

HARTLINE

ATTORNEYS

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February 7, 2014

TO:
The Committee on Compensation for Wrongful Incarceration
Division of Risk Management
P.O. Box 1390
Montgomery, AL 36102-1390

RE: Clarence Norris

To Whom It May Concern:

This letter will serve to inform you that this office has been retained by Clarence Norris, Jr. to represent him in obtaining compensation on behalf of his father, Clarence Norris, for wrongful incarceration. Clarence Norris, of "Scottsboro Boys" renown, was wrongfully incarcerated by the State of Alabama after being charged and convicted of rape. He was pardoned in 1976 by Governor George Wallace after a finding by Attorney General Bill Baxley that he was innocent based upon the evidence. Mr. Norris spent 15 years in prison as a result of the charges of rape, 10 of those years on death row. Mr. Norris passed away on January 23, 1989. Prior to his death, he had petitioned the State of Alabama for compensation in 1982 for his wrongful incarceration, through his then-counsel James Meyerson of New York. *Tuscaloosa News*, February 11, 1982. Mr. Meyerson currently works with the NAACP in New York City.

Pursuant to the wrongful incarceration statutes of Alabama, the estate, of a wrongfully incarcerated inmate who is now deceased but who applied for compensation before their death, is entitled to receive compensation on the deceased's behalf. AL.CODE 29-2-160. Clarence Norris, Jr. is the son of Clarence Norris, the wrongfully incarcerated, and the deceased applied for compensation from the state of Alabama in 1982 through his attorney James Meyerson. Thus, Clarence Norris's estate is entitled to compensation. Furthermore, the statute provides for compensation in the amount of at least \$50,000 per year of wrongful incarceration, which, in this case, would be 15 years. This brings the total compensation amount due to \$750,000. AL.CODE 29-2-159(a). The

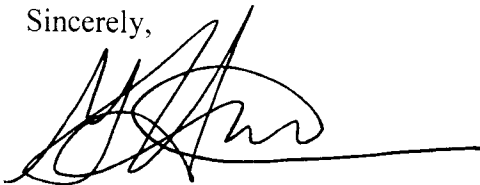
statute also provides for “some discretionary amount in addition to the base amount if circumstances warrant such a supplemental award.” I believe that if there was *ever* a situation that would warrant such a supplemental award, it would be in this case.

I am including herein the “Application for Compensation” that was provided to me by the Alabama Department of Risk Management, on behalf of my client; however, some of the information required in the application is either missing or unknown, such as a copy of the actual pardon Mr. Norris received from Governor George Wallace in 1976. I have been informed by the Alabama Department of Pardons and Paroles that they cannot find the pardon, but I received a tracking number-39745, a granted date of 11/29/1976, and a closed date of 11/30/1976.

Finally, although the new “Scottsboro Boys” legislation could possibly be interpreted by some as an attempt to preclude any compensation as a result of the most recent 2013 posthumous pardons, it would not apply to the deceased Clarence Norris or his surviving estate anyway because he was pardoned *prior* to his death. The Scottsboro Boys Act only applies to members of the “Scottsboro Boys” who were *not* already pardoned prior to their death. Furthermore, it would be against the public policy of compensating those who are wrongfully incarcerated to conclude differently. Thus, any potential problems that could arise with regard to compensation in the “Scottsboro Boys Act” are inapplicable here.

Please contact me at your earliest convenience so that we may discuss this compensation request.

Sincerely,

A handwritten signature in black ink, appearing to read 'George Hartline', with a long horizontal line extending to the right from the end of the signature.

George Hartline

State of Alabama
Department of Finance

Legal Division

600 Dexter Avenue, Suite E-310
Montgomery, AL 36104
Telephone: (334) 242-4220 Fax: (334) 242-2008
www.finance.alabama.gov

Robert Bentley
Governor

Bill Newton
Acting Finance Director

March 7, 2014

Richard H. Cater
Chief Legal Counsel

Jerry L. Carpenter
Deputy Attorney General

Mose Stuart, IV
Senior Associate Legal Counsel

Dalton Doyle, Clerk
Committee on Compensation for
Wrongful Incarceration
Room 730, Alabama State House
Montgomery, AL 36130

Dear Ms. Doyle:

Attached hereto is an application filed on behalf of Clarence Norris, deceased. Mr. Norris, one of the "Scottsboro Boys," was convicted of rape and incarcerated decades ago, and pardoned by Governor George Wallace in 1976. In 1982 Mr. Norris, through an attorney, petitioned the state unsuccessfully for compensation for his 15 year incarceration, and died in 1989. The attached application was filed by George Hartline, attorney for Mr. Norris's estate.

Alabama's wrongful incarceration statute ("the Act") became law in 2001. Section 29-2-160, Code of Alabama, provides as follows:

"(b) Any right to apply for compensation under this article shall cease upon the death of the claimant.

