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8 **BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**
9 **OF THE STATE OF CALIFORNIA**
10

11 In the Matter of the Claim of:

12 **Grant Self**

13 Claim No. G584611

Proposed Decision

(Penal Code § 4900)

14
15 **Introduction**

16 An in-person hearing on this claim was held on May 10-12, 2010, in Sacramento, California, by
17 Kevin Kwong, Hearing Officer, California Victim Compensation and Government Claims Board. The
18 claimant, Grant Self, appeared at the hearing and was represented by David Feldman. The California
19 Attorney General's Office was represented by Maggy Kreil and Ivan Mars, Deputy Attorneys General
20 (AG). The record remained open until June 4, 2010, for the submittal of additional information.
21 Additional information was received and the record closed.

22 As explained below, Self has not met the statutory requirements to receive compensation under
23 Penal Code section 4900 because he failed to prove by a preponderance of the evidence that he did
24 not commit the crimes with which he was charged.

25 **Procedural Background**

26 In November 1984, the Kern County District Attorney's Office charged Grant Self with 12
27 counts of lewd and lascivious conduct with a child. The criminal charges against Self were part of a
28 consolidated case that included a total of 31 counts of lewd and lascivious conduct with a child, and
29

1 included co-defendants John Stoll, Margie Grafton, and Timothy Palamo.¹ Following a joint trial, on
2 September 27, 1985, Self was convicted of 10 counts of lewd and lascivious conduct with a child and
3 was sentenced to 31 years in prison. On November 17, 1987, the Court of Appeals affirmed Self's
4 conviction.

5 Prior to Self's release from prison in 2000, he was diagnosed by medical experts as a
6 pedophile that was likely to reoffend. On December 11, 2000, a jury determined that Self was a
7 sexually violent predator and he was committed to Atascadero State Hospital for two years under the
8 Sexually Violent Predators Act (SVP). On July 13, 2003, a jury again determined that Self was a
9 sexually violent predator and committed him for another two year term. On May 22, 2006, a jury
10 again determined that Self was a sexually violent predator and committed him to Coalinga State
11 Hospital for two years. All three commitments were affirmed by the California Court of Appeals.²

12 On October 21, 2008, the Kern County Superior Court granted Self's petition for writ of
13 habeas corpus and reversed his 1985 conviction. The Court determined that the conviction was
14 based upon the unreliable testimony of the alleged victims due to improper interviewing techniques
15 by law enforcement. The Kern County District Attorney declined to retry the case and all charges
16 were dropped. In light of the habeas ruling, a petition to recommit Self as a sexually violent predator
17 for a fourth term was dismissed and on January 30, 2009, the Court ordered that Self be released
18 from Coalinga State Hospital. On February 6, 2009, Self was released from Coalinga State Hospital.
19 Self submitted his claim to the Board under Penal Code section 4900 on July 31, 2009.

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23 ¹ John Stoll, Margie Grafton, and Timothy Palamo's convictions were all overturned and they were
24 released from prison before Self. Grafton and Palamo were released, in part, due to the California
25 Supreme Court's ruling that a defense expert was improperly excluded.

26 ² Self argued that he is entitled to compensation for his time served at Atascadero and Coalinga State
27 Hospitals because he was there involuntarily based upon a court order originating from the underlying
28 criminal charge. When the underlying criminal charge was dismissed, he was released from the state
29 hospital. The AG's office argued that a plain reading of Penal Code section 4900 only allows claimants
to receive \$100 per day for each day spent in a state prison and Atascadero and Coalinga State
Hospitals are not state prisons. Since this claim is recommended for denial, no recommendation on
this issue will be given.

Summary of Evidence

I. Self's Prior Incidents Involving Children

A. Self's 1976 Plea Agreement

In 1976, Self was charged with multiple counts of lewd and lascivious acts against children. Self pled guilty to contributing to the delinquency of a minor and received 90 days in jail, a one-year suspended sentence, and three years probation. The AG offered into evidence allegations from the 1976 incident to show Self's pattern of inappropriate behavior towards children.³

According to testimony given during Self's 2006 SVP Hearing and a 1976 probation report, Self allegedly molested three boys who were ages eight, nine, and ten at the time of the incidents. Self was a member of a judo club and became close to the boys. Self placed one boy in a judo hold and in the process placed the boy's penis into his mouth. After Self locked the gym, he and the boys played a game called "three little pigs" in which the boys would use the judo mats to build "houses." Self would then enter the boy's "house" to perform oral sex. All three boys stated in the report that they were orally copulated by Self but they refused to perform oral sex on him.

