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

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11 In the Matter of the Claim of:

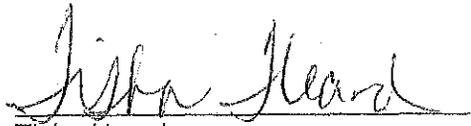
12 **J'arvis Daniels**

13 Claim No. G572351

**Notice of Decision**

14  
15 On August 13, 2009, the California Victim Compensation and Government Claims Board  
16 adopted the attached Proposed Decision of the Hearing Officer as its Decision in the above-  
17 referenced matter.

18  
19 Date: August 13, 2009



20 Tisha Heard  
21 Board Liaison  
22 Victim Compensation and  
23 Government Claims Board  
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9 **OF THE STATE OF CALIFORNIA**  
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11 In the Matter of the Claim of:

12 **J'arvis Daniels**

13 Claim No. G572351

**Proposed Decision**

**(Penal Code § 4900 et seq.)**

14  
15 **Introduction**

16 A hearing on this claim was held on April 24, 2009, in Sacramento, California, by Roslyn  
17 Mack, the Hearing Officer assigned to hear this matter by the Executive Officer of the California  
18 Victim Compensation and Government Claims Board.

19 The claimant, J'arvis Daniels, represented himself.

20 The California Department of Justice, Office of the Attorney General (Attorney General) was  
21 represented by Paul O'Connor, Esq.

22 After consideration of all the evidence, it is determined that Daniels failed to prove by a  
23 preponderance of the evidence that he did not commit a crime, and that he did not intentionally or  
24 negligently contribute to his arrest and conviction for acts of domestic violence against his wife. Thus,  
25 the Hearing Officer recommends that Daniels' claim for compensation under Penal Code section 4900  
26 be denied.

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## Procedural History

### I. Daniels Conviction for Domestic Violence.

On July 14, 2006, Daniels was arrested for felony domestic violence against his wife. At the time, Daniels was on parole for a previous conviction of domestic violence against his wife.

On August 10, 2006, the Board of Prison Terms revoked Daniels' parole on the grounds that, during the incident of July 14, 2006, he had violated a parole condition that he not have any contact with his wife. He served approximately 10 months for the parole violation.

After serving time for the parole violation, Daniels was transported to Riverside County, where he was arraigned on domestic violence charges arising out of the July 2006 incident. On May 23, 2007, Daniels plead guilty to felony domestic violence and agreed to a sentence of two years in state prison, with 19 days pre-sentence credits for time served. As a part of the plea, he completed a felony plea form that advised him of the consequence of his plea.

On January 22, 2008, Daniels filed a petition for habeas relief because he was not given credit for the time he served for the parole violation. On May 15, 2008, he was released from state prison. On July 25, 2008, the habeas trial court awarded Daniels 314 days credit for time served pursuant to the parole violation.<sup>1</sup>

Daniels subsequently filed this claim with the Board pursuant to Penal Code section 4900, denying that he assaulted his wife and making the following assertions in support of his claim. His wife refused to press charges against him and there was insufficient evidence to convict him. When Daniels' plead guilty, he was unaware that he was entitled to credit for the time that he served for the parole violation and therefore his plea was not knowing and intelligent. Also, his rights were violated because the prosecution for the July 2006 incident occurred after he had already served time for the parole violations arising from the same incident. Daniels requests compensation for 359 days from the date of conviction until he was released.

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<sup>1</sup> At the hearing, Daniels confirmed that he is asserting that his conviction for domestic violence arising out of the July 2006 incident was erroneous, and therefore he was entitled to compensation for 359 days.



1 to her head. Daniels also hit her in the stomach and arm. Daniels' wife feared for her safety and told  
2 the parole officer that she wanted to press charges.

3 Daniels provided the following statement to his parole officer. He went to his wife's residence to  
4 pick up some clothing, and they began to argue. His wife attacked him, and when Daniels pushed her  
5 away, she fell and hit her head, which caused a laceration. Daniels told his parole officer that he did  
6 not hit or strike his wife.

7 Based on information from Daniels' wife that Daniels battered her, and based on her injuries  
8 that were consistent with the crime of battery, the Board of Parole Hearings found that Daniels had  
9 battered his wife. In addition, Daniels admitted that he had contacted his wife in violation of a condition  
10 of his parole. Daniels received 10 months incarceration for the parole violation.

