

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

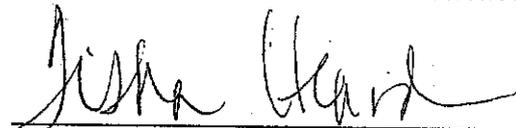
**BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD  
OF THE STATE OF CALIFORNIA**

In the Matter of the Claim of:  
**Shannon Strider**

**Notice of Decision**

On May 17, 2012, the California Victim Compensation and Government Claims Board adopted the attached Proposed Decision of the Hearing Officer as its Decision in the above-referenced matter.

Date: May 21, 2012



Tisha Heard  
Board Liaison  
California Victim Compensation and  
Government Claims Board

2  
3  
4  
5  
6  
7  
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 **Shannon Strider**  
13

**Proposed Decision**  
**(Penal Code § 4900 et seq.)**

14 **Introduction**

15 An in-person hearing on Shannon Strider's claim for compensation as an erroneously  
16 convicted person was conducted on February 6, 2012. Kyle Hedum was assigned to hear this matter  
17 by the Executive Officer of the California Victim Compensation and Government Claims Board.  
18 Strider did not appear at his hearing.<sup>1</sup> The California Department of Justice, Office of the Attorney  
19 General, was represented by Kari Ricci, Deputy Attorney General.  
20

21 After considering all the evidence,<sup>2</sup> it is determined that Strider has not proven by a  
22 preponderance of the evidence that he is innocent of the crime for which he was convicted and  
23 incarcerated and that he did not, by any act or omission on his part, intentionally contribute to the  
24

25 <sup>1</sup> On September 13, 2011, a notice was mailed to Strider and to the Attorney General requesting that  
26 the parties choose a hearing date from a list of available dates. The Attorney General responded via  
27 email on September 16, 2011. No response was received from Strider. On November 3, 2011, both  
28 parties were informed by mail that the hearing would take place on February 6, 2012.

<sup>2</sup> Pursuant to Cal. Code Regs., tit. 2, § 644(f), if a claimant fails to appear at the hearing, the Board may  
base its decision on previously submitted evidence.

1 bringing about of the arrest or conviction for the crime. Therefore, it is recommended that Strider's  
2 claim for compensation pursuant to Penal Code section 4900 et seq. be denied.

### 3 **Background<sup>3</sup>**

4 On December 5, 2006, at approximately 6:20 p.m., Deputy Bates and Deputy Zollo were on  
5 routine patrol in Compton in a Los Angeles County Sheriff's Department vehicle. Bates observed  
6 Strider and another man standing in a fenced front yard near the porch of a single-family residence.  
7 A wrought iron fence ran along the entire front and east side of the property, connecting with a solid  
8 wood fence. There was a gate in the middle of the wrought iron fence. To enter the house via the  
9 front door, one had to pass through the gate.

10 Bates saw a third man enter the yard and stand next to the open gate. Bates did not know  
11 Strider or the other two men, but he was aware that the house was a "known Southside Crip gang  
12 hang out" and that the owner of the residence produced rap music "in the back." The deputies also  
13 knew that there had been prior shootings in the area of this residence.

14 Strider looked directly at the deputies, turned to his right, and quickly walked to the front door  
15 of the residence. When Strider turned, Bates saw the butt or handle of a chrome and black handgun  
16 protruding from Strider's left rear pants pocket. Bates immediately got out of his patrol car and ran  
17 after Strider. Strider went into the house and slammed the front security door. Bates opened the  
18 door and saw Strider walking quickly towards the kitchen. When Bates told him to stop, Strider  
19 dropped a baggie on the kitchen floor before he complied with Bates's demand. Bates retrieved a  
20 loaded, chrome and black .40-caliber, semiautomatic handgun from Strider's left rear pocket. Bates  
21 also recovered the baggie that contained a substance resembling rock cocaine.<sup>4</sup>

22 Strider told the deputies that his brother lived at the house and either owned or leased it.  
23 Strider also told the deputies that he did not have to ask for permission to enter and exit the property  
24

---

25  
26 <sup>3</sup> The background is based on claim-related documents provided by the claimant and the AG, including  
27 an appellate opinion and transcripts.

28 <sup>4</sup> The substance was tested and was confirmed to be .24 grams of cocaine base.

