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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 **Jeanette Turner**

13 Claim Nos. G 343484, 343837, and 513787

Addendum to Proposed Decision

(Penal Code §§ 4900 et seq.)

14 Ms. Turner filed three claims under Penal Code section 4900. The three claims involved
15 the same underlying facts and were consolidated for hearing. A hearing was held on August 12,
16 2002. A proposed decision recommending denial of the claims was submitted to the Board at
17 its meeting on November 22, 2002. Ms. Turner appeared at the November 22, 2002 Board
18 meeting and addressed the Board. The Board remanded the matter to the hearing officer with
19 instructions to consider the claimant's written argument and any additional evidence she may
20 submit.

21 Ms. Turner submitted additional evidence on December 20, 2002, and January 3, 2003. The
22 hearing officer reviewed the written argument and the additional evidence. Following the review, the
23 recommendation of the hearing officer remained unchanged and the proposed decision was not
24 modified.

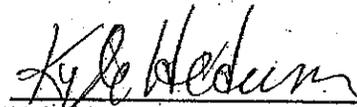
25 Ms. Turner appeared at the February 28, 2003, Board meeting and addressed the Board. The
26 Board deferred its decision.
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1 By letter dated December 12, 2005, Ms. Turner was asked to submit any additional information.
2 relevant to her claim immediately. On December 19, 2005, staff spoke to Ms. Turner by telephone and
3 informed her that the record would remain open until January 31, 2006.¹

4 On December 22, 2005, the Board received additional documents from Ms. Turner, which
5 consisted of the following: the criminal information; the Tehama County Sheriff's Department crime
6 report; a reply brief in support of Ms. Turner's petition for writ of administrative mandate directed to the
7 California Department of Social Services, dated March 4, 1999; a return to peremptory writ of mandate
8 by the Attorney General on behalf the California Department of Social Services, dated June 2, 1999;
9 and a summary of the events leading to her conviction and incarceration.

10 It is determined that the submitted documents were not new and additional evidence and did not
11 constitute evidence relevant to the issue of Jeanette Turner's eligibility for benefits pursuant to Penal
12 Code section 4900 et seq. Hence, it is recommended that the Board adopt the attached proposed
13 decision of the former hearing officer.

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15 Date: March 22, 2006


16 Kyle Hedum
17 Hearing Officer

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28 ¹ Several attempts were made to contact Mark C. Barulich, Ms. Turner's attorney, by phone and mail without success. Ms.
29 Turner told staff that she had had no contact with her attorney for several years. On December 22, 2005, staff received a
letter from Mr. Barulich informing the Board that he intended to file a writ of Coram Nobis by January 2006. Nothing has been
received from Mr. Barulich.

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6 **BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**
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9 In the Matter of the Claims of:

10 **Jeannette Turner**

Proposed Decision
(Penal Code § 4900 et seq.)

11 Claim Nos. G 343484, 343837, and 513787

12 A hearing on these claims was held on August 12, 2002, in Sacramento, California, by
13 Judith A. Kopec, Hearing Officer, who was assigned to hear this matter by the Executive Officer of the
14 State Board of Control (Board).

15 The claimant, Jeannette Turner, was present.

16 The Attorney General was represented by Deputy Attorney General Michael Farrell.

17 **Claim History**

18 Jeannette Turner filed a claim (G 343484) on March 9, 1999, under Penal Code section
19 4900 et seq. Ms. Turner filed another claim (G 343837) under Penal Code section 4900 et seq. on
20 March 17, 1999. Ms. Turner filed a third claim (G 513787) under Penal Code section 4900 et seq. on
21 March 5, 2001. All three claims involve the same underlying facts and were consolidated for hearing.

22 **Findings of Fact**

23 1. Ms. Turner was convicted of perjury [Penal Code section 118], a felony, on
24 October 18, 1996, arising from statements she made in an application for welfare benefits. Ms. Turner
25 was sentenced to three years in prison. Ms. Turner filed her claim while she was incarcerated.

26 2. Ms. Turner's conviction has never been reversed. She has not received a finding of
27 factual innocence under Penal Code section 851.8.

