

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25 <sup>26</sup> App. at p. 43.

26 <sup>27</sup> App. at p. 44.

27 <sup>28</sup> AGRL Exs. at p. 44.

28 <sup>29</sup> AGRL Exs. at pp. 52, 65.

<sup>30</sup> App. at p. 46.

1 from Ronald and Helen's deaths, stating that he actually lost \$15,000 as a result of their deaths. Del  
2 Rio denied knowing who killed Ronald and Helen but suspected Cannon because of Cannon's  
3 involvement in the narcotics trafficking with the victims. Del Rio denied ever planning the deaths of  
4 Ronald and Helen with Raul Sandoval (Sandoval) or Benjamin Mejias (Mejias) and denied that  
5 Sandoval or Mejias brought him any profit from the killings. Del Rio stated that he had shared an  
6 apartment in 1973 for five months with Sandoval, and that Mejias had lived in the same condominium  
7 complex about a block away.

8 The polygraph examiner concluded that Del Rio was truthful during his examinations and that  
9 his tests indicated: Del Rio did not kill Ronald and Helen, he did not plan their killings with Sandoval or  
10 Mejias, and he was not present when Ronald and Helen were killed.<sup>31</sup> The polygraph results were  
11 excluded from evidence at trial, and the Court of Appeal upheld that ruling on direct appeal.

#### 12 **I. The 1978 Probation Report and Sentencing Hearing**

13 The probation report summarized the facts of the case consistent with the Court of Appeal's  
14 account and further noted that Mejia had pled guilty to second-degree murder for the killings of Ronald  
15 and Helen.<sup>32</sup> At Del Rio's sentencing hearing on February 22, 1978, the prosecutor reminded the court  
16 that it had accepted a plea from Mejia, who pled guilty to second-degree murder following the  
17 discovery of a tape-recorded conversation in which Mejia admitted that Del Rio had hired him to rob  
18 and kill Ronald and Helen.<sup>33</sup> The probation report further noted that Del Rio had induced others to  
19 participate in the commission of the crimes and had occupied a position of leadership.<sup>34</sup> Del Rio,  
20 through his attorney, maintained his innocence of the crimes at the sentencing hearing and had done  
21 so throughout the pendency of the criminal proceedings.<sup>35</sup>

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25 <sup>31</sup> App. at p. 47.

26 <sup>32</sup> AGRL Exs. at p. 43.

27 <sup>33</sup> AGRL Exs. at p. 60.

28 <sup>34</sup> AGRL Exs. at p. 48.

<sup>35</sup> AGRL Exs. at pp. 53-54.

1           **J. CalVCB Hearing Testimony**

2           At the CalVCB administrative hearing on September 23, 2025, Del Rio testified as the sole  
3 witness in support of his claim.<sup>36</sup> Del Rio repeatedly denied killing Ronald or Helen, denied robbing  
4 them, and denied asking or hiring anyone else to rob or kill them. He stated he was not present when  
5 Ronald and Helen were murdered and that he never took any property from them.<sup>37</sup> Del Rio stressed  
6 that he had nothing to do with the murders, and he did not know who was responsible.

7           Del Rio testified that he dropped out of school to help support his family and worked at a  
8 furniture store called Magic Carpet.<sup>38</sup> Once he accumulated some money, he began buying and  
9 restoring cars for resale. Del Rio admitted to selling drugs to make money, obtaining them in Tijuana  
10 and transporting them to San Diego. Del Rio knew and sold drugs to Cannon. Cannon was from  
11 Pennsylvania and owned a 1973 white Lincoln Continental, which he left with Del Rio on two  
12 occasions when visiting California. Del Rio sold drugs to Ronald on two occasions – once with Cannon  
13 and a second time when Ronald was with Beverly on Memorial Day weekend in May 1973.<sup>39</sup> Del Rio  
14 testified that the last time he saw Ronald was Memorial Day weekend in May 1973.<sup>40</sup>

15           Del Rio testified that Cannon and Ronald gave him gifts to show their appreciation, including a  
16 watch worth \$1,000 and a seven-stone cluster diamond ring supposedly worth \$1,200 (Ring # 2).<sup>41</sup> He  
17 stated that the ring was given to him on Memorial Day weekend and that, at that time, Ronald was  
18 wearing a ring that was almost identical but not as flashy as the one that had been given to him.<sup>42</sup>

19           Del Rio acknowledged that he was convicted of three murders in two separate trials. The first  
20 murder was committed during a drive-by shooting, however that conviction was later vacated. The  
21 second and third murder charges were for the deaths of Ronald and Helen. He confirmed that the  
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23 <sup>36</sup> CalVCB Hearing Zoom Recording (Hearing), MP4 video file, at 00:01:30 – 02:46:38.

24 <sup>37</sup> Hearing at 00:29:52–00:30:11.

25 <sup>38</sup> Hearing at 00:32:36-00:32:56.

26 <sup>39</sup> Hearing at 00:41:57-00:42:42.

27 <sup>40</sup> Hearing at 00:42:48-00:42:58.

28 <sup>41</sup> Hearing at 00:43:18-00:43:37.

<sup>42</sup> Hearing at 00:44:52-00:45:02.