1 because he also lived there.<sup>5</sup> However, another man who was already in the house told Bates that  
2 he lived at the house and that Strider did not.

3 On January 4, 2007, the Los Angeles County District Attorney charged Strider with one count  
4 of possession of a controlled substance with a firearm<sup>6</sup> and one count of carrying a loaded, un-  
5 registered firearm in a public place.<sup>7</sup> Strider pled not guilty to both charges.

6 On May 7, 2007, Strider filed a motion to suppress evidence.<sup>8</sup> On May 22, 2007, the court  
7 held a hearing on the motion, and the following day, the court denied Strider's motion to suppress.  
8 The trial court determined that the detention and entry into the home were constitutionally permissible  
9 under the totality of the circumstances and therefore the evidence obtained was admissible.

10 On September 13, 2007, a jury was empanelled. On September 19, 2007, the defense filed a  
11 motion for entry of judgment of acquittal on the ground that insufficient evidence had been presented  
12 to sustain a conviction for count two, carrying a loaded unregistered firearm in a public place. The  
13 motion was denied without prejudice after the court heard argument from the parties. The next day,  
14 the defense renewed the motion, which the trial court again denied after hearing argument.

At his criminal trial, Strider testified in his own defense to the following information. On  
16 December 5, 2006, he was standing on the front porch of the house where he was living and working  
17 when the deputies drove up and stopped quickly in front of the house. Strider testified that he  
18 entered the residence and headed to the back of the residence to tell "everybody who was in the  
19 back" what was going on. When Bates burst through the front door, Strider said that he put his hands  
20 up when Bates approached him with his weapon drawn.

21 Strider also testified at trial that he did not own a handgun and he denied that he told the  
22 deputies that he found the gun in the front yard. He further testified that he has never carried a gun

---

24 <sup>5</sup> Strider's booking sheet listed his mother's address as his residence. Strider's driver's license also  
25 listed his mother's address as his residence.

26 <sup>6</sup> Health & Saf. Code, § 11370.1(a).

27 <sup>7</sup> Pen. Code, § 12031(a)(1).

28 <sup>8</sup> Pen. Code, § 1538.5.

1 and that he has been afraid of guns ever since he was shot.<sup>9</sup> He also claimed that he was no longer  
2 able grip or hold anything with his right hand as a result of being shot.

3 On September 24, 2007, the jury found that Strider was guilty of possession of cocaine base  
4 while armed with a loaded, operable firearm. The jury also found that Strider was not guilty of  
5 carrying a loaded firearm in a public place. On October 10, 2007, the trial court sentenced Strider to  
6 two years in state prison.

7 On September 29, 2009, the Second District Court of Appeal reversed Strider's conviction on  
8 Fourth Amendment grounds. Specifically, the Court of Appeal determined that the area inside a  
9 fenced front yard and porch is not a public place within the meaning of Penal Code section 12031.  
10 Because law enforcement otherwise lacked a reasonable suspicion that criminal activity involving  
11 Strider was afoot, the detention was unreasonable under the Fourth Amendment, as was the  
12 subsequent warrantless, uninvited entry into the house. Since the cocaine base and loaded firearm  
13 were found during the warrantless entry into the house, those items of evidence should have been  
14 suppressed as "fruit of the poisonous tree." However, the Court of Appeal did not determine that  
15 Strider was innocent of the crime of possessing cocaine base while armed with a loaded, operable  
16 firearm.

#### 17 **Determination of Issues**

18 Penal Code section 4903 establishes the requirements for a successful claim for those  
19 individuals who contend that they have been imprisoned as a result of an erroneous conviction. In  
20 order to be successful on such a claim, a claimant must prove the following by a preponderance of  
21 the evidence:

- 22 (1) that the crime with which he was charged was either not committed at all, or, if committed,  
23 was not committed by him;
- 24 (2) that he did not by any act or omission on his part, intentionally contribute to the bringing  
25 about of his or her arrest or conviction for the crime; and

---

26  
27 <sup>9</sup> On March 4, 2006, Strider claimed that he was standing in the front yard of his mother's house when  
28 two individuals drove by and started shooting at him and another individual. Strider was shot in the  
right hand. He filed a police report and obtained medical treatment for his injuries.