B. Self's 1979 Plea Agreement

In 1979, Self was charged with seven counts of lewd and lascivious acts against a child. Self pled guilty to one count of lewd and lascivious acts against a child and received an eight-year prison sentence. The AG offered into evidence allegations from the 1979 incident to show Self's pattern of inappropriate behavior towards children.

According to a 1979 probation report and testimony from the 2006 SVP hearing, Self became friends and acted as a father figure or big brother with four boys while he was still on probation from his 1976 offense. These boys were ages 6, 10, 10, and 13. According to reports and testimony, Self took one of the boys fishing and asked the boy to "suck my weenie." Self also showed two of the boys how to "work a snake bite" if they were bitten on their penis. He had the boys pull down their

³ Although all relevant evidence is admissible in a Penal Code 4900 Hearing, the AG argued that this evidence would be admissible in any hearing. In a criminal trial, California Evidence Code section 1101(a) prevents previous instances of a person's conduct to be used to prove the person's conduct on a specified occasion. However, Evidence Code section 1108(a) states that when the defendant is charged with a sexual offense, evidence of the defendant's previous sexual offenses is admissible as an exception to the general rule found in section 1101(a).

1 pants and he performed oral sex on the boys. One of the boys stated that he was orally copulated,
2 that Self masturbated in his presence numerous times, and that Self told him that if he ever told
3 anybody about what happened then he was going to kill him, break his arms, and cut out his tongue.

4 During a sleepover at Self's house one of the boys stated that Self spilled beer on the boy's
5 pajamas and told the boy to take off his pajamas. While his pajamas were off, Self put his head near
6 the boy's penis so that he could listen to his stomach. Self later performed oral sex on the boy.

7 During another sleepover with two boys, Self provided them with beer, played a game of "truth or
8 dare" which resulted in Self performing oral sex on the boys and forcing them to perform oral sex on
9 him, and Self took nude photographs of the boys. During a search of Self's residence, law
10 enforcement found photographs and film negatives with the names of three more boys whom Self
11 described as friends who were under 14 years old.

12 **II. Self's Conviction for Child Molestation in 1985 (basis for his 4900 claim)**

13 On September 27, 1985, Self was convicted of 10 counts of lewd and lascivious conduct with
14 a child and sentenced to 31 years in prison. These convictions are the basis for his claim under
15 Penal Code section 4900. Five of the counts against Self were based on molesting Jerimy D. The
16 five other counts were based on molesting four other children: Jed S., Allen G., Donnie G. and Chris
17 D.

18 The incidents began in 1983 when Self rented a room from a home where John Stoll resided
19 in Bakersfield, California. Self had just been released from Atascadero hospital after serving his
20 1979 sentence. Jed S. and other children in the neighborhood would occasionally come to the home
21 and swim. After Jed S. reported that he had been molested, law enforcement conducted an
22 investigation which led to the arrests of Self, John Stoll, Margie Grafton, and Timothy Palamo. At the
23 time of his arrest, Self was dating Glenda Manners. Jerimy D. was Manner's seven year-old
24 grandson and resided with Manners while she was in a relationship with Self.

25 **A. Jerimy D.'s Testimony**

26 Jerimy D. testified that he was molested by Self. Self told him to pull down his pants and then
27 Self rubbed his genitals against Jerimy D., touched Jerimy D.'s genitals, and stuck his finger in
28 Jerimy D.'s anus. Jerimy D. testified that this occurred on at least five occasions. Jerimy D. also
29 testified about a trip to the lake with one of his friends and Self. The friend was playfully punching

1 Self who then told the friend that for every time that he was punched the friend would have his pants
2 pulled down that many times at the lake. At the lake, Self pulled down the friend's pants 10 times for
3 being punched 10 times. Jeremy D. stated that Self was only punched nine times and not ten times.
4 Self then pulled down Jeremy D.'s pants nine times.

5 Jeremy D. testified that on two occasions Self took pictures while Jeremy D.'s pants were
6 pulled down to his knees. These pictures were taken from both the waist up and the waist down.
7 Self then showed Jeremy D. these pictures and let him keep the waist up picture, but Jeremy D. was
8 not given the waist down pictures. Jeremy D. also remembered seeing and being shown by Self a
9 box filled with multiple magazines that had pictures of kids and adults who were naked. Jeremy D.
10 described the people in the magazine as just swimming and standing around without their clothes on.

11 B. Jed S.' Testimony

12 Jed S. testified that there was an incident where all the defendants were in a room together
13 and they photographed the children with their clothes off. Jed also testified that on one occasion Self
14 stuck his penis into his anus. Jed S. testified to other instances of sexual abuse that did not involve
15 Self.