1 same prosecutor handled both criminal trials. Del Rio testified that his 19-year-old cousin, Rivera,  
2 testified against him in both trials. Del Rio alleged that Rivera had lied on the witness stand in order to  
3 assist the prosecutor, so that Rivera could get out of jail himself.<sup>43</sup> Del Rio said that he never visited  
4 Rivera, never drove the white Lincoln Continental to Rivera's home, and never told Rivera that he  
5 robbed the victims, that the ring belonged to one of the victims, or that he killed anyone.

6 Del Rio stated that at his murder trial, only one ring was introduced into evidence despite police  
7 having interviewed Beverly about two similar-looking rings.<sup>44</sup> Del Rio denied ever being at the Vacation  
8 Village Motel in June 1973 or driving the white Lincoln Continental to that location.

9 On cross-examination, the Attorney General noted that Beverly had testified she and Ronald  
10 met Del Rio on several occasions, not only twice as Del Rio testified on direct examination. When  
11 asked whether Beverly was lying, Del Rio responded, "I don't know. I don't know her."<sup>45</sup> When asked  
12 whether the doorman at Vacation Village was lying when he testified he had seen Del Rio there, Del  
13 Rio answered, "I don't know why he would say something like that, other than to sway the indifference  
14 at the trial."<sup>46</sup>

15 The Attorney General asked Del Rio if he gave his girlfriend the ring that Ronald and Cannon  
16 had gifted him (Ring # 2), to which Del Rio responded that he had his girlfriend hold the ring while he  
17 traveled to Tijuana because it was flashy and he did not want to get robbed.<sup>47</sup> When confronted with  
18 testimony that he told a jeweler his girlfriend had given him the ring when he brought it for an  
19 appraisal, Del Rio said he did not recall ever saying that.<sup>48</sup> When asked whether the multiple witnesses  
20 at trial who testified that his girlfriend had Ronald's ring (Ring # 1) were lying, Del Rio responded that  
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24 <sup>43</sup> Hearing at 02:11:30-02:11:51.

25 <sup>44</sup> Hearing at 01:21:30-01:21:47.

26 <sup>45</sup> Hearing at 02:08:46-02:08:50.

27 <sup>46</sup> Hearing at 02:09:04-02:09:22.

28 <sup>47</sup> Hearing at 02:09:23-02:09:48.

<sup>48</sup> Hearing at 02:09:50-02:10:01.

1 the witnesses were under the impression there was only one ring and that they never knew there were  
2 two nearly identical rings.<sup>49</sup>

3 When asked about Mejia, Del Rio confirmed that he knew Mejia, but Mejia was nothing to  
4 him.<sup>50</sup> Del Rio later clarified that Mejia was an acquaintance but denied ever hiring him to rob and kill  
5 Ronald and Helen.<sup>51</sup> Del Rio did not know why Mejia would have pled guilty to second-degree murder  
6 based on a recorded conversation. When the Attorney General asked whether everyone in this case  
7 had lied to the police and at trial except Del Rio, Del Rio replied that his testimony had always  
8 remained the same and that he is innocent.<sup>52</sup>

#### 9 **IV. Determination of Issues**

10 Penal Code section 4900 allows a person, who has been erroneously convicted and imprisoned  
11 for a felony offense that they did not commit, to submit a claim for compensation to CalVCB for the  
12 injury sustained.<sup>53</sup> Typically, the claimant bears the burden to prove by a preponderance that (1) the  
13 crime with which they were convicted either did not occur or was not committed by them and (2) they  
14 suffered injury as a result of their erroneous conviction.<sup>54</sup> In this context, injury means that, but for the  
15 erroneous conviction, the claimant would have been free from custody.<sup>55</sup> Once a properly submitted  
16 claim is filed, Penal Code section 4902 requires the Attorney General to submit a written response,  
17 after which an informal administrative hearing ensues pursuant to Penal Code section 4903. If the  
18 claimant satisfies their burden at the hearing, then Penal Code section 4904 requires CalVCB to  
19 approve payment for the purpose of indemnifying the claimant for the demonstrated injury, at the rate of  
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23 <sup>49</sup> Hearing at 02:10:12-02:10:34.

24 <sup>50</sup> Hearing at 02:11:51-02:12:00.

25 <sup>51</sup> Hearing at 02:12:07-02:12:18.

26 <sup>52</sup> Hearing at 02:14:72-02:14:50.

27 <sup>53</sup> Pen. Code, § 4900.

28 <sup>54</sup> Pen. Code, §§ 4900, subd. (a), 4903, subd. (a).

<sup>55</sup> Cal. Code of Regs., tit. 2, § 640, subd. (f).

1 \$140 per day of their incarceration, if sufficient funds are available, upon appropriation by the  
2 Legislature.<sup>56</sup> No compensation is authorized for any time spent on supervised released.

