

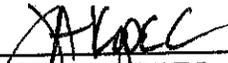
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BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
OF THE STATE OF CALIFORNIA

In the Matter of the Claim of: Kelly Carrington Claim No. G5117906	Notice of Decision
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On October 29, 2004, the California Victim Compensation and Government Claims Board adopted the attached Proposed Decision as its Decision in the above-referenced matter. The Decision became effective on October 29, 2004.

Date: November 3, 2004


JUDITH A. KOPEC
Chief Counsel
California Victim Compensation
and Government Claims Board

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6 BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
7 OF THE STATE OF CALIFORNIA
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9 In the Matter of the Claim of:

10 Kelly Carrington

11 Claim No. G5117906

Proposed Decision

(Penal Code § 4900 et seq.)

12 A hearing based on the written record was conducted by Deborah Bain, Hearing Officer,
13 who was assigned to hear this matter by the Executive Officer of the Victim Compensation and
14 Government Claims Board (Board).

15 The claimant Kelly Carrington is represented by the law firm of Moreno, Becerra, Guerrero
16 & Casillas. Mr. Carrington waived his appearance, waived 15 days' notice of the hearing pursuant to
17 Penal Code section 4902 and agreed to have an informal hearing conducted by the hearing officer
18 upon the written record. Mr. Carrington did not attend the hearing.

19 Deputy Attorney Michael P. Farrell represented the Attorney General in this matter.
20 Mr. Farrell also waived his appearance, waived 15 days' notice of the hearing pursuant to Penal
21 Code section 4902, and agreed to have an informal hearing conducted upon the written record.

22
23 **Findings of Fact**

24 1. Mr. Carrington submitted a claim under Penal Code section 4900 *et seq.* on
25 August 13, 2001. Mr. Carrington claims that he was erroneously convicted of a violation of Health and
26 Safety Code section 11350(a), possession of a controlled substance (cocaine). The conviction
27 stemmed from an incident that occurred on August 28, 1998.

1 2. According to Los Angeles Police Report no. 980228862, around midnight on
2 August 28, 1992, Los Angeles Police Officers Vinton and Robb responded to a citizen's tip that a white
3 female and black male were selling narcotics out of room number 2 at the Royal Viking Hotel. Upon
4 arrival, the officers knocked on the hotel door. Mr. Carrington opened the door. His shirt was open and
5 he was sweating profusely. The officers asked Mr. Carrington if he was selling narcotics. He said he
6 was not. Mr. Carrington told the officers he was on parole for cocaine sales. During the conversation,
7 Officer Robb noticed a white wafer resembling cocaine stuck to Mr. Carrington's mid-upper chest.
8 Officer Robb retrieved the wafer from Mr. Carrington's chest and arrested him.

9 3. The officers also observed two glass cylinder pipes with white residue on the coffee
10 table. As the officers were securing the location, they heard a female say, "Kelly, the cops are here." A
11 white female (Melanie Adams) emerged from one of the rooms. Ms. Adams was holding a plastic
12 bubble containing numerous (approximately 9) pieces of rock cocaine.¹ When questioned, Ms. Adams
13 admitted to purchasing the narcotics about fifteen minutes prior. Ms. Adams denied selling narcotics,
14 but admitted to using them.

15 4. Mr. Carrington was charged with a violation Health and Safety code section 11350(a),
16 possession of a controlled substance. He pled guilty to this offense on September 29, 1998. He was
17 sentenced to sixteen months in prison. He was received at Department of Corrections (CDC) on
18 October 21, 1998, and released from custody on June 20, 1999.²

19 5. In support of his Penal Code section 4900 claim, Mr. Carrington attached two
20 documents: (1) a copy of a Claim for Money Damages and, (2) a minute order from the Los Angeles
21 Superior Court for case no. BA173725.

22 6. On June 18, 2004, the Board's Chief Counsel, Judith A. Kopec, sent a letter to
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27 ¹ Mr. Carrington's Writ, page 2.

28 ² Attorney General Farrell letter of July 2, 2002. According to the AG, Mr. Carrington subsequently had a parole
29 violation on April 25, 2000. CDC has no record of this violation. CDC records show that on April 25, 2000 Mr.
Carrington was released to parole.

1 Mr. Casillas of the law firm of Moreno, Becerra, Guerrero & Casillas. In the letter, Ms. Kopec informed
2 Mr. Casillas that if he wished to submit any additional information supporting Mr. Carrington's claim, he
3 must submit it by July 1, 2004. To date, no additional information has been received.

4 7. The minute order reflects that the Los Angeles Superior court addressed
5 Mr. Carrington's Writ of Habeas Corpus in case no. BA173725 on August 3, 2001. On that date, the
6 People stated no opposition and the court dismissed the case in the interest of justice.

