

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CRIMINAL DIVISION

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PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
<i>Respondent,</i>	)	
	)	
-vs-	)	No. 93 CR 14710
	)	
	)	
THADDEUS JIMENEZ,	)	Honorable
	)	Stanley Sacks,
<i>Petitioner,</i>	)	Judge Presiding.

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NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Assistant State's Attorney Celeste S. Stack  
Supervisor, Special Litigation Division  
Office of the State's Attorney of Cook County  
2650 S. California Avenue  
Chicago, IL 60608

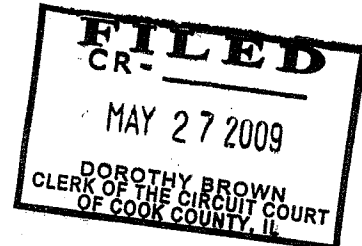
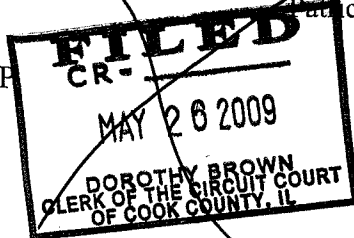
PLEASE TAKE NOTICE that on May 27, 2009, we filed with the Clerk of the Circuit Court of Cook County, Illinois, the attached *PETITION OF THADDEUS JIMENEZ FOR A CERTIFICATE OF INNOCENCE*, copy of which is hereby served on you.

Respectfully Submitted,

  
Patrick C. Harrigan

The undersigned attorney for Thaddeus Jimenez hereby certifies under penalties of perjury as imposed pursuant to 735 ILCS 5/1-109 that he caused to be served the a copies of this *NOTICE OF FILING AND CERTIFICATE OF SERVICE* and *PETITION OF THADDEUS JIMENEZ FOR A CERTIFICATE OF INNOCENCE* and of on the person listed at address listed via hand-delivery on May 27, 2008.

Patrick C. Harrigan  
Katten Muchin Rosenman LLP  
Firm I.D. 41832  
525 West Monroe Street  
Chicago, IL 60661  
(312) 902-5200



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PEOPLE OF THE STATE OF ILLINOIS, )

*Respondent,* )

vs. )

No. 93 CR 14710 )

THADDEUS JIMENEZ, )

*Petitioner,* )

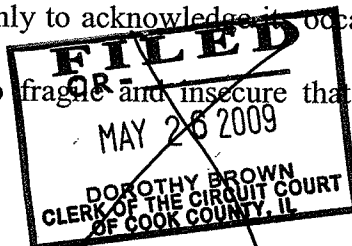
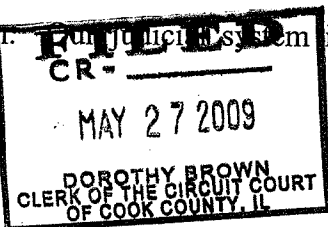
**PETITION OF THADDEUS JIMENEZ  
FOR A CERTIFICATE OF INNOCENCE**

Now comes Petitioner, Thaddeus Jimenez, by his undersigned counsel and respectfully requests that this Court enter an order granting him a certificate of innocence pursuant to 735 ILCS 5/2-702 *et seq.* In further support of this Petition, Mr. Jimenez states as follows.

**Introduction**

On February 4, 1993, Thaddeus Jimenez was arrested for the murder of Eric Morro. For the next 16 years, 2 months, and 27 days, from the age of 13 until his release at age 30 on May 1, 2009, Thaddeus Jimenez was imprisoned for a murder that he did not commit. The system failed in Mr. Jimenez's case, as the actual killer (Juan Carlos Torres, who has now been arrested and charged with the murder) escaped justice. As a consequence, Mr. Jimenez spent more than half his life – including his childhood and many of his formative adult years – languishing in prison for a crime he did not commit.