3 In limited circumstances, a different procedure may apply for claimants whose convictions have  
4 been reversed. First, under Penal Code section 1485.55 or 851.865, if the claimant received a court  
5 finding of factual innocence during a proceeding that resulted in either a grant of habeas relief or a  
6 vacated conviction pursuant to Penal Code section 1473.6, then CalVCB must automatically approve  
7 the claim, within 90 days and without a hearing, pursuant to Penal Code section 4904 for the injury  
8 sustained.<sup>57</sup> Second, under subdivision (b) of Penal Code section 4900, if the claimant's conviction was  
9 vacated by a grant of habeas relief or pursuant to Penal Code section 1473.6 or 1473.7, subdivision  
10 (a)(2), and the charges were dismissed or acquitted on remand, and the Attorney General declines to  
11 object with clear and convincing proof of guilt, then CalVCB must approve the claim within 90 days  
12 pursuant to Penal Code section 4904 for the injury sustained.<sup>58</sup> Third, under recently-added subdivision  
13 (d) of section 1485.55, if a court granted a motion for relief based upon a conviction that was vacated  
14 by a grant of habeas relief or pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2), the  
15 charges were dismissed or acquitted on remand, and the district attorney failed to timely object with  
16 clear and convicting proof of the claimant's guilt, then CalVCB must approve the claim, without a  
17 hearing and within 90 days, for the demonstrated injury.<sup>59</sup> While a court order under subdivision (d) of  
18 section 1485.55 does not constitute a finding of factual innocence, it nevertheless requires expedited  
19 approval of a filed claim.<sup>60</sup> Unless one of these narrow statutory exceptions applies, then the claimant  
20 bears the burden to prove innocence and injury by a preponderance of the evidence under subdivision  
21 (a) of Penal Code section 4900.

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23 <sup>56</sup> Pen. Code, § 4904.

24 <sup>57</sup> Pen. Code, §§ 851.865, 1485.55, subd. (a), 4902, subd. (a), eff. Jan. 1, 2024; see also Cal. Code  
25 Regs., tit. 2, § 640, subds. (e)(1)-(2).

26 <sup>58</sup> Pen. Code, §§ 4900, subd. (b), 4902, subd. (d), and 4904.

27 <sup>59</sup> Pen. Code, § 1485.55, subd. (e).

28 <sup>60</sup> See *Larsen v. CalVCB* (2021) 64 Cal.App.5th 112, 129 (confirming that “a court finding of factual  
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”).

1 Under subdivision (a) of section 4900, claimants bear the burden of proving by a  
2 preponderance that (1) the crime with which they were convicted either did not occur or was not  
3 committed by them and (2) they suffered injury as a result of their erroneous conviction.<sup>61</sup> When  
4 determining whether the claimant has satisfied their burden of proof, the Board may consider the  
5 “claimant’s denial of the commission of the crime; reversal of the judgment of conviction; acquittal of  
6 claimant on retrial; or the decision of the prosecuting authority not to retry claimant of the crime....”<sup>62</sup>  
7 The Board may also “consider as substantive evidence the prior testimony of witnesses [that] claimant  
8 had an opportunity to cross-examine, and evidence admitted in prior proceedings for which claimant  
9 had an opportunity to object.”<sup>63</sup> Ultimately, the Board may consider “any other information that it deems  
10 relevant to the issue before it,” even if inadmissible under the traditional rules of evidence, so long as  
11 “it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of  
12 serious affairs.”<sup>64</sup>

13 **A. Penal Code Section 4900, subdivision (a), Governs Del Rio’s Claim**

14 Del Rio seeks compensation for his first-degree felony murder convictions in San Diego County  
15 Superior Court, which were both vacated pursuant to section 1172.6, as a result of legislative changes  
16 defining accomplice liability. Neither of these convictions was reversed or vacated by grant of habeas or  
17 pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2). As such, the burden-shifting  
18 provisions in subdivision (b) of Penal Code section 4900 and subdivision (d) of Penal Code section  
19 4902 do not apply. Moreover, Del Rio lacks a finding of factual innocence by any court under Penal  
20 Code section 1485.55 or 851.865. Thus, Del Rio’s claim does not fall within any of the limited statutory  
21 exceptions to subdivision (a) of section 4900.

22 Accordingly, subdivision (a) governs the disposition of Del Rio’s claim. Del Rio therefore bears  
23 the burden to demonstrate his innocence by a preponderance of the evidence.

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26 <sup>61</sup> Pen. Code, §§ 4900, subd. (a), 4903, subd. (a).

27 <sup>62</sup> Cal. Code Regs., tit. 2, § 641, subd. (a).

28 <sup>63</sup> Cal. Code Regs., tit. 2, § 641, subd. (b).

<sup>64</sup> Cal. Code Regs., tit. 2, § 641, subds. (c), (d), and (f).

1           **B. Del Rio’s Innocence Has Not Been Litigated nor Established During Prior**  
2           **Proceedings.**

3           CalVCB has broad authority to consider all relevant evidence when determining whether a  
4 claimant has met their burden of establishing their innocence. By statute, CalVCB is bound by “factual  
5 findings” and “credibility determinations” rendered by a court during proceedings on a petition for  
6 habeas corpus, motion to vacate a judgment pursuant to Penal Code section 1473.6 or 1473.7,  
7 subdivision (a)(2), or an application for a certificate of factual innocence.<sup>65</sup> Notably, these statutory  
8 provisions omit decisions rendered by an appellate court on direct appeal, or during proceedings under  
9 any provision not specifically enumerated.<sup>66</sup> Because Del Rio’s case falls outside the proceedings  
10 contemplated in sections 4903, 1485.5, and 1485.55, the appellate court findings are not binding and  
11 do not establish Del Rio’s innocence for purposes of these administrative proceedings.

12           Moreover, the appellate court’s decision does not collaterally estop the Board from fulfilling its  
13 statutory obligation to adjudicate the issues presented in this claim. While an appellate court’s  
14 determination of legal issues that were, or could have been, raised on direct appeal, may bind CalVCB  
15 under the doctrines of res judicata and collateral estoppel, neither doctrine applies here.<sup>67</sup> The issue of  
16 Del Rio’s actual innocence was never previously litigated – not at the superior court, not at the Court of  
17 Appeal – nor was there a final decision on the merits of Del Rio’s innocence.