(c) If a person has submitted an application for compensation to the Division of Risk Management, but dies prior to the application being certified for compensation, the estate of the person shall be eligible to receive said compensation."

Mr. Hartline asserts that the 1982 petition for compensation satisfies the requirement of 29-2-160(c), allowing the filing of an application by Mr. Norris's estate. However, the right granted by 29-2-160(b) is to apply for compensation *under this article*. Mr. Norris's incarceration, pardon, and petition for compensation all predate the passage of the Act.

Section 29-2-162 makes it clear that the Act has only limited and specific retroactive effect:

"Any person applying for compensation under this article based on exoneration that was granted before May 21, 2001...shall file his or her application within two years after May 21, 2001."

Therefore, because Mr. Norris's exoneration occurred in 1976, the latest date by which an application for compensation under the Act could have been filed was May 21, 2003. The application filed on behalf of Mr. Norris's estate was received on February 13, 2014.

In my opinion based on the foregoing, the application submitted on behalf of Clarence Norris's estate is not eligible for compensation under the act.

Please let me know if you need additional information.

Sincerely,



Jerry Carpenter
Deputy Attorney General

Attachments

cc: Ben M. Spillers (w/o attachments)
Risk Manager

George A. Hartline, Esq. (w/o attachments)
Attorney, Estate of Clarence Norris

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March 17, 2014

Dalton Doyle, Clerk
The Committee on Compensation for Wrongful Incarceration
Division of Risk Management
Room 730, Alabama State House
Montgomery, AL 36130

Dear Ms. Doyle:

Mr. Jerry Carpenter wrote you a letter dated March 7, 2014, in response to the application for compensation I filed on behalf of Clarence Norris's estate that you received on February 13, 2014.

Mr. Carpenter's only argument for why Clarence Norris's estate is not eligible for compensation is that the applicable Alabama Code section, 29-2-162, says that anyone applying for compensation "under this article based on exoneration that was granted before May 21, 2001" (the date the wrongful incarceration statute became law) "shall file his or her application within two years after May 21, 2001".

Mr. Norris's exoneration occurred in 1976. He applied for compensation from the state in 1982. These facts are not disputed. Obviously, Clarence Norris, who died in 1989, could not have applied, again, for compensation under the 2001 law himself. Thus, the questions become: 1) Should the petition Clarence Norris filed in 1982 for compensation be permitted to suffice for purposes of satisfying the application requirement and limitations period, or 2) should the estate be held to the 2-year limitation period, and 3) do the principles of equitable tolling apply here, which require limitation periods to be extended when justice requires because of "extraordinary circumstances"? See *Ex Parte Ward*, 46 So.3d 898 (Ala. 2010), for example.

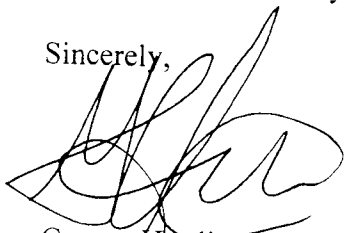
I believe the answers are as follows:

- 1) Yes, Clarence Norris's petition to the State of Alabama for compensation for wrongful incarceration in 1982 should have sufficed and provided the state with the necessary information to make a decision under the 2001 act.
- 2) Clarence Norris's estate believed that Mr. Norris had already petitioned the state for compensation for wrongful incarceration in 1982 and therefore believed that any wrongful incarceration compensation application necessary had already been filed.
- 3) Furthermore, equitable tolling should apply here, as these are certainly "extraordinary circumstances" that would warrant a justifiable extension of the time requirement. It would be a great injustice for a wrongful incarceration petition in a case as historically significant as the "Scottsboro Boys" to be denied on a minor technicality.

In my opinion, the application submitted on behalf of Clarence Norris's estate for compensation for wrongful incarceration should be granted because the estate is eligible under the wrongful incarceration statute.

Please let me know if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Hartline", written over a circular scribble.

George Hartline
Attorney, Estate of Clarence Norris

Cc: Ben M. Spillers
Risk Manager

Jerry L. Carpenter, Esq.
Deputy Attorney General

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February 7, 2014

The Committee on Compensation for Wrongful Incarceration
Division of Risk Management
P.O. Box 1390
Montgomery, AL 36102-1390

RE: Clarence Norris

**APPLICATION
FOR
COMPENSATION
(4 pages)**

COMMITTEE ON COMPENSATION FOR WRONGFUL INCARCERATION
Application for Compensation

INSTRUCTIONS: Answer all questions completely with ink or typewriter. Attach additional sheets if needed. Failure to provide complete and accurate information may result in denial of your eligibility for compensation. You have the burden of proof to demonstrate that you are eligible for compensation. All requested documents must be attached to the application. The application must be signed and notarized where indicated. Submit the completed application to: **The Committee on Compensation for Wrongful Incarceration, Division of Risk Management, P.O. Box 1390, Montgomery, AL 36102-1390.**