Fortunately, there is a remedy for this injustice. An exemplary feature of the American justice system is its willingness not only to acknowledge its occasional mistakes, but to correct them. The justice system is not so fragile and insecure that the courts cannot own up to



institutional failures in a particular case; indeed, the system's ability to concede fallibility and correct miscarriages of justice is an extremely enviable attribute – a true symbol of its strength.

In this case, the law and the facts justified Mr. Jimenez's release from prison. There are no words to adequately express Mr. Jimenez's gratitude to this Court for recognizing the injustice of continuing his incarceration. Since his release, Mr. Jimenez (who never lost faith that the truth would prevail) has used this opportunity to reconnect with loved ones and devote the remainder of his days to appreciating his freedom and trying to be worthy of this new lease on life.

That said, Mr. Jimenez's extended wrongful incarceration was a devastating fate, one with a profound impact on his life. He has suffered immeasurably in an environment that can only be described as a "Hell on earth." Just 13 when Mr. Jimenez was arrested and charged with a murder he did not commit, he was nonetheless tried and sentenced as an adult. From there, deprived of all freedom and most human dignity, Mr. Jimenez was unjustly confined in close quarters – and for long periods in maximum security facilities – with some of the most violent, mentally-ill, and antisocial men that our society has to offer.

Moreover, the entire prime of Mr. Jimenez's life has been unfairly taken from him, and he will obviously never get that back. Wrongfully imprisoned since the age of 13, now at the age of 30 he has no spouse, no children, no financial savings, no work experience, and none of the basic bonds and shared memories with friends/family/community that the rest of us have spent the last 16 years building. While he was in prison, his mother battled cancer and other illnesses and his grandmother and several other close relatives passed away.

Thankfully, the State of Illinois has enacted a statute providing for compensation for a person who has experienced a wrongful conviction. *See* 705 ILCS 505/8. Under that law, individuals in Mr. Jimenez's shoes are permitted to petition the Court of Claims for monetary

compensation, assuming they can establish their innocence. The statute, 735 ILCS 5/2-702, lays out the process for seeking a “certificate of innocence,” which can be obtained from this Court and which is a pre-requisite to receiving compensation from the State.

It is pursuant to that statute that this Petition is filed. Mr. Jimenez’s case is precisely the sort that the statute was designed to address. Because Mr. Jimenez qualifies for a certificate of innocence, this Petition should be granted.

### **ARGUMENT**

The extraordinary story of Mr. Jimenez’s innocence has been featured extensively in the local, national, and international media, including, but not limited to, features in the print media, such as the Chicago Sun-Times and Chicago Tribune, and in broadcasts on, among others, WGN, CNN, National Public Radio, and the BBC. One of the things that makes Mr. Jimenez’s story somewhat unique is that the Cook County State’s Attorney’s Office partnered with Mr. Jimenez’s counsel in order to develop the evidence to exonerate Mr. Jimenez and to bring charges against Juan Carlos Torres, the true perpetrator. As explained below, Mr. Jimenez’s innocence is not in dispute, and the corroborative evidence more than satisfies the showing necessary under the law to obtain a certificate of innocence.

#### **I. PURSUANT TO 735 ILCS 5/2-702, MR. JIMENEZ IS ENTITLED TO A "CERTIFICATE OF INNOCENCE."**

Section 5/2-702 of the Illinois Code of Civil Procedure (hereafter, “Section 702”) provides a process whereby wrongfully convicted individuals may petition the circuit court for a certificate of innocence, which can then be presented to the Illinois Court of Claims.

##### **A. THE GOVERNING LEGAL STANDARD UNDER SECTION 702.**

The prefatory statement of Section 702 provides informative insight into the legislative intent underpinning the Act:

The General Assembly finds and declares that innocent persons who have been wrongly convicted of crimes in Illinois and subsequently imprisoned have been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law and that such persons should have an available avenue to obtain a finding of innocence so that they may obtain relief through a petition in the Court of Claims. The General Assembly further finds misleading the current legal nomenclature which compels an innocent person to seek a pardon for being wrongfully incarcerated. It is the intent of the General Assembly that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted pursuant to this Section, shall, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by such persons or those acting on their behalf.

