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HOUSE BILL NO. 2050

Offered January 14, 2009

Prefiled January 13, 2009

*A BILL for the relief of Teddy Pierries Thompson.*Patron—GearReferred to Committee on Appropriations

Whereas, Teddy Pierries Thompson was arrested on May 8, 2000 in the City of Hampton and charged with robbery, use of a firearm in the commission of a felony, and possession of a firearm by a felon; and

Whereas, Thompson consistently maintained his innocence concerning the charges and pled not guilty at the jury trial held on March 19, 2001; and

Whereas, Antonio Mitchell, the victim of the robbery, testified at the trial that a gunman approached him on a street corner of Langley Avenue in Hampton at approximately 10:30 p.m. on March 26, 2000, and robbed him of his wallet, his driver's license, and a fleece jacket; and

Whereas, Mitchell testified that he examined a photo spread on April 24, 2000, nearly a month after the robbery, and identified a photo of Thompson as the person who had robbed him; and

Whereas, Thompson presented evidence at the trial that he rented out a recording studio in Virginia Beach between the hours of 8:00 p.m. and 1:30 a.m. on the evening of March 26, 2000, at the very time Thompson was alleged to have committed the robbery in Hampton at approximately 10:30 p.m.; and

Whereas, the owner of the recording studio testified that Thompson was at the recording studio in Virginia Beach continuously between the hours of 8:00 p.m. and 1:30 a.m. on the evening of March 26, 2000, and produced his time sheet log for the night in question showing that he had rented the studio to Thompson; and

Whereas, another witness testified that he was with Thompson at the recording studio in Virginia Beach continuously between the hours of 8:00 p.m. and 1:30 a.m. on the evening of March 26, 2000; and

Whereas, Thompson produced the written receipt showing that he had rented time at the recording studio in Virginia Beach between the hours of 8:00 p.m. and 1:30 p.m. on the evening of March 26, 2000; and

Whereas, it was noted at trial that Thompson had a solid alibi, supported by credible, un rebutted documentary and eyewitness evidence, which indicated he was present at a recording studio in Virginia Beach at the very time the robbery was taking place in Hampton; and

Whereas, a second victim of the robbery, Pete Holland, appeared at a pretrial hearing at the Hampton Circuit Court in November of 2000 and pointed to Thompson, who was sitting at the defense table, and said, "That's not the one. That's not the man that robbed me"; and

Whereas, the prosecutor asked Holland if he was sure that Thompson wasn't the robber, and Holland persisted in saying, "That's not the man that robbed me"; and

Whereas, when the prosecutor pulled out the pictures from the photo spread and showed them to Holland, Holland was unable to identify Thompson as the robber and said, "I told you once before, that's not the man who robbed me"; and

Whereas, Holland agreed to testify at Thompson's upcoming trial and gave his address to the defense attorney, who tried to subpoena Holland five separate times for the next scheduled trial date, but the defense attorney was unable to locate Holland and get him into court again, which resulted in forcing Thompson to go forward at trial without the testimony of Holland; and

Whereas, it was noted at trial that the police obtained a search warrant and searched Thompson's residence shortly after Mitchell made his photo spread identification, but the police did not find any handgun or any property belonging to Mitchell; and

Whereas, in addition it was noted at trial that the police did a traffic stop of Jerel Ballard four days after Mitchell's robbery and found Ballard in possession of Mitchell's driver's license; and

Whereas, it was also noted at trial that Ballard, a person with no connection whatsoever to Thompson, initially told police that he found the driver's license on the ground, but later changed his story to claim that his cousin had given him the driver's license; and

Whereas, it was further noted at trial that Thompson consistently maintained his innocence and did not make any confessions or incriminating statements; and

Whereas, despite the foregoing evidence, the jury found Thompson guilty as charged at the trial on March 9, 2001; and

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HB2050

59 Whereas, because the 17-year old Thompson was a juvenile at the time of the offense, the jury was
60 not asked to fix Thompson's sentence and the matter was referred to a judge for sentencing; and

61 Whereas, at the sentencing hearing on June 25, 2001, Thompson continued to protest his innocence
62 to the judge, saying, "I know it's serious, but I don't even know how I got in this predicament. It ain't
63 like I was there with somebody ... at the wrong place, at the wrong time. It's none of that. It's just, I'm
64 being accused of a crime that I didn't commit ... You go through this everyday. You hear robbery cases
65 everyday. So me telling you that I didn't commit this crime, it's probably the same thing somebody else
66 done told you. [But] it's not [always a lie]. I didn't commit this crime." (Sentencing Transcript, p. 30);
67 and