### 11 **III. Guilty Plea.**

12 When Daniels was released from prison on the parole violation, he was transported to jail to  
13 stand trial on domestic violence charges as a result of the July 2006 incident. On May 23, 2007,  
14 Daniels pled guilty to domestic violence. Daniels signed a Felony Plea Form which advised him of his  
15 rights, the consequences of pleading guilty, and that the maximum possible prison sentence that he  
16 could have received was five years. Daniels agreed to a term of two years state prison with 19 total  
17 days credit for time served. Daniels' defense attorney signed the plea agreement and attested that  
18 Daniels had the opportunity to discuss the plea with him and understood his rights and the  
19 consequences of the plea.

20 A hearing transcript shows that the judge reviewed the plea with Daniels and asked if he  
21 understood his rights in pleading guilty. The judge found that there was sufficient basis for the guilty  
22 plea, Daniels' plea was free and voluntary, and that Daniels knowingly and intelligently waived his rights  
23 to a trial. Daniels was sentenced accordingly.

### 24 **IV. Petition for Habeas.**

25 On January 22, 2008, Daniels filed a petition for habeas relief alleging that he was not given  
26 custody credits that he was entitled to when he was sentenced for the July 2006 domestic violence  
27 incident. On May 21, 2008, the Supreme Court of California ordered the matter returned to the  
28 sentencing judge for a determination whether Daniels should receive additional credits for the time he  
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1 served for his parole violation. A different deputy district attorney agreed that Daniels was in fact  
2 entitled to 314 days credit for the time served for his parole violation, and requested that Daniels  
3 sentence be altered to reflect the correct amount of custody credits.

4 The sentencing judge made the following statement on the record. At the time of sentencing,  
5 she was unaware of any other cases involving Daniels. The parties agreed that Daniels was entitled  
6 to credit for time served for his parole violation. The judge also stated that Daniels' sentence was  
7 typical for the offense that was charged and that in general, a defendant would serve time in custody  
8 for this type of offense. The judge believed that the plea agreement would have been different if the  
9 prosecution and defense had realized that Daniels was entitled to 314 days credit.

10 **V. Daniels' Testimony at his Penal Code Section 4900 Hearing.**

11 At the hearing on his claim for compensation under Penal Code section 4900, Daniels  
12 provided the following testimony in relevant part.

13 On January 20, 2004, Daniels was convicted for domestic violence against his wife. After  
14 serving time in prison, he was paroled.

15 On July 14, 2006, while still on parole, Daniels went to retrieve his clothes at his wife's  
16 house. His wife asked him if he was seeing anyone, which he denied. When his wife began pushing  
17 him, he left the house without his clothing. Daniels immediately called his parole officer and  
18 explained that he and his wife had just argued and that she threatened to report him to the police.  
19 One of his parole requirements was that he not have any contact with his wife until he completed a  
20 52-week domestic violence class. Daniels testified that he had completed this class and that his  
21 previous parole officer had authorized him to go to the wife's home. However, his new parole officer  
22 was not aware of this authorization and told him that he should report to the police department.  
23 Daniels instead went to the sheriff's department.

24 Daniels waited at the sheriff's department while a deputy sheriff spoke to his wife. Daniels'  
25 wife told the deputy that Daniels had pushed her and she bumped her head. Daniels testified that he  
26 did not hit his wife and that he does not know how his wife was injured. Daniels said that his wife had  
27 scratched him. According to Daniels, the deputy said that most likely the case would be dismissed.  
28 The deputy contacted Daniels' parole officer, who instructed the deputy to hold Daniels for a parole  
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1 violation for having contact with his wife. It was found that Daniels had violated parole, and he served  
2 10 months. Upon his release from prison, he was then charged with the same crime. Daniels  
3 testified that he was not represented by an attorney at his parole revocation hearing, but he had other  
4 witnesses who could testify that he had completed the required courses.

5 Daniels' public defender initially told him that he would receive credit for the 314 days he  
6 had served while incarcerated for the parole violation. The district attorney opposed the credits and  
7 told Daniels that he would have to serve five years if the case was tried and he was found guilty.  
8 Daniels was not allowed to address the sentencing judge, so the judge never knew that Daniels had  
9 served 314 days for the parole violation. Daniels testified that he relied on his attorney and accepted  
10 the plea deal out of fear of serving five years in state prison.

