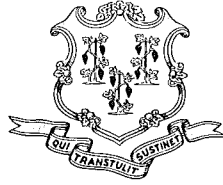


J. PAUL VANCE, JR.,
CLAIMS COMMISSIONER



STATE OF CONNECTICUT
Office of the Claims Commissioner

165 Capitol Avenue
Room 123
Hartford, CT 06106
Phone (860) 713-5501
Fax (860) 713-7435

MEMORANDUM OF DECISION – WRONGFUL INCARCERATION

(HARTFORD, CT) – CLAIM OF KENNETH IRELAND – FILE NO. 22457

Please be advised that a Memorandum of Decision has been rendered regarding the above referenced claim. The above referenced claim was filed as a result of the wrongful incarceration of the claimant.

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For Immediate Release: January 29, 2015
Contact: Tara Dupont, Office of the Claims Commissioner
Tara.Dupont@ct.gov
860-713-5501

**STATE OF CONNECTICUT
OFFICE OF THE CLAIMS COMMISSIONER**

CLAIM NUMBER 22457

CLAIM OF KENNETH IRELAND

JANUARY 29, 2015

MEMORANDUM OF DECISION: WRONGFUL INCARCERATION

The Claimant Kenneth Ireland (hereinafter "Ireland" or "Claimant") was incarcerated for a period that spanned from age 18 to age 39 for a crime that he did not commit. The Legislature has empowered the Office of the Claims Commissioner to adjudicate claims of wrongful incarceration pursuant to Connecticut General Statutes § 54-102uu. C.G.S. §54-102uu sets forth a nonexclusive list of damages for the Claims Commissioner to consider when making an award and allows a wrongfully incarcerated person the opportunity at a hearing on their claim, the opportunity to present evidence at the hearing. At such a hearing, the Claimant has the burden to establish by a preponderance of the evidence that he meets the eligibility requirements of the statute and shall present evidence as to the damages suffered as a result of the wrongful incarceration. A Formal Hearing was held on July 29, 2014 at the Legislative Office Building in Hartford, Connecticut. Based on the evidence presented at the Formal Hearing and documentary evidence submitted by the parties, the Claims Commissioner finds:

1. Kenneth Ireland was convicted in 1989 of a rape and murder that he did not commit and was incarcerated for twenty one years.
2. Prior to his arrest in August of 1988, Mr. Ireland was accepted into the United States National Guard and was scheduled to ship out to basic training in September of 1988.
3. After his conviction in 1989, Ireland was incarcerated for five years at maximum security Somers Prison and was forced to endure gang violence and administrative segregation.
4. Ireland's conviction was affirmed by the Connecticut Supreme Court in 1991 and in 1999 his attempt to use DNA testing to overturn his conviction was unsuccessful due to inconclusive testing results.
5. In 2000, Ireland was transferred by then Governor Rowland to Wallens Ridge State Prison in Virginia, a maximum security prison notorious for its poor treatment of inmates.

6. Ireland was then incarcerated at MacDougall-Walker Correctional facility in Suffield, Connecticut. At MacDougall-Walker, the Claimant spent 21 hours a day in his cell.
7. At all times during his incarceration, Ireland was classified a high security risk based on the violent nature of the crime he was alleged to have committed. The nature of his crime also made Mr. Ireland a target of inmate violence.
8. In 2007, the Connecticut Innocence Project began to investigate Mr. Ireland's case and requested a series of DNA testing on various pieces of evidence. The State of Connecticut, through the Office of the State's Attorney cooperated with the request for post-conviction DNA testing.
9. The DNA testing was conclusive and ruled out Mr. Ireland as the perpetrator.
10. On August 10, 2009, the Superior Court dismissed all charges against Mr. Ireland. The basis for the dismissal was innocence. He was released from prison in August 2009 having spent 21 years incarcerated as an innocent man.
11. In March of 2012, the actual perpetrator of the crime was convicted of the rape and murder of Barbara Pelkey.

At the Formal Hearing and for a long period of time prior to the hearing, Mr. Ireland was ably represented on a pro bono basis by Attorney William Bloss, Attorney Sean K. McElligott and Attorneys from the Connecticut Innocence Project including Attorney LaFave. Mr. Ireland's own testimony was extremely powerful and his Formal Hearing was a historic day for the justice system in Connecticut. A powerful line was spoken at the Formal Hearing when counsel for Mr. Ireland stated, "Imagine stepping out of life at 18 years old and stepping back in twenty one years later." This was the reality that Mr. Ireland endured and he has persevered.

The Respondent, State of Connecticut, has conceded that Mr. Ireland is eligible for compensation pursuant to the statute. The Claimant (1) was "convicted by [Connecticut] of one or more crimes for which [he] was innocent", (2) was "sentenced to a term of imprisonment for such crime or crimes and has served all or part of such sentence", and (3) his conviction was "vacated or reversed . . . on a grounds consistent

with innocence.” Connecticut General Statutes §54-102uu¹. The statute further provides that once the exonerated person has established eligibility requirements, such person shall present evidence to support a claim for damages which includes, but is not limited to, (1) claims for loss of liberty and enjoyment of life, (2) loss of earnings, (3) loss of earning capacity, (4) loss of familial relationships, (5) loss of reputation, (6) physical pain and suffering, (7) mental pain and suffering and (8) attorney’s fees and other expenses arising from or related to the person’s arrest, prosecution, conviction and incarceration. See Connecticut General Statutes §54-102uu (c). The legislature explicitly eschewed assigning a fixed dollar amount for each year a person was incarcerated and instead has tasked the Claims Commissioner with a process for consideration of all of the factors surrounding the claim. Each factor was considered in arriving at the determination of compensation along with the testimony of Mr. Ireland and his mother at the hearing.