16 C. Allen G.'s Testimony

17 Allen G. testified that he and the other children were photographed by Self in various sexual
18 poses. Allen G. testified to other instances of sexual abuse that did not involve Self.

19 D. Donnie G.'s Testimony

20 Donnie G. testified that he was photographed naked by the defendants and that on one
21 occasion Self performed oral sex on him. Donnie G. testified to other instances of sexual abuse that
22 did not involve Self.

23 E. Chris D.'s Testimony

24 Chris D. testified that he was forced to perform oral sex on Self and that he had to stick his
25 penis into Self's anus. Chris D. testified to other instances of sexual abuse that did not involve Self.

26 III. John Stoll's Habeas Corpus Hearing and Penal Code section 4900 Hearing

27 On April 30, 2004, John Stoll's petition for writ of habeas corpus was granted and his
28 convictions were reversed on due process grounds with the finding that the testimony against Stoll
29 was obtained by improper interview techniques by law enforcement and therefore the alleged victims'

1 testimony was unreliable. The District Attorney declined to re-try Stoll. He then submitted an
2 application to the Board under Penal Code section 4900. The AG's office, also represented by
3 Deputy Attorney General Maggy Krell, recommended that Stoll's claim be approved. The Board
4 approved Stoll's claim in May 2006, and adopted the following facts and findings of the Hearing
5 Officer in approving Stoll's 4900 claim. Self argued during his 4900 hearing that his claim and Stoll's
6 claim are similar and should be approved for the same reasons.

7 A. Law Enforcement Investigation Techniques

8 In September 1986, the AG's Office completed an evaluation of Kern County's child abuse
9 investigation techniques. The evaluation focused on the period from June 20, 1984, through August
10 13, 1985. The evaluation concluded that most of the investigators involved in child abuse
11 investigations were inexperienced and had little specialized training. The report noted that in specific
12 cases, victims were interviewed numerous times, while California Peace Officer Standards & Training
13 guidelines caution that if possible, the victim should only be interviewed once. The report noted that
14 sheriff's deputies typically asked questions of children in a demanding or threatening manner and did
15 not question the children's statements to gain new information. Deputies and child protection
16 services social workers also told victims the statements of other victims, which could have influenced
17 victim's responses and affected individual specific memories of events.

18 In granting Stoll's habeas claim, the court found as follows: (1) some of the children were
19 interviewed with questions that were leading and suggestive, (2) some of the children were told what
20 other children had supposedly already said, (3) repetition was overused such as repeating questions
21 within an interview or conducting repeat interviews with the same child, (4) the review of the records
22 reveals that the interviewers used reinforcement. The use of multiple interviews constituted another
23 form of indirect reinforcement in the Stoll case, and (5) another improper technique was the use of
24 authority, such as telling the child what the interviewer or other authority figures believe about the
25 facts in the case.

26 The Board determined that the objectionable interviewing techniques used in this case
27 provided a reason for the ambiguous, conflicting, and unreliable testimony that has made the truth
28 difficult to determine. However, the improper techniques alone did not necessarily mean that Stoll
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1 was innocent of the crimes charged. The fact that four children recanted at Stoll's habeas hearing
2 weighed in his favor in proving his innocence.

3 B. Allen G.'s, Donnie G.'s, and Chris D.'s Testimony

4 At Stoll's habeas hearing, these witnesses recanted their testimony that they were molested.
5 Allen G. testified that he had no memories of being molested and that he was pressured into saying
6 things that other kids had said regarding the accusations. Donnie G. testified that he was not
7 molested by Stoll and that he only confirmed what the investigators told him because it would be
8 easier on his family and everybody else. Chris D. stated that he was not molested by John and that
9 he was pressured into testifying falsely. He also stated that he was promised ice cream when he
10 stated what law enforcement wanted him to say.

11 The Board found the recantation of these victims to be credible and that Stoll did not molest
12 these children.⁴

13 C. Jed S.' Testimony

14 Unlike the other children, Jed did not recant his previous testimony that he was molested.
15 However, despite Jed S.' continued statements that Stoll molested him, the Board determined that
16 there was a preponderance of the evidence that Stoll did not molest Jed S. This finding was based
17 upon: (1) Jed S. being subjected to the same manipulative, improper interview techniques as the
18 other children, (2) Jed S. describing sexual acts involving other children who now state that those
19 acts never happened and that they were coerced into making false accusations, (3) Jed S.'
20 inconsistent statements between his trial and preliminary hearing, and (4) the lack of general details
21 regarding the alleged incidents.