11 When Daniels was incarcerated, he learned from other inmates that he should have  
12 received credit for the time he served on the parole violation. He filed a petition for habeas, but by  
13 the time the habeas process was complete, he had already served his time and been released.

14 Daniels acknowledged that he had made mistakes in the past, but he denied ever abusing  
15 women. He is now an ordained pastor. He testified that he has sustained an economic loss of  
16 \$200,000, as a result of being unable to work as a construction dump truck driver. As a result of the  
17 conviction, he lost everything but his personal truck.

18 Daniels has filed a civil lawsuit in state court against the city and county for wrongful  
19 conviction, false arrest, vindictive prosecution, and violation of the United States Constitution Fifth  
20 Amendment prohibition against double jeopardy. He is currently seeking an attorney to represent him  
21 in this civil lawsuit.

## 22 Findings

23 A preponderance of the evidence supports the following findings:

- 24 1. On July 14, 2006, Daniels went to his wife's home in violation of a condition of parole  
25 imposed for a previous conviction of domestic violence against his wife.
- 26 2. When Daniels was at his wife's residence, he battered her.
- 27 3. Daniels was found to have violated the conditions of his parole by contacting his wife  
28 and battering her.

- 1 4. Daniels served 10 months for the parole violation stemming from the July 14, 2006,  
2 battery.
- 3 5. After his release from prison, Daniels was then charged with domestic violence as a  
4 result of the battery on July 14, 2006.
- 5 6. On May 23, 2007, Daniels pled guilty to domestic violence for a sentence of two years  
6 and he received 19 days credit for time served.
- 7 7. Daniels completed his sentence prior to the habeas being resolved, and served a total  
8 of 359 days.
- 9 8. As a result of the habeas proceeding, Daniels was granted 314 days credit for time  
10 served while incarcerated on the parole violation.
- 11 9. Daniels knowingly and voluntarily accepted a two-year prison sentence for the battery  
12 conviction based on the July 2006 incident.
- 13 10. Daniels' sentence was typical for the crime with which he was charged.

#### 14 **Determination of Issues**

15 Penal Code section 4900 provides that any person erroneously convicted of any felony and  
16 sentenced to prison may present a claim to the Board for the pecuniary injury sustained as a result of  
17 the erroneous conviction. Penal Code section 4903 establishes the requirements which the claimant  
18 must satisfy in order to state a successful claim. The claimant must prove all of the following by a  
19 preponderance of the evidence:

- 20 1) that the crime with which he was charged was either not committed at all, or, if  
21 committed, was not committed by him;
- 22 2) that he did not by any act or omission on his part, either intentionally or negligently,  
23 contribute to the bringing about of the arrest or conviction for the crime; and
- 24 3) that he sustained a pecuniary injury through his erroneous conviction and  
25 imprisonment.<sup>2</sup>

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28 <sup>2</sup> *Diola v. Board of Control* (1982) 135 Cal.App.3d 580, 588, fn 7; *Tennison v. Victim Compensation and*  
29 *Government Claims Board* (2000) 152 Cal. App. 4<sup>th</sup> 1164.

1 Preponderance of the evidence means evidence that has more convincing force than that opposed to  
2 it.<sup>3</sup> All of the elements of Penal Code section 4900 must be proven in order for the Board to approve  
3 the claim.

4 In evaluating a claim, the Board may consider the following factors, but the following factors  
5 will not be deemed sufficient evidence to warrant the Board's recommendation that the claimant be  
6 indemnified in the absence of substantial independent corroborating evidence that the claimant is  
7 innocent of the crime charged:

- 8 (1) claimant's mere denial of commission of the crime for which he was convicted;
- 9 (2) reversal of the judgment of conviction on appeal;
- 10 (3) acquittal of claimant on retrial; or
- 11 (4) the failure of the prosecuting authority to retry claimant for the crime.<sup>4</sup>

12 The Board may also consider as substantive evidence the testimony of witnesses who the  
13 claimant had an opportunity to cross-examine, and evidence to which claimant had an opportunity to  
14 object, admitted in prior proceedings relating to the claimant and the crime with which he was charged.  
15 Finally, the Board may consider any information that it deems relevant to the issue before it.<sup>5</sup>

16 If the claimant meets his burden of proof, the Board shall recommend to the Legislature that an  
17 appropriation of \$100.00 per day of incarceration served after the conviction be made for the claimant.<sup>6</sup>  
18 Here, Daniels failed to meet his burden of proving that he is eligible for compensation under Penal  
19 Code section 4900.

