

STATE OF NEW YORK

893--A

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the court of claims act, in relation to proof of claims for unjust conviction and imprisonment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (b) of subdivision 3 of section 8-b of the court
2 of claims act, as added by chapter 1009 of the laws of 1984, is amended
3 to read as follows:
4 (b) (i) he or she has been pardoned upon the ground of innocence of
5 the crime or crimes for which he or she was sentenced and which are the
6 grounds for the complaint; or (ii) his or her judgment of conviction was
7 reversed or vacated, and the accusatory instrument dismissed or, if a
8 new trial was ordered, either he or she was found not guilty at the new
9 trial or he or she was not retried and the accusatory instrument
10 dismissed; provided that the judgement of conviction was reversed or
11 vacated, and the accusatory instrument was dismissed, on any of the
12 following grounds: (A) paragraph (a), (b), (c), (e) [~~ex~~], (g) or (h) of
13 subdivision one of section 440.10 of the criminal procedure law; or (B)
14 subdivision one (where based upon grounds set forth in item (A) hereof),
15 two, three (where the count dismissed was the sole basis for the impri-
16 sonment complained of) or five of section 470.20 of the criminal proce-
17 dure law; or (C) comparable provisions of the former code of criminal
18 procedure or subsequent law; or (D) the statute, or application thereof,
19 on which the accusatory instrument was based violated the constitution
20 of the United States or the state of New York; and

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

LBD03656-02-3

1 § 2. Paragraph (b) of subdivision 5 of section 8-b of the court of
2 claims act, as added by chapter 1009 of the laws of 1984, is amended to
3 read as follows:

4 (b) (i) he or she has been pardoned upon the ground of innocence of
5 the crime or crimes for which he or she was sentenced and which are the
6 grounds for the complaint; or (ii) his or her judgment of conviction was
7 reversed or vacated, and the accusatory instrument dismissed or, if a
8 new trial was ordered, either he or she was found not guilty at the new
9 trial or he or she was not retried and the accusatory instrument
10 dismissed; provided that the judgement of conviction was reversed or
11 vacated, and the accusatory instrument was dismissed, on any of the
12 following grounds: (A) paragraph (a), (b), (c), (e) [~~e~~], (g) or (h) of
13 subdivision one of section 440.10 of the criminal procedure law; or (B)
14 subdivision one (where based upon grounds set forth in item (A) hereof),
15 two, three (where the count dismissed was the sole basis for the impri-
16 sonment complained of) or five of section 470.20 of the criminal proce-
17 dure law; or (C) comparable provisions of the former code of criminal
18 procedure or subsequent law; or (D) the statute, or application thereof,
19 on which the accusatory instrument was based violated the constitution
20 of the United States or the state of New York; and
21 § 3. This act shall take effect immediately.