18           Del Rio was originally convicted of the murders in the superior court, and those convictions were  
19 affirmed on appeal. When considering a challenge to the sufficiency of the evidence to support a  
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21 <sup>65</sup> Pen. Code, §§ 1485.5, subd. (c), 4903, subd. (c); see also *Gonzales v. California Victim*  
22 *Compensation Board* (2023) 98 Cal.App.5th 427 (defining “factual findings” in this context to exclude  
23 “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”).

24 <sup>66</sup> *Ibid.*; see also *Jack v. Ring LLC* (2023) 91 Cal.App.5th 1186, 1211-1212 (“Appellate courts do not  
25 make factual findings; we review ‘the correctness of a judgment [or order] as of the time of its  
26 rendition’”); *People v. Cervantes* (2020) 46 Cal.App.5th 213, 224 (“appellate courts are not equipped to  
accept new evidence and make factual findings”).

27 <sup>67</sup> See *Central Delta Water Agency v. Department of Water Resources* (2021) 69 Cal.App.5th 170, 206  
28 (explaining “Res judicata, or claim preclusion, precludes parties or their privies from relitigating a cause  
of action finally resolved in a prior proceeding” and “Collateral estoppel precludes relitigation of issues  
argued and decided in a prior proceeding”).

1 conviction, an appellate court reviews the record in the light most favorable to the judgment to  
2 determine whether it contains substantial evidence from which a reasonable trier of fact could find the  
3 defendant guilty beyond a reasonable doubt.<sup>68</sup> The issue presented in Del Rio’s claim under Penal  
4 Code section 4900, by contrast, is whether Del Rio can prove by a preponderance of the evidence that  
5 the crime he was convicted of was not committed at all, or was not committed by him, according to the  
6 law in effect at the time the crime was committed.<sup>69</sup> In other words, Del Rio must prove that he is  
7 *actually innocent* of murder under any plausible theory, not whether the prosecution presented  
8 substantial evidence of guilt at trial.

9 In 2019, the Legislature narrowed the definition of felony murder for accomplices with the  
10 passage of Senate Bill (SB) 1437. Among its provisions, SB 1437 amended the felony murder rule to  
11 exclude any accomplice who was not the actual killer if the accomplice either (1) lacked a specific  
12 intent to kill, or (2) was not a “major participant” in the underlying felony while acting with “reckless  
13 indifference to human life” as defined by the California Supreme Court’s recent decisions in *Banks* and  
14 *Clark*.<sup>70</sup> SB 1437 added Penal Code section 1170.95, later renumbered as section 1172.6, to establish  
15 a procedure for previously convicted accomplices to petition to vacate their conviction if they would  
16 have been excluded under the new and narrowed definition for felony murder.

17 The superior court’s subsequent decision to vacate Del Rio’s murder conviction resolved an  
18 entirely distinct legal question: whether Del Rio could be *convicted* of murder under the amended  
19 standards of SB 1437, not whether he was *actually innocent* of the murders according to the law as it  
20 existed in 1973. These two inquiries are wholly distinct. First, the superior court found that a jury could  
21 not find Del Rio guilty of felony murder under the newly amended standard, and that the trial court  
22 exceeded its authority in redesignating the offense to an uncharged crime. A reasonable doubt as to  
23 Del Rio’s guilt under current law does not preclude CalVCB from finding that Del Rio has failed to  
24 present sufficient evidence to establish his actual innocence under the law in effect in 1973.<sup>71</sup>

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26 <sup>68</sup> *People v. Lindberg* (2008) 45 Cal.4th 1, 27.

27 <sup>69</sup> Pen. Code, § 4900.

28 <sup>70</sup> See Pen. Code, §§ 188 (malice definition revised), 189 (degree classification revised).

<sup>71</sup> See, e.g., *Larsen v. CalVCB* (2021) 64 Cal.App.5th 112, 129 (“a court finding of factual innocence

1 Moreover, the Court of Appeal concluded, in its 2023 published opinion, that the superior court  
2 improperly redesignated Del Rio’s murder convictions as a robbery because Del Rio had never been  
3 charged with robbery, not because it concluded that Del Rio was *actually innocent* of the robbery.

4 In sum, none of these proceedings related to whether Del Rio was *actually innocent* of murder  
5 according to the law in effect at the time of Ronald and Helen’s deaths. Instead, they litigated only  
6 whether sufficient evidence established Del Rio’s *guilt* under the 1973, and the 2019 amended,  
7 definition of murder, none of which resulted in a conclusion Del Rio did not commit murder as it was  
8 defined at the time the underlying murders occurred.