68 Whereas, the judge sentenced Thompson on June 25, 2001, to an active sentence of eight years
69 imprisonment on the robbery, three years imprisonment on the use of firearm, and five years
70 imprisonment on the possession of firearm by felon; and

71 Whereas, Thompson subsequently filed a Petition for Appeal with the Virginia Court of Appeals,
72 which was denied on March 2, 2002; and

73 Whereas, Thompson then filed a Petition for Appeal with the Virginia Supreme Court; and

74 Whereas, the Virginia Supreme Court denied the petition on June 11, 2002; and

75 Whereas, Thompson continued to work for his freedom by filing a petition for writ of habeas corpus
76 in the Hampton Circuit Court on June 10, 2003, which was denied on March 28, 2006; and

77 Whereas, Thompson appealed the denial of the habeas petition to the Virginia Supreme Court, which
78 was denied on September 12, 2006; and

79 Whereas, new evidence was subsequently revealed that supported Thompson's innocence; namely,
80 Antonio Mitchell, the sole prosecution witness linking Thompson to the crime, contacted the Hampton
81 Police and told them that he realized that he had made a mistake and that someone other than
82 Thompson had robbed him; and

83 Whereas, based on this new evidence, Matthew W. Hoffman, Deputy Commonwealth Attorney for
84 the City of Hampton, having debriefed Mitchell and been persuaded that Mitchell was telling the truth,
85 moved to set aside Thompson's convictions on the grounds that Thompson had been wrongfully
86 convicted; and

87 Whereas, on September 10, 2007, the Honorable Judge Louis R. Lerner, Judge of the Hampton
88 Circuit Court, granted the motion and entered an order vacating the convictions; and

89 Whereas, Thompson was incarcerated from the time of his arrest on May 8, 2000 until he was
90 released on September 10, 2007; and

91 Whereas, at the time of his arrest, Thompson was only 17 years old; and

92 Whereas, Thompson has lost the opportunity to complete his education and to earn potential income
93 from employment during his eight years of incarceration; and

94 Whereas, Thompson has also suffered severe physical, emotional, and psychological damage as a
95 result of this wrongful incarceration and has no other means to obtain adequate relief except by action
96 of this body; now, therefore,

97 **Be it enacted by the General Assembly of Virginia:**

98 *1. § 1. That there is hereby appropriated from the general fund of the state treasury a compensation*
99 *award in an amount equal to 90 percent of the Virginia per capita personal income as reported by the*
100 *Bureau of Economic Analysis of the United States Department of Commerce for each year of*
101 *incarceration, or portion thereof, pursuant to Virginia Code § 8.01-195.11 for the relief of Teddy*
102 *Pierries Thompson upon execution of a release by Teddy Pierries Thompson of all claims he may have*
103 *against the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision in*
104 *connection with the aforesaid occurrence. Pursuant to Virginia Code § 8.01-195.11 the award shall be*
105 *paid as follows: (i) an initial lump sum equal to 20 percent of the compensation award on or before*
106 *August 1, 2009, and (ii) the remaining 80 percent of the principal of the compensation award to be used*
107 *by the State Treasurer to purchase an annuity from any A+ rated company, including any A+ rated*
108 *company from which the State Lottery Department may purchase an annuity, to provide equal monthly*
109 *payments to such person for a period certain of 25 years commencing no later than August 1, 2010. The*
110 *annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and*
111 *mortgages by the person awarded compensation. The annuity shall, however, contain beneficiary*
112 *provisions providing for the annuity's continued disbursement in the event of the death of the person*
113 *awarded compensation. All payments or costs of annuities under this section shall be made by check*
114 *issued by the State Treasurer on warrant of the Comptroller.*

115 *In addition, Teddy Pierries Thompson shall receive a transition assistance grant of \$15,000 to be*
116 *paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to*
117 *subsection B of Virginia Code § 8.01-195.11. In addition, pursuant to subsection C of Virginia Code*
118 *§ 8.01-195.11, Teddy Pierries Thompson shall be entitled to receive reimbursement up to \$10,000 for*
119 *tuition for career and technical training within the Virginia community college system contingent on*
120 *successful completion of the training. Reimbursement for tuition shall be provided by the community*

121 *college at which the career or technical training was completed.*