22 IV. Grant Self's Habeas Corpus Hearing

23 On October 21, 2008, the Kern County Superior Court granted Self's petition for writ of
24 habeas corpus and reversed his 1985 conviction. The court ruled that the objectionable interview
25 techniques used by the investigators made a prima facie case that Self's claim should be granted
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27
28 ⁴ Other alleged victims also recanted their testimony that Stoll sexually abused them, however these
29 other children never alleged that they were sexually abused by Self.

1 due to false testimony by the children. The District Attorney did not oppose the motion, no witnesses
2 were questioned, and an evidentiary hearing was not held.

3 **V. Grant Self's 4900 Hearing**

4 On May 10-12, 2010, a hearing was held to determine if Self was eligible for compensation
5 under Penal Code Section 4900. The following witnesses and evidence were presented.

6 **A. Grant Self's Testimony**

7 Self testified that in 1976 he pled guilty to contributing to the delinquency of a minor because
8 he provided alcohol to a minor. He had no knowledge that his 1976 charge included the accusations
9 that he molested children until he went to Atascadero State Hospital in 2000. He testified that the
10 allegations in 1976 were not true. He also stated that he did not have to register as a sex offender
11 due to pleading guilty for this offense.

12 He admitted that he molested three boys in 1979. He stated that he felt guilty, turned himself
13 in, and asked for help. After his release from prison, Self met Stoll in approximately March 1984 at a
14 home construction site and later lived with him for a brief period. Self stated that he knew that Stoll
15 had a young son named Jed S. that came to visit a couple times a week.⁵ Self made sure that he
16 was never home when Jed S. came over. Self testified that he was honest with Stoll and that Stoll
17 knew what was going on in Self's life.

18 Self met Glenda Manners at church, started a dating relationship with her, and then lived with
19 her. He testified that he told Manners about his past and that Manners never let him be alone with
20 her grandson, Jerimy D., who resided with Manners because of a custody dispute with Jerimy D.'s
21 biological mother. Self testified that he was dating Manners because he cared about her and that he
22 was not sexually attracted to Jerimy D. and was not using Manners to get to Jerimy D. Self denied
23 ever molesting Jerimy D. and stated that Jerimy D.'s testimony at the criminal proceedings were a lie.
24 Self moved out of Manners' home around Easter in 1984 after doctors told him that he should not be
25 living there because a young boy lived there as well.

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⁵ Stoll was going through a divorce or had just completed a divorce and, due to custody issues, Jed S.
29 did not permanently reside with him.

1 After his arrest in 1984, Self stated that he was offered a one-year plea bargain but refused
2 because he was innocent of the crimes with which he was charged. He stated that he pled guilty in
3 1979 because those events occurred and he was willing to take responsibility. However, the
4 allegations in his 1984 charge never occurred so he could not plead to crimes which he did not
5 commit.

6 On cross-examination, the AG referenced a 1976 probation report which stated that the 1976
7 criminal report was reviewed with Self and after reviewing the report he denied any sexual activity
8 with the children. The probation report also states that Self stated that he had a key to the judo club
9 that he was a member of, and that Self would drive kids to judo meets and take kids swimming as
10 rewards for accomplishing academic goals. At the 4900 hearing, Self testified that he did not have a
11 key to the judo club, that he never drove kids to any judo meet, and that he never took any kids
12 swimming although there may have been kids in the pool while he was swimming.

13 The AG also referenced a 1979 probation report which stated that Self admitted that he
14 played the game of "truth or dare" with the boys after he had consumed alcohol and muscle relaxers
15 for a sore back. At the 4900 hearing, Self denied drinking and said that he could not remember if he
16 played a game of "truth or dare." The probation report also says that as a result of Self's 1976
17 charge, Self was required to register as a sex offender.

18 Self testified that the nude photographs of children found in relation to his 1979 charge was
19 due to letting the boys play with his camera and that they took pictures of each other in sexual
20 positions. He also stated that the other destroyed photographs found in his home were those of
21 adults and that he mixed the sexual pictures of children and the pictures of adults together.

22 Due to Self's 1979 offense, he was required to register as a sex offender. According to a
23 medical report from Dr. Byrom to the Kern County Superior Court, Self was in violation of his
24 registration requirement because (1) he did not have a permanent residence since approximately
25 May 5, 1984, (2) he gave a false address for his registration, and (3) he continued to stay overnight
26 at Manner's home after being forbidden to stay there. Dr. Byrom also opined that Self was deceptive
27 in his reasons for living with Manners. Self testified that he did not violate any registration or
28 residency laws and that there was a miscommunication between himself and Dr. Byrom.

1 Self testified that the only time he touched Jerimy D. was during an incident when Jerimy D.'s
2 penis became stuck in his zipper after he pulled up his pants. Self stated that he heard Jerimy D.
3 and Manners screaming and that he provided assistance. Neither Jerimy D. nor Manners ever stated
4 this incident occurred during any interview or court proceeding.

