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6 **BEFORE THE VICTIM COMPENSATION BOARD**
7 **OF THE STATE OF CALIFORNIA**
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9 In the Matter of:

10 **Richard Luna**

11 Claim No. 26-ECP-25

Proposed Decision

(Penal Code §§ 851.865, 4900 et seq.)

12 **I. Introduction**

13 On April 20, 2026, Richard Luna (Luna) submitted a claim for compensation to the California
14 Victim Compensation Board (CalVCB) as an erroneously convicted person pursuant to Penal Code
15 section 4900. The claim is based upon Luna's 1983 conviction for rape, which was vacated by habeas
16 relief in 2025. A finding of factual innocence was granted on December 11, 2025, pursuant to Penal
17 Code section 851.86. The claim, as revised, requests compensation in the amount of \$162,120 for
18 1,158 days of incarceration. Mr. Luna represented himself throughout this administrative proceeding.

19 The Attorney General, represented by Deputy Attorneys General Jonathan Krauss and Jessica
20 Leal, responded to the claim on June 2, 2026. The Attorney General disagreed with the requested
21 compensation as Mr. Luna was arrested on August 20, 1983, and released on October 29, 1986, a
22 total of 1,157 days in custody. Mr. Luna agreed with the Attorney General's calculations on June 3,
23 2026, and the record closed thereafter.

24 The matter was assigned to CalVCB Senior Attorney Keri Klein. As mandated by Penal Code
25 section 851.865 and in accordance with Penal Code section 4904, it is recommended that CalVCB
26 approve the claim in the amount of \$161,980 if sufficient funds are available, upon appropriation by the
27 Legislature, as indemnification for the injury sustained by Luna's incarceration for 1,157 days as a
28 result of his erroneous conviction.

II. Procedural Background

¹On August 30, 1983, Luna was arrested and charged with the November 8, 1992, rape of a woman in Ventura County Superior Court case number CR18570. At the time, he was 26 years old and living in his truck. After the woman identified him in a lineup as her attacker, he was charged with rape. Luna went to jury trial in December of 1983 and was found guilty by the jury on December 9, 1983. He was sentenced to six years in prison and was released on parole on October 29, 1986. Since the date of his release until his exoneration, Luna was required to register as a sex offender.

In 2022, the Ventura County District Attorney's Office began a program to test every untested sexual assault kit for DNA. At the time of Luna's prosecution, forensic DNA testing was not available technology for prosecuting or defending criminal cases. When the kit in Luna's case was tested, he was excluded.

On December 11, 2025, Luna appeared in Ventura County Superior Court and had his conviction vacated, the case dismissed, and a finding of factual innocence issued.

On April 20, 2026, Luna submitted a claim to CalVCB seeking compensation as an erroneously convicted person under Penal Code section 4900. The claim originally requested \$175,000 in compensation, comprised of 1,250 days of imprisonment at a rate of \$140 per day.² On April 21, 2026, CalVCB requested clarification of the claim, with notice to the Attorney General, asking Luna to confirm that he was solely incarcerated on the Ventura County case during the time period in question and asking for clarification on the amount of compensation requested, as according to the Ventura County Superior Court docket,³ he was incarcerated 1,158 days, not 1,250 days.⁴

¹ Claimant's Application (APP), which he submitted pro se with the court finding of factual innocence attached, contained no facts of the underlying incident or subsequent proceedings. This information was found on the National Registry of Exonerations database located at <https://exonerationregistry.org/cases/19213>.

² APP. at p. 2.

³ *People v. Richard Joseph Luna*, Ventura County Superior Court Docket for case number CR18570, available online at: <https://courtservices.venturacounty.gov/Docket/DocketSearch.aspx>; see also Cal. Code Regs., tit. 2, § 617.8 (official notice).

⁴ CalVCB email to parties, April 21, 2026.

1 On April 24, 2026, Luna confirmed that he was solely incarcerated for the erroneous conviction
2 and that he was requesting \$162,120 for 1,158 days of imprisonment on the erroneous conviction.

3 On April 27, 2026, CalVCB deemed the claim filed and notified both Luna and the Attorney
4 General that the mandated approval provision of Penal Code section 851.865 seemingly applied, as
5 Luna obtained a finding of factual innocence issued by the Ventura County Superior Court on
6 December 11, 2025.⁵ Accordingly, CalVCB requested a response from the Attorney General solely on
7 the issue of injury pursuant to Penal Code section 4904.⁶

8 On June 2, 2026, the Attorney General timely responded, indicating that Mr. Luna was
9 incarcerated for 1,157 days. As calculated by the Attorney General, Luna was entitled to compensation
10 in the amount of \$161,980, which excluded time spent on parole. Mr. Luna agreed to the Attorney
11 General's calculations on June 3, 2026.

12 The administrative record closed the following day on June 4, 2026.

13 **III. Determination of Issues**

14 Penal Code section 4900 allows a person, who has been erroneously convicted and
15 imprisoned for a felony offense that they did not commit, to submit a claim for compensation to
16 CalVCB. Typically, the claimant bears the burden to prove by a preponderance that (1) the crime with
17 which they were convicted either did not occur or was not committed by them and (2) they suffered
18 injury as a result of their erroneous conviction.⁷ In this context, injury means that, but for the erroneous
19 conviction, the claimant would have been free from custody.⁸ Once a properly submitted claim is filed,
20 Penal Code section 4902 requires the Attorney General to submit a written response, after which an
21 informal administrative hearing ensues pursuant to Penal Code section 4903. If the claimant satisfies
22 their burden at the hearing, then Penal Code section 4904 requires CalVCB to approve payment for
23 the purpose of indemnifying the claimant for the demonstrated injury, at the rate of \$140 per day of
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25 ⁵ APP. at p. 6; Cal. Code Regs., tit. 2, § 640, subd. (e)(1).