735 ILCS 5/2-702(a).

In the face of the “frustrat[ion]” with the “technical obstacles” facing those attempting to establish their innocence, *id.*, the legislature created another route. Under Section 702, a wrongfully convicted individual whose conviction has been vacated is entitled to a certificate of innocence if a preponderance of evidence establishes that:

1. He has been convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;
2. His conviction has been vacated and the indictment/information has been dismissed;
3. He is “innocent of the offenses charged”; and
4. He did not “by his . . . own conduct voluntarily cause or bring about his . . . conviction.”

735 ILCS 5/2-702(g).

The petition must “state facts in sufficient detail to permit the court to find that the petitioner is likely to succeed at trial in proving that the petitioner is innocent of the offenses charged. . .” 735 ILCS 5/2-702(b),(d). It must be verified, filed in the same circuit court where the petitioner was convicted, and served on the Attorney General and the State’s Attorney’s Office. 735 ILCS 5/2-702(e).

As stated, there is no requirement that a petitioner prove anything beyond a reasonable doubt; to the contrary, the “more likely than not” preponderance standard is all that must be met. 735 ILCS 5/2-702(g). In evaluating such claims, the Court is permitted to take judicial notice of prior sworn testimony or evidence admitted in the proceedings. 735 ILCS 5/2-702(f).

**B. MR. JIMENEZ MEETS THE TEST SET FORTH IN SECTION 702.**

Mr. Jimenez’s case is exactly the sort the legislature had in mind in enacting this law. He was convicted of a felony, his conviction has been vacated and his indictment has been dismissed, his innocence is obvious to all, and freely acknowledged by the State. He is entitled to a certificate of innocence.

**1. The Applicable Procedural History, The State’s Acknowledgement Of Mr. Jimenez’s Innocence, And The State’s Agreement To This Petition Support Mr. Jimenez’s Claim for Relief.**

On May 1, 2009, Mr. Jimenez filed a Petition For Relief From Judgment And Motion For New Trial Pursuant To 735 ILCS 5/2-1401 (“Petition For Relief From Judgment”), which was agreed to by the State, seeking to vacate his conviction and sentence and an order for his release on grounds that:

- Mr. Jimenez was convicted entirely on the basis of eyewitness testimony and no physical evidence ever tied him to the crime.
- Two eyewitnesses have signed affidavits recanting their identifications.
- Another investigation was conducted by the People, which uncovered additional new evidence of Mr. Jimenez’s innocence.

(See Exhibit A, Petition For Relief From Judgment, ¶¶ 4-7.)

The Honorable Joseph M. Claps granted the motion, vacated Mr. Jimenez’s conviction, and ordered that he be given a new trial. (See Exhibit B, May 1, 2009 Order granting Petition For Relief From Judgment.) During that same hearing, the State elected to *nolle prosequi* the

case against Mr. Jimenez, and the Court ordered his immediate release. (*See id.*; Exhibit C, May 1, 2009 Order directing Mr. Jimenez's immediate release.)

**2. The Testimony And Evidence In The Record Is Sufficient To Establish Mr. Jimenez's Innocence By A Preponderance Of The Evidence.**

Mr. Jimenez incorporates by reference all of the arguments, record citations, and evidentiary exhibits contained in his previously-filed Verified Petition For Post Conviction Relief and Supplement To Thaddeus Jimenez's Verified Petition For Post Conviction Relief. These record excerpts easily make the case for Mr. Jimenez's innocence, and they are expressly adopted into this Petition in their entirety.

Copies of the Petition and Supplement thereto are attached for the Court's convenience as Exhibits D and E. Reviewing those filings, there can be no serious dispute that the record establishes the fact of Mr. Jimenez's innocence of the crime for which he was wrongfully convicted. This conclusion is particularly unavoidable given that Section 702 sets the burden no higher than a preponderance, *i.e.*, more likely than not. Mr. Jimenez has met that burden here.