5 B. 1994 Prison Violation

6 In 1994, Self was determined by a prison Hearing Officer to have committed a prison violation
7 by possessing child pornography. The prison report states that the guard found several brochures
8 and magazines containing numerous full frontal nude photographs of children locked inside Self's
9 footlocker. Self testified at the 4900 Hearing that this was not child pornography but was a magazine
10 featuring a nudist colony that was sent to him in prison by a friend. The magazine had nude women
11 and children in a distant picture. Self testified that he put the magazine in an envelope and tried to
12 return it back to the sender. Self denied that the magazine was found in his locker or that it had
13 frontal nudity of children in any picture.

14 C. Other Prison Violations

15 According to prison reports and determinations by prison Hearing Officers, Self committed
16 prison violations by being involved in a fight with his cellmate and for possessing pruno (a prison-
17 made alcoholic beverage). At the 4900 hearing Self denied being in a fight and injuring his cellmate
18 and stated that his cellmate stabbed himself with a paperclip so that it appeared that Self inflicted the
19 injuries. Also at the 4900 hearing, Self denied possessing pruno and stated that the liquid was dirty
20 water and bleach.

21 D. Larry Hobson

22 Larry Hobson is a certified polygraph examiner and he conducted a polygraph examination of
23 Self on March 17, 2005. Self was asked four questions: (1) regarding your 1984 conviction, did you
24 participate in any kind of sexual activities with Jerimy D., (2) have you ever engaged in any sexual
25 activities with Jerimy D., (3) regarding your 1984 conviction, did you participate in any kind of sexual
26 activities with Jed S., and (4) have you ever engaged in any sexual activities with Jed S. Self
27 answered "no" to each question and Hobson's results showed that no deception was indicated.

28 Hobson testified that 98% of the polygraph examinations he gives to inmates at Atascadero
29 show deception and that Self was one of the few that did not show deception. He also stated that

1 this polygraph exam was a single issue test which has a higher reliability than multi-issue polygraph
2 exam. Self also underwent two other polygraph examinations, one conducted by Claude Davis and
3 the other by Jesse Delgado. Hobson stated that the polygraph exam issued by Davis was a multi-
4 issue test but the test issued by Delgado was a single issue test.

5 E. Other Polygraph Examinations

6 As mentioned above, Self underwent a polygraph examination conducted by Claude Davis.
7 Davis frequently works with the AG's Office. Results from this polygraph exam revealed that Self
8 showed deception. Self testified at the 4900 Hearing that Davis made him uncomfortable and that he
9 was biased. Self's third polygraph examination was conducted by Jesse Delgado and the results
10 showed that no deception was indicated.

11 F. Dr. Elizabeth Snider

12 Dr. Elizabeth Snider was one of Self's therapists while he was in prison. She testified that
13 based on her treatment sessions and expert opinion from the topics discussed during treatment, she
14 does not believe that Self committed the crimes with which he was charged. She opined that the
15 mass hysteria of child molestation accusations and leading questions by law enforcement lead to
16 Self's conviction.

17 G. Dr. James Park

18 Dr. James Park is a psychologist who testified to child memories. He stated that spontaneous
19 statements made by children are the most reliable statements made by children. Suggesting
20 answers as well as comments or positive reinforcement leads children to give false answers. It is
21 best to only conduct one interview with children because that is the most reliable answer. In this
22 case, law enforcement interviewed Jerimy D. multiple times and he may have been influenced from
23 his prior interviews. Additionally, Jerimy D.'s interviews lasted for an hour and a half which is too long
24 of an interview for a child. Finally, if Jerimy D.'s allegations about the incidents are true, Dr. Park
25 would expect him to still have memories about the incidents today.

26 H. Telephone Conversation with Jerimy D.

27 On January 4, 2010, an investigator from the AG's office had a telephone conversation with
28 Jerimy D. in which he called Self a pervert and said that Self "wasn't a good cat." Jerimy D. also said
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1 "he (Self) definitely did the things I said he did. But I couldn't go back and tell you exactly what I
2 testified."

3 I: Dr. Maggie Bruck

4 Dr. Maggie Bruck is a psychiatrist who submitted a declaration about false memories in
5 relation to Jerimy D.'s telephone interview. In the declaration, Bruck states that Jerimy D. was
6 subjected to highly suggestive questioning from law enforcement when Self was convicted in 1985.
7 The child custody issues between Jerimy D.'s mother and Manners could also have played a role in
8 his false memories. Based on Jerimy D.'s telephone statements, he did not want to recant but is also
9 unwilling and unable to state what actually occurred and he just wants to move on from the matter.
10 From all these factors it appears that Jerimy D. is speaking about false memories.