1. Loss of Liberty and Enjoyment of Life.

Mr. Ireland was incarcerated over a period of twenty one years and was housed in a maximum security prison facility for his period of incarceration. As someone confined in prison at 18 years old until the age of 39, he was deprived of opportunities both large and small. He was not able to join the National Guard, was deprived of social and family events, vacations, educational and work experiences. The losses he endured during such formative years are too great to specify in a list. There is a natural overlap in this category with several other considerations in the statute, especially the Loss of Relationships. It is acknowledged that a great deal of Mr. Ireland’s damages result not only from being incarcerated, but in being removed from his family and friends for an extended period of his life. The damage calculation considers this fact.

Additionally, as a young ‘murderer and sex offender’, he was placed in the most violent and dangerous prison environments. As an inmate convicted of sexual assault, he was ostracized as well as harassed, threatened and forced into altercations in order to survive. This environment caused both physical and psychological hard to Mr. Ireland.

2. Loss of Earnings and Earning Capacity.

¹ Connecticut General Statutes §54-102uu was enacted in response to Special Act 07-05 wherein the legislature awarded James C. Tillman \$5,000,000 in damages for his wrongful incarceration. Concerned that it did not have a formal mechanism to address wrongful incarceration claims going forward, the legislature passed §54-102uu.

Mr. Ireland provided evidence from economist Evan Hoffman Schouten via report. Hoffman-Schouten's report provided an opinion and assessment of Ireland's total economic loss, including lost earnings and lost earning capacity over the course of his incarceration. The report considers what Ireland would have likely earned in a scenario where he was not incarcerated. This included the time that he spent in prison as well as possible reduced earnings as a result of his incarceration.

3. Loss of Relationships.

Addressed as part of Loss of Liberty and Enjoyment of Life.

4. Loss of Reputation.

While Mr. Ireland's story is now an inspiring one. However by his arrest, during his trial and by his incarceration, Ireland was labeled a murderer and a rapist for a period of more than twenty one years. There is no doubt that this mark on his reputation caused him danger in prison and cost him relationships with family and friends.

5. Pain and Suffering.

Mr. Ireland testified to various incidents over the period of his incarceration where he was harassed, assaulted and forced to fight. He provided evidence that he suffered various physical injuries while incarceration including, but not limited to, (1) losing part of a finger, (2) trauma to his nose and face, (3) hearing loss, (4) injury to his shoulder, and (5) various respiratory problems including asthma. It was also considered that Mr. Ireland was a very young man when he was incarcerated and was placed with some of the most dangerous inmates in the correctional system.

The psychological injuries that he suffered are more difficult to catalogue for purposes of this decision. Mr. Ireland suffered from extreme depression while incarcerated and continues to work through Posttraumatic Stress Disorder (PTSD) since the time of his release. Mr. Ireland testified about his "loss of hope" and about his acknowledgment that he thought that he would die in prison. There was evidence provided for consideration of his mental health treatment for PTSD and some of the struggles that he has endured since his release from prison.

6. Attorney's Fees and Related Expenses.

Although represented by counsel on a pro bono basis, this decision acknowledges the significant costs associated with the preparation of Mr. Ireland's claim, including expenses for the investigation and

presentation of the claim. While it is not specifically designated in the statute, it is the opinion of the undersigned that the award of damages in this claim should not be considered subject to Connecticut taxes, following the legislative history of Special Act 07-05 as the precursor for Connecticut General Statutes §54-102uu. It is also recommended as a calculation of damages that the Connecticut Innocence Project be reimbursed for its costs regarding this claim.

Loss of Liberty and Enjoyment of Life:	\$2,500,000.00
Loss of Earnings and Earning Capacity:	\$1,500,000.00
Loss of Reputation:	\$ 300,000.00
Physical and Mental Injuries:	\$1,500,000.00
Costs and Expenses:	<u>\$ 200,000.00</u>
TOTAL:	\$6,000,000.00

Mr. Ireland was wrongfully convicted and was labeled a murder and sex offender and was forced to spend a long portion of his life in maximum security prisons, where he experienced twenty one years of violence, sleepless nights and the constant fear and hopelessness that he would die in prison as an innocent man. Even when the evidence proved Ireland's innocence and he was informed of his pending release, he *still believed* that he would die in prison. While this decision attempts to compensate Mr. Ireland for the time that he was wrongfully prisoned, no words or dollar amount will suffice to give him back the time that he lost and the misery that he endured. As the person who is tasked by the State of Connecticut with the assessment of damages for his claim, I offer my sincerest apologies to Mr. Ireland for the burden that he was forced to suffer and I wish him the best of luck.

Pursuant to Connecticut General Statutes §54-102uu, I Order the immediate payment of Six Million Dollars (\$6,000,000.00) to Mr. Kenneth Ireland.

STATE OF CONNECTICUT,
CLAIMS COMMISSIONER



J. PAUL VANCE, JR.