**II. MR. JIMENEZ'S NEED FOR RELIEF UNDER SECTION 702.**

One of the greatest ironies in Illinois law has been that guilty ex-convicts who complete their sentences receive post-prison reintegration assistance for which the wrongfully convicted are not eligible. As a result of this gap in coverage, a troubling proportion of wrongfully convicted persons have failed to transition successfully to productive society. *See* Group Exhibit F.

Illinois lawmakers have recently attempted to redress this flaw in the system. Any wrongfully convicted individual who can obtain a certificate of innocence is eligible for employment assistance in terms of job search and placement services, including "assessment, resume assistance, interview preparation, occupational and labor market information, referral to

employers with job openings to which the person is suited and referral to such job training and education program providers as may be appropriate and available. . . .” See 20 ILCS 1015/2.

By granting him the certificate of innocence he seeks, the Court would make Mr. Jimenez eligible for this employment assistance, a benefit which would greatly improve his life given his circumstances. More specifically, although Mr. Jimenez’s wrongful conviction and imprisonment robbed him of the chance to obtain job training or employment experience, while in prison, he achieved his GED and began taking college courses. He has earned 15 hours of college credit through Carl Sandburg College and Danville Community College. He also held jobs at the end of his incarceration at Hill Correctional Center in Galesburg, Illinois.

But, unfortunately, Mr. Jimenez’s options are very limited. Having lost more than 16 of the most important and productive years of his life, Mr. Jimenez has been deprived of the ability to build skills and develop a career or vocation. He also has a gaping hole in his resume, one that will (not surprisingly) prove difficult to explain at job interviews.

In short, a certificate of innocence would not only help ease concerns of prospective employers, but would entitle Mr. Jimenez to valuable employment assistance, assistance to which he would be entitled if he were an ex-con but which is presently denied to him precisely because he is innocent. This Court can and should remedy that incongruity.

Finally, but obviously no less important, the certificate of innocence would entitle Mr. Jimenez to the statutory compensation which Illinois has seen fit to award to innocent prisoners who serve time for crimes they did not commit. Like most states, Illinois provides compensation in the Court of Claims for those wrongfully convicted individuals who are subsequently determined to be innocent.<sup>1</sup> To put it mildly, Mr. Jimenez’s financial need for timely redress is

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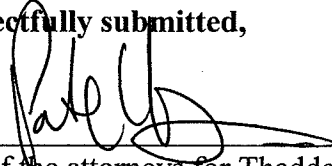
<sup>1</sup> The amount is calculated based on the number of years at issue, but it is capped for any imprisonment of more than 14 years in an amount of not more than \$199,150. 705 ILCS 505/8(c).

pressing. Sixteen years is a long enough time to wait for justice, and further delay in obtaining the compensation to which he is entitled would work a cruelly unjustified hardship.

**CONCLUSION**

For the foregoing reasons, petitioner Thaddeus Jimenez respectfully requests that the Court grant him a certificate of innocence pursuant to 735 ILCS 5/2-702.

Respectfully submitted,



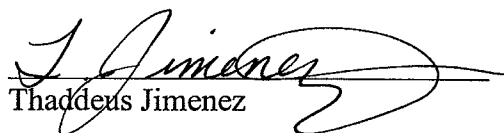
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One of the attorneys for Thaddeus Jimenez

Stuart J. Chanen  
Rachel M. Vorbeck  
Patrick C. Harrigan  
Katten Muchin Rosenman LLP – Firm Id  
41832  
525 West Monroe Street  
Chicago, IL 60661  
(312) 902-5200

Steven A. Drizin  
Allison Flaum  
Joshua Tepfer  
Bluhm Legal Clinic  
Northwestern University School of Law  
357 E. Chicago Ave.  
Chicago, IL 60611  
(312) 503-8576

**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned, Thaddeus Jimenez, certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
Thaddeus Jimenez