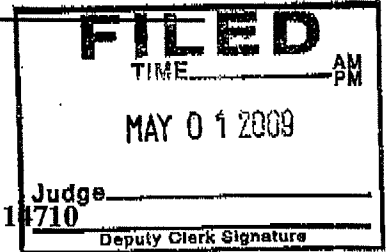


IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Respondent,)
)
 v.)
)
 THADDEUS JIMENEZ,)
)
 Petitioner,)

No. 93 CR 14710
Hon. Joseph M. Claps



**PETITION FOR RELIEF FROM JUDGMENT
AND MOTION FOR NEW TRIAL PURSUANT TO 735 ILCS 5/2-1401**

Petitioners Thaddeus Jimenez ("Jimenez"), by his attorneys, respectfully request relief from judgment and a new trial pursuant to 735 ILCS 5/2-1401 *et seq.*, and in support of this request, state as follows:

1. In November 1997, after a jury trial, Jimenez was convicted of first degree murder and sentenced to 45 years in prison. Jimenez's conviction was affirmed by the Appellate Court on January 18, 2000. Jimenez is currently in the custody of the Illinois Department of Corrections and incarcerated at Hill Correctional Center.

2. Section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401) provides a final order, judgment, or decree may be vacated if there is substantially new evidence that demonstrates the existence of: (1) a meritorious defense or claim; (2) due diligence in presenting the defense or claim to the trial court in the original action; and (3) due diligence in filing the § 2-1401 petition. *People v. Waters*, 238 Ill.App.3d 117, 127 (1st Dist. 2002). To set aside a criminal conviction based upon newly-discovered

evidence under section 2-1401, petitioner or petitioners must show that the new evidence was not known to the petitioner at the time of trial, could not have been discovered through reasonable diligence, and that the new evidence is conclusive, material, and non-cumulative to the trial evidence.

3. The People have agreed not to assert timeliness issues.

4. Jimenez was convicted entirely on the basis of eyewitness testimony and no physical evidence ever tied him to the crime.

5. Two eyewitnesses signed affidavits recanting their identifications.

6. Another investigation was conducted by the People


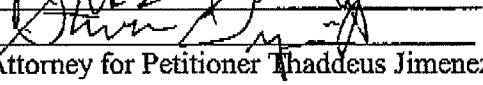
7. Additional new evidence has been uncovered in the People's subsequent investigation.

8. Based upon the foregoing, the People have indicated they will not oppose defendant-petitioner's request that his sentence and conviction be vacated and that they will not oppose this request for release nor seek a new trial.

WHEREFORE, Jimenez respectfully requests that this Court enter an Order vacating Jimenez's sentence and conviction, releasing Jimenez from the custody, and ordering that Thaddeus Jimenez be released from the Department of Corrections.

Dated: May 1, 2009,

Respectfully submitted,

By: 
By: 

Attorney for Petitioner Thaddeus Jimenez

Attorney for the People of Illinois

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Rachel M. Vorbeck
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Chicago, IL 60661
(312) 902-5200

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AFFIDAVIT OF COUNSEL


I, Patrick C. Harrigan, a member of the bar of Illinois, being duly sworn, state that statements contained in the above Petition are true to the best of my knowledge and belief.

ENTERED
JUDGE JOSEPH M. CLAPS-1746

MAY 01 2009

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Subscribed and sworn to before me this 1st day of May, 2009.


Patrick C. Harrigan

FILED
TIME _____ AM
 PM
MAY 01 2009

Judge _____
Deputy Clerk Signature _____

X 

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

PEOPLE OF THE STATE OF ILLINOIS,)
)
Respondent,)
)
-vs-) No. 93 CR 14710
)
)
THADDEUS JIMENEZ,) Hon. Joseph M. Claps
)
Petitioner,)

ORDER

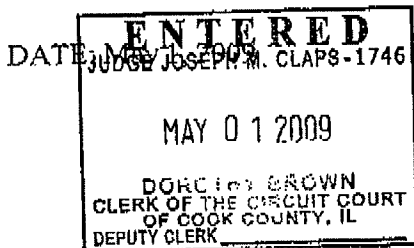
TO: Warden Gerardo Acevedo, or any person acting in his capacity
Hill Correctional Center
Illinois Department of Corrections
Hill Correctional Center
600 South Linwood
Galesburg, IL 61402

This cause having come before me on the Agreed Motion of the People of the State of Illinois and Thaddeus Jimenez to vacate the conviction and sentence of Thaddeus Jimenez, who is in inmate no. K51114 in your custody.

I have entered the attached Order, which vacates Mr. Jimenez's conviction, vacates Mr. Jimenez's sentence, and sets his case for a new trial. Upon a separate oral motion of the State of Illinois, the State has determined not to prosecute a new trial against Mr. Jimenez.

THEREFORE, I direct you to immediately release Thaddeus Jimenez from your custody forthwith.


HON. JOSEPH M. CLAPS



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

PEOPLE OF THE STATE OF ILLINOIS,)

Respondent,)

-vs-)

THADDEUS JIMENEZ,)

Petitioner,)

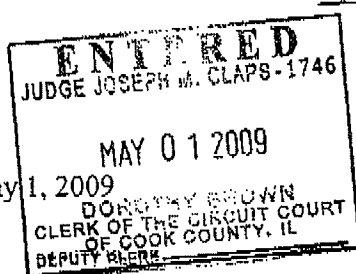
No. 93 CR 14710

Hon. Joseph M. Claps

ORDER

This matter having come before the Court on Petitioner Thaddeus Jimenez's Agreed Emergency Petition for Relief from Judgment and Motion for New Trial, and the Court being fully apprised of the premises, including newly discovered evidence, IT IS HEREBY ORDERED:

- (1) The Agreed Motion is granted;
- (2) Thaddeus Jimenez's conviction and sentence are hereby VACATED;
- (3) The Illinois Department of Corrections shall immediately release Thaddeus Jimenez, inmate no. K51114, from custody.
- (4) The case is returned to the trial calendar.
- (5) On the Motion of the People of the State of Illinois, the case is *nolle prosequed*.



DATE: May 1, 2009

HON. JOSEPH M. CLAPS