### 9 **C. Del Rio Bears the Burden of Proof**

10 Under subdivision (a) of section 4900, claimants bear the burden of proving that the crime with  
11 which they were convicted either did not occur, or was not committed by them, and that they suffered  
12 injury as a result of their erroneous conviction.<sup>72</sup> While “[i]nnocence might well be predicated upon a  
13 reasonable doubt of guilt,” the “[CalVCB’s] section 4900 determination is a civil determination of  
14 culpability” that requires the claimant to “carry the burden of proof of innocence by a preponderance of  
15 the evidence.”<sup>73</sup> Consequently, to prevail in this claim, Del Rio bears the burden of affirmatively  
16 establishing, by a preponderance of the evidence, that he is actually innocent of the crime with which  
17 he was erroneously convicted because the charged crime was either not committed at all or not  
18 committed by him under the law in effect at the time the crime allegedly occurred.<sup>74</sup> Meaning, Del Rio  
19 must affirmatively prove that he is actually innocent of murder under any plausible theory of culpability  
20 available at the time, including as an aider and abettor to the underlying robbery that resulted in the  
21 victims’ deaths.

22 To satisfy his burden, Del Rio must demonstrate it is more likely than not that he did not commit  
23 this crime, or that it never occurred.

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24  
25 must be made by at least a preponderance of the evidence and must reflect a determination that the  
26 person charged and convicted of an offense did not commit the crime”).

27 <sup>72</sup> Pen. Code, §§ 4900, subd. (a), 4903, subd. (a).

28 <sup>73</sup> *Diola v. State Bd. of Control* (1982) 135 Cal.App.3d 580, 588, fn.7.

<sup>74</sup> Pen. Code, § 4900.

1           **D. Del Rio Has Failed to Satisfy His Burden**

2           As explained above, Penal Code section 4900 requires an affirmative showing of factual  
3 innocence, not simply the absence of evidence establishing guilt. In this administrative proceeding, Del  
4 Rio failed to affirmatively demonstrate, by a preponderance of the evidence, that he is innocent of  
5 felony murder, which was still valid in 1973. Thus, Del Rio failed to meet his burden of establishing that  
6 he did not commit the crimes he was convicted of or that the crimes were not committed at all, and his  
7 claim for compensation must therefore be denied.

8                           **1. Felony Murder as Defined in 1973**

9           In 1973, at the time of Ronald and Helen’s murders, any killing that occurred during the  
10 commission of a robbery amounted to first-degree felony murder, regardless of whether the killing was  
11 intentional or accidental.<sup>75</sup> The same level of culpability applied regardless of whether the defendant  
12 was the actual killer or merely an accomplice to the robbery when the murder occurred.<sup>76</sup> So long as  
13 the accomplice aided the robbery, the accomplice was guilty of first-degree felony murder.<sup>77</sup> The  
14 robbery need not have been completed before the killing for the rule to apply.<sup>78</sup> An accomplice may aid  
15 the underlying robbery – even if not physically present during its commission – by encouraging or  
16 instigating the perpetrator’s commission of that crime.<sup>79</sup>

17                           **2. Inculpatory Evidence**

18           The record contains inculpatory evidence that strongly undermines Del Rio’s claim of  
19 innocence. As the Court of Appeal held in 1979, the evidence of robbery and murder was  
20 “overwhelming.” While the court’s characterization is not binding on this administrative proceeding, the  
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24 <sup>75</sup> Former Pen. Code, § 189.

25 <sup>76</sup> *People v. Strong* (2022) 13 Cal.5th 698, 704 (describing felony murder doctrine before SB 1437 in  
26 2017).

27 <sup>77</sup> Pen. Code, § 190, subd. (a).

28 <sup>78</sup> *People v. Mitchell* (1964) 61 Cal.2d 353.

<sup>79</sup> Pen. Code, § 31; CALCRIM Nos. 400, 401 (aider and abettor principles).

1 underlying evidence from which that conclusion was drawn remains properly before the Board and is  
2 entitled to serious weight.<sup>80</sup>

3 The most significant evidence against Del Rio is the testimony of his cousin, Rivera. Before  
4 learning of the killings from any news source, Rivera observed Del Rio and several companions arrive  
5 at his home in National City driving a white Lincoln Continental – the same car Cannon had entrusted  
6 Del Rio with. Del Rio told Rivera that the Continental belonged to a couple of people who had been  
7 killed at the Sea World parking lot and that the ring he was wearing belonged to one of the persons  
8 killed. Del Rio further told Rivera that the victims had flown to San Diego to buy narcotics, “they ripped  
9 them off” for \$30,000, and that Del Rio had taken money from the victims. These are not ambiguous or  
10 disputed statements. They constitute direct admissions by Del Rio to his own cousin, made before the  
11 killings were publicly known, recounting specific facts consistent with a robbery that led to two murders.

12 Del Rio’s assertion that Rivera fabricated his testimony to secure his own release from custody  
13 is not persuasive. Rivera’s credibility was squarely at issue during the criminal trial, where he was  
14 subject to cross-examination by defense counsel, and his account was tested before the jury. The jury,  
15 having observed Rivera’s demeanor and weighed his testimony against the defense’s challenge to his  
16 motives, nonetheless credited his account. Del Rio’s self-serving assertion – made decades later at an  
17 administrative hearing, without any supporting evidence – that Rivera lied to get out of jail does not  
18 undermine the reliability of testimony that was scrutinized and accepted by the jury at trial.