11 J. Telephone Conversation with John Stoll

12 On an unknown date, an investigator from the AG's Office had a telephone conversation with
13 Stoll regarding Self and Self's upcoming 4900 Hearing. Stoll stated that he was "flabbergasted" at
14 the criminal trial's preliminary hearing in 1985 when he learned that Self had previously been
15 convicted of a prior child molestation offense. He also believes that Self was using his address as
16 his sex offender registration address even though Self was living with Manners.

17 K. Self's Additional Arguments

18 Self made the following additional arguments to support his claim that he did not commit the
19 crimes for which he was convicted:

- 20 1. Law enforcement's interviewing techniques were found to have been wrong and
21 misleading in Stoll's case. The same interview techniques were used on Jerimy D. and the
22 other children to convict Self.
- 23 2. Jerimy D. was in the center of a custody dispute between his mother and Manners.
24 Jerimy D. eventually testified against Manners in a child endangerment criminal proceeding
25 arising out of the alleged molestation.
- 26 3. Jerimy D. has inconsistencies in his testimony and had to be interviewed multiple times to
27 get an entire story.
- 28 4. Self's 1979 child molestation conviction and 1976 allegations are irrelevant in determining
29 his innocence on the 1985 conviction.

1 5. All the photographs in dispute were not produced or were destroyed, thus it is impossible
2 to determine what was really on the photographs.

3 6. Hobson's polygraph examination should be given the most weight of the three polygraph
4 exams since he testified in person to explain the results and because he worked for the state
5 prison system at the time the test was conducted.

6 7. The telephone interviews with Jerimy D. and Stoll were not conducted under oath and
7 were administered by a biased investigator who sought to deny Self's compensation claim
8 rather than discover the truth.

9 L. AG's additional arguments

10 The AG made the following additional arguments at the hearing:

- 11 1. Self's case is different than Stoll's case because Self has a history of sexually abusing
12 children and because of Jerimy D. There were never any accusations that Stoll sexually
13 abused Jerimy D. and Jerimy D. did not even know Stoll and the other children who have
14 since recanted their testimony.
- 15 2. The United States Supreme Court has stated that polygraph examinations are not reliable
16 and there is no scientific evidence of their reliability.⁶ Most courts do not allow polygraph
17 examinations to be entered into evidence due to their unreliability. Thus, little weight, if
18 any, should be placed on Self's polygraph results.
- 19 3. The allegations against Self for the 1976 incident and the 1979 incident are very similar to
20 the allegations that were made in 1985 conviction. Specifically, the majority of the boys
21 were ages six through ten, they all involved pictures, and Self acted as either a big brother
22 or father figure to the children since they were raised by single mothers.
- 23 4. Ever since Self's original 1976 plea bargain, he has shown a pattern of lying and
24 deception, thus his denials about not molesting the children should not be believed.

25 **Findings**

26 A preponderance of the evidence supports each of the following findings:

- 27 1. Self pled guilty to contributing to the delinquency of minor in 1976.

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29 ⁶ *U.S. v. Scheffer* (1998), 523 U.S. 303, 309-310.

- 1 2. Self pled guilty to child molestation in 1979.
- 2 3. The Board previously determined that Allen G., Donnie G., and Chris D.'s testimony at
- 3 the 1985 criminal hearing was not credible.
- 4 4. The Board previously determined that Jed S.' testimony at the 1985 criminal hearing was
- 5 not supported by the facts.
- 6 5. The Board previously determined that improper interview techniques used by
- 7 investigators produced unreliable testimony of the children but that the improper
- 8 techniques did not prove Stoll's innocence.
- 9 6. Jerimy D. did not know Stoll or the other child accusers.
- 10 7. Jerimy D. has never recanted his testimony that he was molested by Self.
- 11 8. Self's testimony at the 4900 Hearing is determined not to be credible.
- 12 9. Self passed two of the three polygraph examinations.

13 **Determination of Issues**

14 A person erroneously convicted and imprisoned for a felony may submit a claim to the Board for
15 pecuniary injury sustained as a result of his erroneous conviction and imprisonment.⁷ Penal Code
16 section 4903 provides that in order to state a successful claim for compensation, the claimant must
17 prove the following by a preponderance of the evidence:⁸

- 18 1. That the crime with which he was charged was either not committed at all, or, if committed,
- 19 was not committed by him;
- 20 2. That he did not by any act or omission on his part, intentionally contribute to the bringing
- 21 about of the arrest or conviction for the crime; and
- 22 3. That he sustained a pecuniary injury through his erroneous conviction and imprisonment.