28 3. Ms. Turner's conviction was based on statements she made concerning her employment
29 history in an application for Aid to Families with Dependent Children (AFDC) benefits for her

1 children in June 1995. Her application for AFDC was denied. The denial resulted from the interplay
2 of laws governing Social Security Insurance (SSI) benefits that Ms. Turner had at one-time received
3 and those governing AFDC benefits for her children. When Ms. Turner completed the AFDC
4 application in June 1995, her SSI benefits had been discontinued. Since she was no longer receiving
5 SSI, her resources and income were considered when determining her children's eligibility for AFDC.
6 A year later, in June 1996, Ms. Turner's SSI benefits were reinstated retroactively to January 1994.
7 Ms. Turner successfully challenged a denial of retroactive AFDC benefits for her children by arguing
8 that once her SSI benefits were reinstated, her resources and income were not to be considered when
9 determining her children's AFDC benefits.

10 4. Ms. Turner argued that she did not make any false statements on the AFDC application.
11 Her testimony in this hearing was consistent with her defense of the perjury charge. Ms. Turner also
12 presented evidence that because her resources and income were not relevant to her children's AFDC
13 application, any statements she made were not material. Since one element of perjury is that the false
14 statements be material, Ms. Turner argued that she could not be guilty of perjury.

15 5. In August 1999, Ms. Turner filed a petition for writ of habeas corpus in the
16 United States District Court for the Eastern District of California to challenge her conviction on the
17 theory that her statements were not material and, therefore, she could not be found guilty of perjury.
18 The Court denied the petition in February 2002. The Court rejected Ms. Turner's arguments,
19 reasoning that at the time she was convicted of perjury, her false statements concerning her income
20 were material because at the time of the application she did not qualify for SSI.

21 6. Ms. Turner testified that she is seeking a finding of factual innocence but the Court has
22 not yet ruled.

23 7. The Attorney General opposed Ms. Turner's claim, arguing that even if it were
24 determined that her statements were not material, Ms. Turner affirmatively contributed to the bringing
25 about of her arrest and conviction by knowingly misrepresenting her assets on the AFDC application.

26 **Determination of Issues**

27 1. A person convicted and imprisoned for a felony may submit a claim to the Board for
28 pecuniary injury sustained through her erroneous conviction and imprisonment. (Pen. Code, § 4900.)
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1 The claim must be filed within six months after release from imprisonment. (Pen. Code, § 4901.)

2 Ms. Turner filed her claim prior to her release from prison and the claim is timely.

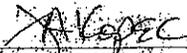
3 2. The claimant must prove that the crime with which she was charged was either not
4 committed at all, or, if committed, was not committed by her; that she did not by any act or omission
5 on her part, either intentionally or negligently, contribute to the bringing about of the arrest or
6 conviction for the crime; and the pecuniary injury sustained through her erroneous conviction and
7 imprisonment. (Pen. Code, § 4903.) The Board may consider any information that it deems relevant
8 to the issues. (Cal. Code Regs., tit. 2, § 641.) The claimant has the burden of proving her innocence
9 by a preponderance of the evidence. (*Diola v. Board of Control* (1982) 135 Cal.App.3d 580, 588 fn 7,
10 185 Cal.Rptr.2d 511, 516 fn 7.)

11 3. A jury determined beyond a reasonable doubt that Ms. Turner committed perjury.
12 Without a reversal of this conviction or a Court's determination of factual innocence, Ms. Turner
13 cannot meet her burden of proof that she did not commit the offense for which she was convicted.
14 Even assuming that Ms. Turner's statements were not material and she did not commit perjury, and
15 viewing the evidence in the light most favorable to her, there is insufficient evidence that Ms. Turner
16 did not negligently contribute to the bringing about of her arrest and conviction.

17 **Order**

18 The claim under Penal Code section 4900 et seq. is denied.

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21 Date: November 10, 2002

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24 JUDITH A. KOPEC
25 Hearing Officer
26 California Victim Compensation and
27 Government Claims Board
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