19 Del Rio’s pattern of conduct in the days immediately following the murders is independently  
20 incriminating. Beginning on June 29, 1973 – just two days after the murders – Del Rio made a series of  
21 purchases totaling approximately \$6,000, using large denomination bills described as new-appearing  
22 and consistent with the currency Ronald was known to carry. He purchased at least three vehicles in  
23 quick succession using assumed names and primarily \$100 bills. Ronald had been known to carry large  
24 quantities of \$100 bills specifically to avoid large packages of money. The timing and character of these  
25 expenditures, beginning just 48 hours after the murders of a victim who arrived in San Diego with  
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27 <sup>80</sup> *People v. Woodell* (1998) 17 Cal.4th 448 (factual statements in an appellate opinion that are part of  
28 the record of conviction are admissible as reliable hearsay in postconviction proceedings, and a trier of  
fact is entitled to find that those statements accurately reflect the trial record).

1 \$20,000 in cash, strongly supports the inference that Del Rio had access to the victims' money after the  
2 murders. In early July 1973, Del Rio also presented a diamond cluster ring to a jeweler for appraisal,  
3 telling the jeweler it was a gift from his girlfriend. He was wearing the same ring when he made the third  
4 automobile purchase. Multiple prosecution witnesses identified this ring as Ronald's diamond cluster  
5 ring (Ring # 1), which was missing from Ronald's finger when his body was found. Del Rio told his  
6 girlfriend to hold the ring for him, and she subsequently turned it over to the police.

7 Del Rio's claim that the ring he gave his girlfriend to hold onto was actually the ring gifted to him  
8 by Ronald and Cannon (Ring #2) on Memorial Day weekend in 1973 is not without some support.  
9 Beverly confirmed to police that Cannon and Ronald had in fact purchased a second, similar ring for  
10 Del Rio, which they gave to him on Memorial Day weekend. She also stated that Ronald's ring (Ring #  
11 1) was similar to the gifted ring (Ring # 2), but Ring # 1 had smaller, less flashy stones, and Ronald  
12 would not wear anything as gaudy as Ring #2. The jeweler's receipt for two diamond rings dated May  
13 30, 1973, corroborates that two such rings existed. And Beverly initially, before looking more closely,  
14 identified the ring recovered from Del Rio's girlfriend as Ronald's, then corrected herself upon closer  
15 examination.

16 These facts present genuine ambiguity that diminishes the probative value of the ring evidence.  
17 The record establishes that two, nearly identical diamond cluster rings existed – one belonging to  
18 Ronald (Ring #1) and one given to Del Rio as a gift by Ronald and Cannon (Ring #2) prior to the  
19 murders. That Beverly herself, when shown the ring recovered from Del Rio's girlfriend, initially  
20 identified it as Ronald's before correcting herself upon closer examination underscores just how difficult  
21 it was to distinguish between the two. If the victim's own wife could not reliably tell the rings apart at first  
22 glance, it is difficult to place significant weight on the identification testimony of other witnesses who  
23 claimed to recognize the ring Del Rio was wearing as Ronald's.

24 Still, the suspicious circumstances surrounding the ring evidence are not entirely discounted.  
25 Del Rio visited the jeweler in early July 1973, just weeks after the murders, and told the jeweler his  
26 girlfriend had given him the ring, rather than identifying Ronald and Cannon as the source. If the ring  
27 was truly an innocent gift, there would be little reason to misrepresent where it came from. The  
28

1 falsehood, however minor it may seem, is consistent with consciousness of guilt.<sup>81</sup> At the same time,  
2 because the record cannot establish with confidence which ring Del Rio possessed, this evidence is  
3 insufficient to overcome that ambiguity. The ring evidence is therefore considered but accorded little  
4 weight in the analysis.

5 In addition to Rivera's testimony and circumstantial evidence, the record contains evidence that  
6 Mejia – a person Del Rio himself acknowledged as an acquaintance – pled guilty to second-degree  
7 murder for the murders of Ronald and Helen. At Del Rio's sentencing, the prosecutor informed the court  
8 that Mejia had entered his plea following the discovery of a tape-recorded conversation in which Mejia  
9 admitted that Del Rio had hired him to rob and kill the victims. Although the tape recording itself is not  
10 part of this administrative record, references to its contents appear in both the sentencing transcript and  
11 probation report, and Mejia's guilty plea, entered after the recorded conversation was discovered and  
12 apparently predicated on Del Rio's having hired him, is competent evidence that a third party has  
13 corroborated the prosecution's theory that Del Rio orchestrated the robbery and murders.<sup>82</sup> Del Rio  
14 denied this at the CalVCB hearing, stating he did not know why Mejia would have pled guilty based on  
15 a recorded conversation, but offered no explanation for why Mejia would have made such an  
16 admission.

### 17 **3. Proffered Exculpatory Evidence**

18 Del Rio proffered exculpatory evidence in support of his claim; however, none of the submitted  
19 evidence, whether considered separately or as a whole, demonstrates by a preponderance that Del Rio  
20 is innocent of felony murder as defined in 1973.

21 Del Rio relies heavily on his own proclamations of innocence in which he categorically denied  
22 any participation in the murders, the robbery, or in hiring anyone to commit those acts. Del Rio's denial  
23 of the commission of a crime is a factor the Board may consider, but it is not sufficient, standing alone,  
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25 <sup>81</sup> CALCRIM No. 362 (permitting inference of consciousness of guilt if the defendant made a false or  
26 misleading statement).

27 <sup>82</sup> AGRL Exs. at pp. 43, 60. See Evid. Code, § 1230 (statements against interest are considered  
28 inherently reliable because a reasonable person would not admit to something that could send them to  
prison unless they believed it to be true).