23 If the claimant meets his burden of proof, the Board shall recommend to the legislature that an
24 appropriation of \$100.00 per day of incarceration served subsequent to conviction be made for the

25 ⁷ Pen. Code, § 4900.

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27 ⁸ *Diola v. Board of Control* (1982) 135 Cal.App.3d 580, 588, fn 7; *Tennison v. Victim Compensation and*
28 *Government Claims Board* (2000) 152 Cal. App. 4th 1164. Preponderance of the evidence means
29 "evidence that has more convincing force than that opposed to it." (*People v. Miller* (1916) 171 Cal.
649, 652.)

1 claimant.⁹ A claimant's mere denial of the commission of the crime, or reversal of the judgment of
2 conviction on appeal may be considered by the Board, but it will not be sufficient evidence to carry the
3 claimant's burden in the absence of substantial independent corroborating evidence that the claimant is
4 innocent of the crime charged.¹⁰ Here, Self's claim must be denied because he failed to prove by a
5 preponderance of the evidence that he did not commit the crime with which he was charged.

6 I. The Board's Prior Determinations from the John Stoll Penal Code 4900 Claim

7 In Stoll's 4900 claim, the Board already determined that the 1985 criminal trial testimony of
8 Allen G., Donnie G., and Chris D. was not credible. The Board also determined that Jed S.' testimony
9 was not supported by the facts. No evidence was presented to challenge these determinations, thus
10 none of the criminal trial testimony offered by these four children are determined to be credible. Since
11 the criminal trial testimony of Allen G., Donnie G., Chris D., and Jed S. is not credible, Self has met his
12 burden of proving by a preponderance of the evidence that he did not commit crimes against these four
13 children.

14 However, only five of the ten counts against Self arose out of incidents involving these four
15 children. The other five counts related to incidents involving Jerimy D. The Board never made a
16 determination relating to Jerimy D.'s credibility because Jerimy D. did not allege or testify to being
17 molested by Stoll. Jerimy D. had no connection to Stoll and was in a completely different situation as
18 his incidents arose because Self was living with him and Manners. Additionally, Jerimy D. never knew
19 the other children as he did not come to Stoll's house to swim which is when most of the other alleged
20 incidents occurred.

21 II. Self's Testimony Regarding Jerimy D.

22 Self testified at the 4900 Hearing that he never molested Jerimy D. and that Jerimy D.'s criminal
23 trial testimony was a lie. However, Self's testimony at the 4900 Hearing is determined to not be
24 credible. Self made numerous statements that are contrary to other reports and evidence including:
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26

27 ⁹ Pen. Code, § 4904.

28 ¹⁰ Cal. Code of Regs., title 2, § 641. All regulations citations are to California Code of Regulations, title
29 2.

- 1 - Self testified that he did not learn until 2000 that the 1976 charges against him were sexual
2 in nature. This is contradicted by the 1976 Probation Report which states that Self read
3 the criminal report against him and that he denied all the molestation allegations.
- 4 - Self testified that he did not have keys to the gym, that he did not drive the kids to judo
5 meets, and that he did not take boys swimming. This is contradicted by the 1976
6 Probation Report which states that Self stated to the probation officer that he had a key to
7 the judo club, that he would drive kids to judo meets, and that he would take kids
8 swimming as rewards for accomplishing academic goals.
- 9 - Self testified that he did not drink alcohol and that he did not play a game of "truth or dare"
10 the night he molested children in 1979. This is contradicted by the 1979 Probation Report
11 where Self stated to the probation officer that he played "truth or dare" after consuming
12 alcohol and taking muscle relaxers.
- 13 - Self testified that he did not have to register as a sex offender for his 1976 offense. This is
14 contradicted by the 1979 Probation Report stating that Self had to register as a sex
15 offender as a result of his 1976 offense.
- 16 - Self testified that he told John about his situation and that John knew what was going on in
17 Self's life. Stoll told the AG's Office that he was "flabbergasted" to learn at the preliminary
18 hearing that Self was previously convicted of child molestation.
- 19 - Self testified that there was a miscommunication between him and Dr. Byrom over
20 registering as a sex offender due to his 1979 offense. Dr. Byrom's letter stated that Self
21 was being deceitful and was using a false address. Stoll also told the AG's office that he
22 believed that Self was using a false address.
- 23 - Self testified that he did not have child pornography in his prison locker and that there were
24 no frontal nude shots of children in this nudist colony magazine. The 1994 Prison Report
25 and findings by the Prison Hearing Officer states that several pornographic magazines
26 depicting nude children were found locked in Self's locker.
- 27 - Self testified that he did not start a fight with his cellmate and that he did not have illegal
28 alcohol in prison. This testimony was contradicted by prison reports and findings by Prison
29 Hearing Officers.