1 (3) that he sustained a pecuniary injury through his erroneous conviction and imprisonment.<sup>10</sup>

2 "Preponderance of the evidence" means evidence that has more convincing force than that  
3 opposed to it.<sup>11</sup> If a claimant meets his burden of proof, the Board shall recommend to the legislature  
4 that an appropriation of \$100.00 be made for each day of incarceration in prison served subsequent  
5 to the claimant's conviction.<sup>12</sup>

6 In reaching its determination of the merits of the claim, the Board may consider the claimant's  
7 mere denial of commission of the crime for which he was convicted, reversal of the judgment of  
8 conviction on appeal, acquittal of the claimant on retrial, or the failure of the prosecuting authority to  
9 retry claimant for the crime. However, those factors will not be deemed sufficient evidence to warrant  
10 the Board's recommendation that a claimant be indemnified in the absence of substantial independent  
11 corroborating evidence that the claimant is innocent of the crime charged.<sup>13</sup> The Board may also  
12 consider as substantive evidence testimony of witnesses the claimant had an opportunity to cross-  
13 examine, and evidence to which the claimant had an opportunity to object, admitted in prior  
14 proceedings relating to the claimant and the crime with which he was charged. Finally, the Board may  
also consider any information that it may deem relevant to the issue before it.<sup>14</sup>

16 Strider's criminal trial was essentially a credibility contest between the deputies and Strider.  
17 Strider testified at trial and denied possessing the gun on December 5, 2006. He also claimed that  
18 since his right hand was unable to grip anything, this was proof that he did not have a gun. However,  
19 Bates testified at the trial that he removed a handgun from Strider's left rear pants pocket, which is  
20 consistent with someone who claims he cannot use his right hand. Strider claimed that he was living

21  
22 <sup>10</sup> Pen. Code, § 4903, *Diola v. Board of Control* (1982) 135 Cal.App.3d 580, 588, fn 7; *Tennison v.*  
23 *Victim Compensation and Government Claims Board* (2006) 152 Cal. App. 4<sup>th</sup> 1164.

24 <sup>11</sup> *People v. Miller* (1916) 171 Cal. 649, 652.

25 <sup>12</sup> Pen. Code, § 4904.

26 <sup>13</sup> Cal. Code Regs., tit. 2, § 641; *Tennison v. Victim Compensation and Government Claims Board*  
27 (2006) 152 Cal. App. 4<sup>th</sup> 1164.

28 <sup>14</sup> Cal. Code Regs., tit. 2, § 641.

1 at the home where he was arrested, yet his booking sheet listed his mother's address as his home,  
2 as did Strider's driver's license. Another man who claimed to live at the residence told the deputies  
3 that Strider did not live there. Strider also testified that he did not remember telling deputies that he  
4 found the gun in a front yard. After listening to all the evidence and to Bates and Strider's testimony,  
5 the jury believed that the deputies' testimony was worthy of more weight than Strider's testimony and  
6 convicted Strider accordingly.

7 That Strider's conviction was overturned on appeal due to a Fourth Amendment violation has  
8 no collateral effect on this proceeding. The Court of Appeal decided a legal question and held that  
9 the evidence that was used against Strider in his criminal trial was inadmissible because it was "fruit  
10 of the poisonous tree." However, the Court of Appeal refrained from making a finding that Strider was  
11 innocent of the crime of possessing a controlled substance while armed with a loaded and operable  
12 firearm.

13 Therefore, it is determined that Strider has not met his burden in proving by a preponderance  
14 of the evidence that he did not commit the crime for which he was arrested and convicted. Strider  
15 also has not met his burden in proving by a preponderance of the evidence that he did not, by any act  
16 or omission on his part, intentionally contribute to the bringing about of the arrest or conviction for the  
17 crime with which he was charged.<sup>15</sup>

18 Shannon Strider's claim under Penal Code section 4900 et seq. is denied.

19  
20 Date: March 26, 2012

  
\_\_\_\_\_  
21 Kyle Hedum  
22 Hearing Officer  
23 California Victim Compensation and  
24 Government Claims Board  
25  
26

27 <sup>15</sup> It is therefore not necessary to determine if Strider suffered a pecuniary injury.  
28