20 **I. Daniels Committed a Crime.**

21 It is determined that Daniels has not proven by a preponderance of the evidence that he did  
22 not commit a battery against his wife on July 14, 2006. Although Daniels denies that he assaulted his  
23 wife, the deputy spoke with Daniels' wife, and he observed that her injuries were consistent with  
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26 <sup>3</sup> *People v. Miller* (1916) 171 Cal. 649, 652.

27 <sup>4</sup> Cal. Code Regs., tit. 2, § 641.

28 <sup>5</sup> Cal. Code Regs., tit. 2, § 641.

29 <sup>6</sup> Pen. Code, § 4904.

1 being battered. Notably, Daniels was never acquitted of the crime. The judge did not reverse the  
2 original judgment based on Daniels' plea, but instead only corrected the credit for time served.

3 **II. Daniel Contributed to His Arrest.**

4 It is also determined that Daniels did not prove by a preponderance of the evidence that he  
5 did not, either intentionally or negligently, contribute to his arrest for that offense. Given Daniels'  
6 previous conviction for domestic violence against his wife, and his contact with her in violation of his  
7 parole, it was reasonable for the deputy to conclude that Daniels victimized her, giving him probable  
8 cause for the arrest.

9 **III. Daniels Contributed to His Conviction.**

10 To succeed on a Penal Code section 4900 claim, a claimant cannot have, by any act or  
11 omission, either intentionally or negligently contributed to his arrest or conviction.<sup>7</sup> Here, Daniels'  
12 claim for compensation must be denied because he contributed to his conviction by voluntarily and  
13 knowingly pleading guilty. Prior to accepting Daniels guilty plea, the court reviewed the plea and  
14 determined that Daniels' plea was voluntary and that he accepted the plea after being advised by his  
15 attorney. Despite the subsequent dispute over credit for time served while on parole, there is no  
16 evidence that Daniels did not know the consequences of his plea or that he was misled in any way. If  
17 Daniels believed that the plea was unfair, he could and should have rejected it. Daniels cannot admit  
18 to battering his wife in the criminal trial and then be allowed to argue before the Board that he should  
19 be compensated for the time he served subsequent to that conviction. The two positions are mutually  
20 inconsistent.<sup>8</sup> In fact, the Court noted that the amount of time that Daniels served was typical for the  
21 crime with which he was charged.

22 Penal Code section 4900 et seq. does not provide compensation for claimants who allege that  
23 they were imprisoned for a period of time due to a mistake in the computation of pre-sentence credits.  
24 Only those claimants who are erroneously convicted are eligible for compensation. As explained  
25 above, Daniels has failed to show that he was wrongly convicted.

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28 <sup>7</sup> Pen. Code, § 4903.

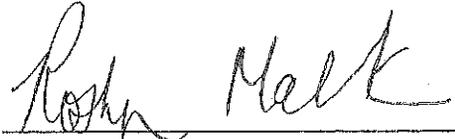
29 <sup>8</sup> *People v. Collins* (2004) 115 Cal. App. 4th 137, 139.

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**Recommendation**

Because it is determined that Daniels has not proven that he did not commit the crime of battery on July 14, 2006, and because he contributed to his arrest and conviction, Daniels is not eligible for compensation under Penal Code section 4900 et seq. Thus, it is recommended that his claim be denied.

Date: July 20, 2009



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Roslyn Mack  
Hearing Officer  
California Victim Compensation and  
Government Claims Board

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Case Name: J'arvis Daniels

Case No: G572351

I, Benedicte Lewis, declare that:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 400 R Street, Sacramento, California 95811.

On August 13, 2009, I served the following: **Proposed Decision and Notice** by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid in the United States Mail addressed as follows:

See attached Interested Party List

BY MAIL: I am readily familiar with my employer's practice for the collection and processing of correspondence/documents for mailing with the United States Postal Service. Under their practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after the date of deposit for mailing in this affidavit.

BY FACSIMILE: I personally sent the above-described documents via FAX to the addressee(s), with a confirming copy by First Class Mail.

BY PERSONAL SERVICE: I delivered such envelope(s) by hand to the offices of the addressee(s).

BY EXPRESS MAIL: I personally deposited such document in the Express Mail depository at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 13, 2009, at Sacramento, California.

  
BENEDICTE LEWIS