1 to establish innocence.<sup>83</sup> His credibility, however, is undermined by his own contradictory statements at  
2 the hearing. Most notably, on direct examination he acknowledged meeting Beverly on two occasions,  
3 yet when confronted on cross-examination with Beverly's testimony that she and Ronald had met Del  
4 Rio several times, he responded, "I don't know. I don't know her."<sup>84</sup> Moreover, to credit Del Rio's  
5 account, the Board would be required to find that every other witness in this case – Beverly, Rivera, the  
6 hotel doorman, the jeweler, and the multiple witnesses who placed Ronald's ring in Del Rio's  
7 possession – was either lying or mistaken. Del Rio's self-serving testimony must be weighed against  
8 the inculpatory evidence in the record, including his own admissions to his cousin, Rivera, his use of  
9 assumed names to purchase multiple vehicles with large denomination bills beginning two days after  
10 the murders, and the suspicious circumstances surrounding the ring evidence.

11 Del Rio relies on the fact that he points to a single reference in the 1978 probation report that  
12 hotel staff reported finding Ronald's ring in a dresser drawer, arguing this establishes that Ring #1 was  
13 never taken from the hotel room and therefore could not have been in Del Rio's possession after the  
14 murders.<sup>85</sup> However, this argument is misplaced. Nothing in the record identifies the ring in the drawer  
15 as Ring # 1. Ronald traveled to San Diego with \$20,000 in cash and was known to wear diamond  
16 jewelry – the record simply does not bar the possibility that he possessed additional rings. Del Rio  
17 bears the burden of proof here, and an unexplained gap is not a substitute for affirmative proof.

18 There is also reason to question the probation report reference itself. As the Fourth District  
19 Court of Appeal observed, the probation report was a summary of "numerous police reports on file  
20 within the District Attorney's files" and contained layers of hearsay, with defense counsel having to  
21 correct factual inaccuracies at the original sentencing hearing.<sup>86</sup> Del Rio submitted only one police  
22 report in support of his claim, which makes no mention of a ring found in a drawer, and he never  
23 produced the underlying reports from which that statement was drawn. Nevertheless, as discussed  
24 above, the ring evidence was accorded little to no weight.

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25 <sup>83</sup> Cal. Code Regs., tit. 2, § 641, subd. (a).

26 <sup>84</sup> Hearing at 02:08:46-02:08:50.

27 <sup>85</sup> AGRL Exs. At p. 44; see *People v. Del Rio* (2023) 94 Cal.App.5th 47, 58.

28 <sup>86</sup> *People v. Del Rio*, *supra*, 94 Cal.App.5th at pp. 58-59.

1           The neutron activation analysis fares no better for establishing innocence. Del Rio points to the  
2 finding that his hair was “distinguishable” from the unknown hair in Ronald’s watchband and treats this  
3 as evidence that he was not at the scene. However, the hair analysis does no more than establish that  
4 Del Rio was not the source of that particular hair sample. It does not – and cannot – establish that he  
5 was absent from the scene. The presence of an unidentified hair on a watch does not mean the only  
6 person at the scene left that hair, and the absence of Del Rio’s hair on the watch is equally consistent  
7 with his having been present. Moreover, even if the analysis could somehow be read to suggest Del  
8 Rio was not physically present at the scene, that would not exculpate him under the theory of culpability  
9 on which he was convicted. Under the law as it existed in 1973, Del Rio could be guilty of first-degree  
10 felony murder as an aider and abettor to the robbery – including by hiring others to commit the robbery  
11 – even if he was nowhere near the scene when the victims were killed and did not intend for the  
12 robbery to result in a murder. For both of these reasons, the neutron activation analysis does not  
13 support Del Rio’s claim of innocence and his reliance on it as exculpatory evidence is unpersuasive.

14           Del Rio also relies on the results of a polygraph examination administered on September 15,  
15 1977, in which the examiner concluded that he had been truthful in denying participating in the  
16 murders. While the Board may consider polygraph evidence despite its inadmissibility in criminal  
17 proceedings, the polygraph results are accorded little weight here.<sup>87</sup>

18           Polygraph examinations are widely recognized as unreliable. The scientific community has long  
19 questioned the validity of polygraph testing, and California courts have excluded such evidence  
20 because its reliability cannot be adequately established. That concern does not go away in an  
21 administrative proceeding simply because the traditional rules of evidence do not apply. Unlike  
22 eyewitness testimony, documentary evidence, or physical evidence – the types of evidence reasonable  
23 persons routinely rely upon in the conduct of serious affairs – a polygraph examination is an inherently  
24 suspect mechanism for establishing truth. The examiner’s conclusions are only as reliable as the  
25 underlying test, and the underlying test has never been accepted as scientifically valid. For this reason,  
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28 <sup>87</sup> Cal Code Regs., tit. 2, § 641, subds. (c)-(d).

1 while the polygraph results are not entirely disregarded, they are insufficient, standing alone, to  
2 corroborate Del Rio's claim of innocence.