7 8. The Claim for Money Damages lists Mr. Carrington as the claimant and the City of Los
8 Angeles as the respondent. Mr. Carrington states in the complaint that Los Angeles Police Officers
9 Robb and Vinton entered his premises on August 28, 1998 and arrested him for narcotics.
10 Mr. Carrington states that he was not in possession of any narcotics at the time and that these officers
11 falsely accused him. He further asserts that these officers, along with their supervisors, deliberately
12 conspired to frame him and, as a result, he was falsely imprisoned for a period of 460 days.³

13 9. Attorney General Farrell reviewed Mr. Carrington's claim, the police report, the formal
14 complaint Mr. Carrington filed against the arresting officers for use of unnecessary force, the writ of
15 habeas corpus, and Mr. Carrington's criminal record.

16 10. Mr. Carrington's writ is based on the allegation that Officer Robb and Vinton were
17 assigned to the RAMPART CRASH anti-gang unit and that they committed misconduct. Officer Perez,
18 an officer who had been assigned to that unit, had previously testified to the widespread misconduct by
19 officers assigned to that unit. Officer Perez had testified that Officer Vinton was one of the officers in
20 "the loop," referring to certain officers' willingness to "put cases on people." Most of the time this was
21 done by either inventing probable cause, or by planting evidence.⁴

22 11. According to Mr. Carrington, the Los Angeles County District Attorney's Office had filed
23 two petitions against Officer Robb claiming misconduct in juvenile cases. Further, that Officer Robb
24 had resigned from the force amid allegations that he submitted a false arrest report on
25 January 22, 1999, and made false and misleading statements to his supervisor on the same day.⁵

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27 ³ Mr. Carrington's Claim for Money Damages, page 2.

28 ⁴ Attorney General Farrell letter of July 2, 2002.

29 ⁵ Mr. Carrington's Writ of Habeas Corpus.

1 5. According to the police report, the two Los Angeles Police Officers responded to a
2 citizen's report of a "white female" and a black man" selling narcotics out of Room no. 2 at the Viking
3 Hotel. When the police arrive at that location, they located individuals matching the description of
4 individuals involved in drug sales, to wit, Mr. Carrington, an African American man, and Ms. Adams, a
5 white female. They located drugs on Mr. Carrington and Ms. Adams. Ms. Adams admitted to buying
6 drugs fifteen minutes prior to the police arriving. She admitted to using drugs but denied selling
7 narcotics.

8 6. The claimant submitted only two documents: one a dismissal from the court, which
9 was the result of the writ Mr. Carrington had filed, and a civil complaint.

10 7. Mr. Carrington's writ was based on allegations that the arresting officers were guilty
11 of misconduct on other occasions with other arrestees. The claimant has not submitted any
12 evidence showing that Officer Perez specifically stated or held the opinion that Officer Vinton or
13 Officer Robb was involved in misconduct or planting evidence in this case. Notably, the District
14 Attorney (DA) did not oppose the writ. Conceivably the District Attorney, having two arresting
15 officers being investigated may have lost confidence in being able to prove the case to a jury, or
16 given the fact that the claimant had already served substantial time for the offense chose not to
17 continue with the prosecution, or the DA thought Mr. Carrington was innocent of the charge.
18 However, the reason the DA did not oppose the writ is speculative. The fact that the DA did not
19 oppose the writ does not prove innocence. The claimant has not provided any evidence showing
20 that the DA believed that he was innocent.

21 8. Even assuming the allegations of misconduct by the officers on other occasions are
22 true, that does not prove Mr. Carrington is innocent in this case. The mere fact that the charge was
23 dismissed did not conclusively prove claimant was innocent. A habeas proceeding is not a
24 determination of innocence and the granting of the writ does not constitute an acquittal. (*In re Cruz*
25 (2003) 104 Cal.App.4th 1339, 1246, 129 Cal.Rptr.3d 31, 37.) There has been no finding of factual
26 innocence.

27 9. Mr. Carrington has a number of prior convictions involving moral turpitude. These
28 convictions cast doubt on Mr. Carrington's credibility.
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1 10. Mr. Carrington must show that he did not by any act or omission on his part, either
2 intentionally or negligently, contribute to the bringing about of the arrest or conviction for the crime.
3 Arguably, Mr. Carrington by associating with someone buying or selling drugs, and subsequently
4 being in the same room with her when she had drugs on her person, contributed to bringing about his
5 arrest. Additionally, Mr. Carrington pled guilty to the offense and therefore, by his act of admission
6 directly contributed to the conviction.

7 11. Mr. Carrington's civil complaint does not provide any facts suggesting innocence.
8 Rather, it is merely conclusory statements regarding the planting of evidence and a conspiracy.
9 He has failed to provide any information showing or declarations attesting to the fact that the two
10 officers in this instance committed misconduct and/or planted evidence.

11 12. Based on the findings of fact in paragraphs 2 – 13, it is found that the claimant has
12 failed to show by preponderance of the evidence that he did not commit this offense and the claim is
13 denied.

14 13. Based on the findings of fact in paragraphs 2 – 13, it is found the Mr. Carrington
15 intentionally contributed to his conviction and the claim is denied.

16
17 BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
18 OF THE STATE OF CALIFORNIA

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21 Order

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

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25 Date: October 20, 2004

26 
27 DEBORAH BAIN
28 Hearing Officer