1. Name and Mailing Address: Clarence Norris (deceased)

Zip: _____

Home Telephone Number: N/A Work Telephone Number: N/A

Social Security Number or Federal ID Number: Unknown

2. Applicant's Attorney (if represented by an attorney): George Hartline (representing estate)

Mailing Address: 111 E. Laurel Street

Scottsboro, AL Zip: 35768 Telephone Number: (256) 999-0202

3. Were you incarcerated pretrial through no fault of your own for at least two (2) years on a State of Alabama felony charge before the charge was dismissed based upon innocence? Yes _____ No

If Yes, complete the following: Felonies you were charged with: _____

Case Number(s): _____

Court or County where charged: _____

Name of Prosecutor: _____ Name of Judge: _____

Were you indicted? Yes No _____ If Yes, Attach a copy of the indictment.

First date of pretrial incarceration: 3/31/31 (approximately)

Last date of pretrial incarceration: Unknown

Where incarcerated: Jackson County Jail

Explain how the charge(s) came to be dismissed based upon innocence: Governor George Wallace pardoned in 1976 after AG Bill Baxley found overwhelming evidence that Mr. Norris did not commit the crime.

ATTACH A COPY OF ANY DOCUMENT THAT DEMONSTRATES THAT THE CHARGES WERE DISMISSED BASED UPON INNOCENCE.

4. Were you convicted of a felony or felonies by the State of Alabama that resulted in your wrongful incarceration? Yes No

If Yes, what felony or felonies? Rape

Case Number(s): 2412

Court or County in which you were convicted: Jackson County

Name of Prosecutor: Unknown Name of Judge: A.E. Hawkins

Date of Conviction: 4/6/31 First Date of Incarceration: 3/25/31 (approximate)

Last Date of Incarceration: 1946 in what Prison or Prisons: Kilby

Was the conviction vacated or reversed? If yes, explain in detail how and why this occurred:

Pardoned by Governor George Wallace

ATTACH A COPY OF THE COURT DECISION, PARDON OR OTHER DOCUMENT WHICH DEMONSTRATES THAT YOUR CONVICTION WAS VACATED AND REVERSED.

Was the accusatory instrument dismissed on grounds of innocence or a ground consistent with innocence? Explain: Yes. Attorney General Bill Baxley found

that there was overwhelming evidence of innocence, which led to the pardon.

ATTACH A COPY OF ANY DOCUMENT THAT VERIFIES THE DISMISSAL OF THE ACCUSATORY INSTRUMENT ON GROUNDS OF INNOCENCE OR A GROUND CONSISTENT WITH INNOCENCE.

5. Were you convicted of any other crime, felony or misdemeanor, which arose from the same acts which led to your wrongful incarceration? Yes ___ No

If Yes, explain completely:

N/A

6. Have you ever been convicted and sentenced for a crime other than the felony for which you believe you were wrongfully incarcerated? Yes ___ No

If Yes, what was the crime, when were you convicted, and when and where were you incarcerated? _____

N/A

7. Was the prison sentence, which you are claiming was wrongfully imposed, served concurrently with the sentence for a conviction of another crime? Yes ___ No

8. Have you received a pardon based upon innocence from the Alabama Board of Pardons and Paroles, pursuant to Section 15-22-36(c), Code of Alabama? Yes No ___

9. Have you been the subject of an Act of the Legislature that authorized an award of compensation for your wrongful incarceration? Yes ___ No

Compensation by the Committee is contingent on the appropriation by the Legislature of sufficient funds for that purpose. There is no entitlement on the part of any applicant to compensation and the Legislature is not required to appropriate funds for payment of compensation for wrongful incarceration.

10. Original Signature of Applicant: _____

George Hartline

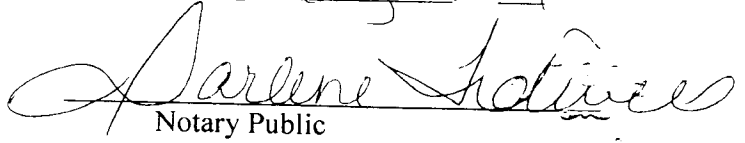
George Hartline, attorney for the estate of Clarence Norris

STATE OF Alabama

Jackson COUNTY

Before me, a Notary Public in and for said state and county, personally appeared George Hartline, who being made known to me, and being informed of the contents of this application and the statements by him/her therein, and being duly sworn, says such statements are true and correct.

Sworn and subscribed before me this 7th day of February, 2014.


Notary Public

My Commission Expires ~~11-08-2017~~ ~~11-08-2017~~

11. Signature of Applicant's Attorney (if applicable):