3 To the extent Del Rio contends that the unavailability of the trial transcript supports his claim of  
4 innocence, that argument is misguided. In his application, Del Rio reasons that because the  
5 prosecution conceded at the section 1172.6 evidentiary hearing that it lacked a trial transcript and could  
6 not go forward, the prosecution had "no evidence to show [Del Rio] was guilty of felony murder."<sup>88</sup>  
7 However, this argument conflates two distinct proceedings with two distinct standards. The  
8 prosecution's inability to proceed at the section 1172.6 hearing was a function of that statute's narrow  
9 evidentiary constraints, which requires the prosecution prove guilt beyond a reasonable doubt under  
10 the *new law* based on the *original* trial transcript. This proceeding is fundamentally different. Here, the  
11 burden rests on Del Rio to affirmatively establish his innocence by a preponderance of the evidence,  
12 and CalVCB is not limited to the trial transcript. CalVCB may consider the Court of Appeal opinion, the  
13 probation report, police reports, witness testimony, and any other reliable evidence.<sup>89</sup> The unavailability  
14 of the trial transcript does not establish innocence – it simply means that one piece of documentary  
15 evidence is no longer available. Del Rio bears the burden here, and the absence of the trial transcript  
16 does not relieve him of that burden or substitute for affirmative proof of innocence.

17 Finally, Del Rio argues that no DNA evidence, fingerprints, or other physical proof linking Del  
18 Rio to the crime scene was ever presented. While the absence of such physical evidence is relevant, it  
19 does not establish innocence under section 4900. As courts have recognized, section 4900 "requires  
20 an affirmative showing of factual innocence, not simply the absence of culpability."<sup>90</sup> The absence of  
21 DNA or fingerprint evidence is unsurprising given both the age of the case and the theory of the case –  
22 Del Rio was not convicted as the actual killer who physically attacked the victims, but as an aider and  
23 abettor to the underlying robbery. Physical evidence at the crime scene linking Del Rio personally was  
24 never the centerpiece of the prosecution's theory. As Del Rio himself acknowledged, "the absence of  
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26 <sup>88</sup> App. at pp. 11, 13.

27 <sup>89</sup> Cal. Code Regs., tit. 2, § 641, subds. (c)-(f).

28 <sup>90</sup> *Tennison v. California Victim Comp. & Government Claims Bd.* (2007) 152 Cal.App.4th 1164, 1191.

1 inculpatory evidence does not prove exoneration.”<sup>91</sup> Del Rio’s burden is affirmative – to prove it is more  
2 likely than not that he did not commit these crimes – and the absence of physical evidence does  
3 nothing to carry that burden.

4 **4. Overall Evidence Fails to Demonstrate Innocence**

5 After careful consideration of all evidence presented by both parties, as detailed above, Del Rio  
6 failed to prove he is more likely than not innocent of felony murder as it was defined in 1973. The  
7 burden rested upon Del Rio to affirmatively demonstrate that he did not commit this offense, or that it  
8 never occurred. To that end, it was Del Rio’s burden to show that he did not participate in the robbery  
9 that led to the victims’ deaths. Accordingly, Del Rio entirely fails to meet his burden on this record, for  
10 all of the reasons detailed above.

11 **V. Conclusion**

12 In accordance with subdivision (a) of Penal Code section 4900, the undersigned Hearing  
13 Officer recommends that CalVCB deny Del Rio’s claim. He has failed to demonstrate by a  
14 preponderance of evidence that he did not commit the offense for which he was convicted and  
15 imprisoned. Del Rio is, therefore, ineligible for compensation as an erroneously convicted person.

16 Date: May 8, 2026

17  for

18 \_\_\_\_\_  
19 Kristen Sellers  
20 Hearing Officer  
21 California Victim Compensation Board  
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28 <sup>91</sup> App. at p. 13.

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7 *Attorney for Ramon Del Rio*

8  
9 **BEFORE THE CALIFORNIA VICTIM COMPENSATION BOARD**

10 *In the Matter of Ramon Del Rio.*

11 **Case No: 23-ECO-65**

12 Hearing Officer: Kristen Sellers, Esq.

13 Board Meeting Date: May 28, 2026

14 Meeting Time: 10:00 A.M.

15 **RAMON DEL RIO’S WRITTEN ARGUMENT AGAINST ADOPTING PROPOSED DECISION**

16 Ramon Del Rio (“Ramon”), by and through his counsel of record, Russell J. Carr, Esq., of the law  
17 firm Russ Carr, PLLC, hereby submits this Written Argument Against Adopting the Proposed Decision  
18 in advance of the California Victim Compensation Board (the “Board”) Meeting on May 28, 2026, at  
19 10:00 A.M. For the reasons stated herein, the Board should *not* adopt the Proposed Decision. Ramon  
20 should receive a new hearing, or alternatively, this Board should conclude that Ramon has shown by a  
21 preponderance of the evidence that he did not commit the crimes that led to 44 years of incarceration.  
22 Ramon did not commit the two counts of felony murder that led to his wrongful imprisonment. Ramon is  
23 entitled to a new hearing, or his claim should be granted.

24 **1. Are the facts in the Proposed Decision supported by evidence in the hearing record?**

25 Various facts in the Proposed Decision are unsupported by evidence in the record. The Attorney  
26 General did not call any witnesses at the hearing on September 23, 2025. Instead, the Attorney General  
27 submitted a 1978 Sentencing Transcript, a 1978 Probation Report, and the Court of Appeal decision from  
28 1979 affirming Ramon’s conviction on direct appeal. The California Court of Appeal stated in a 2023  
opinion, when discussing these same documents, that “the sentencing transcript fatally undermines the  
reliability of the probation report.” *See People v. Del Rio*, 94 Cal. App. 5th 47, 59, 311 Cal. Rptr. 3d 782