26 ⁶ CalVCB email to parties, April 28, 2026.

27 ⁷ Pen. Code, §§ 4900, subd. (a); 4903, subd. (a).

28 ⁸ Cal. Code of Regs., tit. 2, § 640, subd. (f).

1 their incarceration, if sufficient funds are available, upon appropriation by the Legislature.⁹ No
2 compensation is authorized for any time spent on supervised released.¹⁰

3 Significantly, a different and expedited process occurs for claimants with a court finding of
4 factual innocence. Under Penal Code section 851.86 and 851.865, when a claimant has secured a
5 declaration of factual innocence, the finding is binding on the Board.¹¹ Further “the [CalVCB] board
6 shall, without a hearing, approve payment to the claimant pursuant to Section 4904, if sufficient funds
7 are available, upon appropriation by the Legislature.”¹² Even then, CalVCB is statutorily obligated by
8 Penal Code section 4904 to determine the extent of injury caused by the erroneous conviction and
9 incarceration.¹³ To that end, CalVCB may “request from both parties additional documents or
10 arguments as needed to calculate compensation.”¹⁴ The burden to prove injury rests with the claimant
11 by a preponderance of the evidence.¹⁵

12 **A. Innocence**

13 Pursuant to the court’s finding under Penal Code section 851.86, CalVCB unequivocally
14 accepts that Luna is factually innocent of all charges in Ventura County case number CR18570.¹⁶
15 Accordingly, the administrative record amply demonstrates Luna’s innocence for purposes of
16 compensation under Penal Code section 4900 as an erroneously convicted offender.¹⁷

17 **B. Injury**

18 The record further demonstrates Luna’s injury amounts to \$161,980. Penal Code section 4904
19 specifies that the amount of compensation to be approved for the claimant’s injury “shall be a sum
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21 ⁹ Pen. Code, § 4904, subd. (a).

22 ¹⁰ Pen. Code, § 4904, subd. (a).

23 ¹¹ Pen. Code § 861.865, subdivision (a).

24 ¹² Pen. Code § 861.865, subdivisions (a) and (b).

25 ¹³ Pen. Code, § 4904, subd. (a).

26 ¹⁴ Pen. Code, § 4904, as amended by Stats. 2023, c. 702 (S.B. 78), § 5, eff. Jan. 1, 2024.

27 ¹⁵ Pen. Code, § 4904; Cal. Code of Regs., tit. 2, § 640, subd. (f)(2); see also Evid. Code, § 115.

28 ¹⁶ APP. at p. 6 [Order Vacating Conviction and Declaration of Factual Innocence, dated Dec. 11, 2025].

¹⁷ Pen. Code, §§ 851.86, 851.865, 4902, subd. (a).

1 equivalent to one hundred forty dollars (\$140) per day of incarceration served, and shall include any
2 time spent in custody, including a county jail, that is considered to be part of the term of
3 incarceration.”¹⁸ This compensation is “for the purpose of indemnifying the claimant for the injury”
4 sustained “through their erroneous conviction and imprisonment....”¹⁹ In this context, the term “injury”
5 refers to “the unique harm suffered when factually innocent persons are imprisoned.”²⁰ Stated
6 differently, the requisite injury contemplated by section 4904 is “each day ... spent illegally behind bars,
7 away from society ... and their loved ones” solely as a result of the erroneous conviction.²¹ To that end,
8 injury “may be established by showing that, but for the erroneous conviction, the claimant would not
9 have been in custody.”²²

10 Here, the record demonstrates that Luna spent 1,157 days incarcerated for his erroneous
11 conviction for rape in Ventura County Superior Court case number CR18570. Specifically, both parties
12 agree, Luna was incarcerated from the date of his arrest on August 20, 1983, to the date of his release
13 on October 29, 1986. But for this erroneous conviction, Luna would have been free for all 1,157 days.
14 At the statutory rate of \$140 per day specified by Penal Code section 4904, Luna’s demonstrated injury
15 as an erroneously convicted offender amounts to \$161,980.²³

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23 ¹⁸ Pen. Code, § 4904.

24 ¹⁹ Pen. Code, § 4904.

25 ²⁰ Senate Floor Analysis of Sen. Bill No. 635 (Reg. Sess. 2015-2016), as amended Sep. 3, 2015, at
26 pp. 4-5.

27 ²¹ *Holmes v. Calif. Victim Comp. & Gov’t Claims Board* (2015) 239 Cal.App.4th 1400, 1405.

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

²³ Pen. Code, § 4904, subd. (a).

1 **V. Conclusion**

2 As mandated by Penal Code section 851.865, the undersigned hearing officer recommends
3 CalVCB approve payment to Luna in the amount of \$161,980 for his claim as an erroneously convicted
4 offender under Penal Code section 4900 if sufficient funds are available, upon appropriation by the
5 Legislature, as indemnification for the injury sustained by his 1,157 days of imprisonment solely as a
6 result of his vacated convictions.

7 *Keri Klein*

8 Date: June 10, 2026

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10 Keri Klein
11 Hearing Officer
12 California Victim Compensation Board
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