S T A T E O F N E W Y O R K

2704

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. GANTT -- read once and referred to the Committee on Judiciary

AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine the claims of Betty Tyson

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Notwithstanding any provision of law to the contrary, jurisdiction is hereby conferred upon the court of claims to hear, audit and determine the claims of Betty Tyson under section 8-b of the court of claims act against the state for compensation and damages alleged to have been sustained by the claimant as a result of and in connection with an erroneous indictment and conviction for the murder and robbery of Timothy Hayworth. On December 28, 1973, Betty Tyson was convicted of five counts related to the murder and robbery of one Timothy Hayworth, and on February 13, 1974, was sentenced to 25 years to life. After serving 25 years in prison, Ms. Tyson was released from prison upon vacatur of her conviction. The vacatur of her conviction was based upon a finding that during the course of Ms. Tyson's trial both the deliberate suppression of testimony and evidence, demonstrative of the innocence of Betty Tyson, and the knowing use of perjured testimony occurred.

S 2. Notwithstanding the inability of such claimant to satisfactorily establish by documentary evidence the requirements contained in paragraph (b) of subdivision 3 of section 8-b of the court of claims act and by clear and convincing evidence the requirements contained in paragraph (b) of subdivision 5 of section 8-b of the court of claims act, if the court of claims shall determine that the claimant suffered damages as a result of these actions under section 8-b of the court of claims act, the damages therefor shall constitute a legal, valid and binding claim against the state, and the state shall be liable therefor and for the payment thereof. The court of claims may award and render judgment for

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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such sum as may be just and equitable compensation therefor, together with interest and cost.

S 3. The state of New York hereby consents to have its liability on such claim determined, and to be bound by such determination, notwithstanding the failure of the claimant to file such claim or notice of intention to file such claim within the time provided or prescribed therefore by law; nor the previous dismissal of claimant's claim by the court of claims, provided, however, that the claim is filed with the court of claims within six months after the effective date of this act.

S 4. Nothing contained in this act shall be construed as a determination as to the merits of this claim.

S 5. This act shall take effect immediately.