
STATE OF WISCONSIN CLAIMS BOARD

CLAIM OF: JARRELL D. STOVALL

CLAIM NO. 2023-029-CONV

Notice of Appeal Rights

This is a final decision of the Wisconsin Claims Board.

Any person aggrieved by this decision has a right to petition for judicial review in circuit court as provided in Wis. Stat. §§ 227.52 and 227.53. Any petition must be filed in court and served on the Board within 30 days of service of the decision. The time to file and serve a petition runs from the date the final decision is mailed. The petition shall name the Wisconsin Claims Board as the respondent.

Any person aggrieved may also file a petition for rehearing with the Board under Wis. Stat. § 227.49(1); that petition must be received by the Board within 20 days of the service of this decision.

This notice of appeal rights is provided pursuant to Wis. Stat. § 227.48.

DECISION

Background

Claimant, Jarrell D. Stovall, filed a claim seeking Innocent Convict Compensation pursuant to Wis. Stat. § 775.05. Stovall claims that he was imprisoned for approximately fourteen months for his 2019 conviction for felon in possession of a firearm. Stovall further claims that he is innocent of the crime for which he was imprisoned, and seeks statutory compensation in the amount of \$6,042.50, and attorney's fees in the amount of \$3,000, for a total of \$9,042.50.

Claimant's Facts and Argument

In support of his claim for compensation, Stovall submitted a claim form and the following materials:

1. Statement to Claims Board with the following attachments:
 - a. Attorney Fee Agreement with Ritter Law Office signed on May 8, 2019; and
 - b. Letter from Ritter Law Office dated September 24, 2019.
2. Reply to the November 21, 2023 letter from the Milwaukee County District Attorney's Office.

Stovall initially requested a hearing but later decided to have his claim decided in closed session, without a hearing.

In his statement to the Claims Board, Stovall indicates that he was charged in January 2019 with possession of a firearm by a felon – Milwaukee County Case No. 19-CF-98. Stovall indicates the charge resulted from an incident with an armed individual who entered his residence. Stovall claims the individual called 911 prior to arriving at Stovall's residence and told the dispatcher that Stovall "had his gun and rifle and that he was going to use it." Stovall claims he disarmed the individual, exited his residence, and drove away. Stovall notes that he placed the firearm in the trunk of his vehicle as a precaution. Moments later, a vehicle was travelling toward him from the direction of his residence, firing gunshots. Stovall alleges he sped away from the shooting vehicle, crashing in the process. After speaking with law enforcement, Stovall was transported to the hospital for injuries. During a search of Stovall's vehicle, the firearm was located in the trunk. Stovall was arrested at the hospital for possession of a firearm by a felon.

Stovall was represented by counsel in Case No 19-CF-98. He claims his attorney failed to inform him of the "Defense of Privilege" and advised him to plead guilty. Stovall pled guilty and was convicted in August 2019.

According to Stovall, at a *Machner* hearing in November 2020, a Judge determined Stovall was permitted to withdraw his guilty plea based on the facts of the case, his attorney's failure to inform him of the defense of privilege, and alleged admissions by the attorney. The judgment of conviction was vacated on November 12, 2020.

Stovall holds he was legally justified in possessing the firearm and, therefore, innocent of the charge.

DA's Response and Argument

In its November 21, 2023 response, the Milwaukee County District Attorney's Office deferred to the Claims Board to determine if any compensation for Stovall is appropriate. The DA's Office did not dispute that Stovall served fourteen months of imprisonment for his conviction in Case No. 19-CF-98, and that the conviction was vacated in 2020 based on ineffective assistance of counsel.

The DA's Office noted that after Stovall's release in 2020, he was subsequently charged with first degree intentional homicide for a separate incident – Milwaukee County Case No. 20-CF-4515. Stovall was ultimately convicted in Case No. 20-CF-4515 and sentenced to life in prison. The DA's Office holds it never made an assessment that Stovall was innocent of the possession of a firearm by a felon charge in Case No. 19-CF-98. Instead, in the interest of judicial economy, the State moved to dismiss Case No. 19-CF-98 given the outcome of Case No. 20-CF-4515.

Discussion and Conclusion

Pursuant to Wis. Stat. § 775.05(3), the Claims Board must hear the evidence presented on the petition and determine whether the evidence is clear and convincing that Stovall is innocent of the crime for which he was imprisoned.

In support of his position, Stovall relies heavily on the fact that the trial court withdrew his guilty plea and vacated his conviction due to ineffective assistance of counsel. Wisconsin Stat. § 775.05 does not provide compensation to individuals who simply establish that their convictions have been overturned, it provides compensation to individuals who establish their *innocence* by clear and convincing evidence. The Board has never automatically equated vacation of conviction with innocence. Here, Stovall must prove his innocence by clear and convincing evidence, whereas to obtain a vacation based on ineffective assistance of counsel he only had to show there was a reasonable probability that the result would have been different if he had had more effective counsel. These are two very distinct standards with different burdens of proof and cannot be conflated.

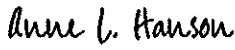
Stovall further relies on his notion that he was legally justified in possessing the firearm. Unfortunately, however, Stovall does not provide the Claims Board with any additional information, evidence, or argument to support this. The Claims Board lacks any specific details or explanation of the incident that occurred in Stovall's home with the other individual, which ultimately led to Stovall's arrest.

The Board notes from information publicly available on CCAP that the case was not dismissed at the time the conviction was vacated. The case was scheduled for future proceedings (*i.e.*, a new plea hearing), which was rescheduled multiple times based on Stovall's subsequent charges (Case No. 20-CF-4515). After Stovall was convicted and


sentenced to life in prison in Case No. 20-CF-4515, the DA's Office moved to dismiss Case No. 19-CF-98 in May 2022. The DA's Office notes its decision to not proceed on Case No. 19-CF-98 was based on judicial economy, not an assessment that Stovall was innocent.

Based on the written submissions, the Board concludes and finds that the evidence is not clear and convincing that Jarrell D. Stovall was innocent of the crime for which he was imprisoned. Accordingly, the Board concludes that Stovall is not entitled to compensation under Wis. Stat. § 775.05. Vote: 5-0. *[Chair R. Duane Harlow participated in discussion and deciding this claim at the meeting on April 30, 2024. He is no longer a member of the Board so his signature does not appear below.]*


Dated at Madison, Wisconsin this 23rd day of July, 2024

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Anne L. Hanson, Secretary
Representative of the Secretary of
Administration

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Mel Barnes
Representative of the Governor

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Eric Wimberger
Senate Finance Committee

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Alex Dallman
Assembly Finance Committee