1 Self's incredulous testimony also includes his statements that he did not take pictures of boys in
2 1979 but that he let them have the camera so they could take sexual pictures of themselves, that he
3 mixed regular photos of adults and nude photographs of boys, and that he was not violating sex
4 offender laws by living with seven-year old Jerimy D. Finally, although it does not prove that the 1984
5 crimes occurred, it cannot be ignored that Self previously plead guilty to child molestation and that
6 seven other boys who have never recanted previously made serious sexual abuse allegations against
7 him.

8 Since Self's testimony at the 4900 Hearing is contradicted by numerous reports and evidence,
9 his testimony including his denial of molesting Jerimy D. is determined to not be credible.

10 III. Jerimy D. Has Never Recanted

11 In addition to not determining Self's testimony to be credible, Jerimy D. never recanted his
12 criminal trial testimony that he was molested by Self. In 2010, Jerimy D. again affirmed that he was
13 molested by Self. Although the telephone conversation with the AG's office was not made under oath
14 or in any proceeding, Jerimy D. still had the ability to recant or at the very least decline answering any
15 questions about the incident. However, Jerimy D. emphatically stated that Self committed the crimes.
16 Finally, one of the reasons why the Board determined that John was innocent despite Jed S. never
17 recanting was because Jed S. described sexual acts involving children who had all recanted. Jerimy
18 D. never knew the other children or testified to being molested with other children.

19 Self correctly argues that Jerimy D. was part of the objectionable interview techniques that the
20 AG's office was critical of and that the Board determined was objectionable in Stoll's 4900 claim. As
21 the Board stated in Stoll's claim, the improper techniques do not necessarily mean that the claimant is
22 innocent but it has made the truth very difficult to determine. However, merely being subjected to
23 improper interview techniques does not prove that Jerimy D. gave false testimony and there is
24 overwhelming evidence that Self's testimony at the 4900 Hearing contained many inconsistent and
25 false statements.

26 IV. Polygraph Examinations

27 While it is determined that Self passed two polygraph examinations, and Hobson's polygraph
28 examination is given the most weight of the three due to his testimony and lack of bias, the entire
29 polygraph evidence is given little weight. Polygraph examinations are not admissible in most, if not all,

1 courts. The United States Supreme Court has stated that polygraph tests are unreliable. Self's
2 multiple contradictions and denials of evidence contained in official reports at the 4900 Hearing reveal
3 more about his veracity than answering "yes" or "no" to a four question test. Thus, Self's passing of
4 the polygraph exam alone is not enough to meet his burden of proving innocence.

5 V. Self's Habeas Release

6 The decision by the Habeas court also does not provide proof that Self is innocent of the crimes
7 charged against him in regards to Jeremy D. An evidentiary hearing was not held and the motion was
8 not opposed. The court's ruling was based upon the objectionable interview techniques used by the
9 investigators which led to false testimony by the children. The court's finding was also likely influenced
10 by Stoll's habeas hearing in which Allen G., Donnie G., Chris D., and other children not relevant to
11 Self's claim recanted their prior testimony. However, the Board already determined that improper
12 interview techniques were used on the children and that it did not necessarily prove Stoll's innocence.
13 The Board used the recantation of four alleged victims in conjunction with the improper interview
14 techniques to find Stoll innocent. Jeremy D. never testified in either Stoll or Self's habeas proceedings
15 and has never recanted his criminal trial testimony that he was molested.

16 Self's testimony is determined not to be credible, thus his denials of molesting Jeremy D. is not
17 credible. In addition, Jeremy D. has never recanted his testimony that Self molested him. Self's
18 passing of his polygraph exam and his experts' testimony is not enough to meet his burden of proving
19 innocence in light of his non-credible testimony and Jeremy D. never recanting. Thus, Self has failed to
20 prove by a preponderance of the evidence that he did not commit the crimes with which he was
21 charged and his claim under Penal Code section 4900 is denied.

22
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24 Dated: September 9, 2010

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26 _____
27 Kevin D. Kwong
28 Hearing Officer
29 California Victim Compensation and
Government Claims Board

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7 **BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**
8 **OF THE STATE OF CALIFORNIA**
9

10 In the Matter of the Claim of:

11 **Grant Self**

12 Claim No. G584611

Notice of Decision

13
14 On October 21, 2010, the California Victim Compensation and Government Claims Board
15 adopted the attached Proposed Decision of the Hearing Officer as its Decision in the above-referenced
16 matter.

17
18 Date: October 21, 2010



19 Tisha Heard
20 Board Liaison
21 California Victim Compensation and
22 Government Claims Board
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