

House Resolution 129

By: Representatives Dempsey of the 13th, Barton of the 5th, and Lumsden of the 12th

A RESOLUTION

1 Compensating Mr. Daryl Lee Clark; and for other purposes.

2 WHEREAS, on October 18, 1996, fifteen-year-old Brian Bowling tragically lost his life
3 while playing "Russian Roulette" with his friend, seventeen-year-old Cain Joshua Storey, in
4 the bedroom of Mr. Bowling's home in Floyd County, Georgia; and

5 WHEREAS, despite compelling evidence that Mr. Bowling's death was self-inflicted and the
6 absence of evidence demonstrating that Mr. Bowling's death was a homicide, Floyd County
7 law enforcement began to investigate Mr. Bowling's death as a homicide after members of
8 the Bowling family exerted pressure on law enforcement to do so; and

9 WHEREAS, several months later, seventeen-year-old Daryl Lee Clark, an acquaintance of
10 Mr. Bowling, was arrested, and both he and Mr. Storey were charged with the murder and
11 conspiracy to commit the murder of Mr. Bowling; and

12 WHEREAS, Mr. Clark repeatedly and unwaveringly maintained his innocence and the only
13 evidence against Mr. Clark came through two witnesses at trial, who were both improperly
14 influenced by law enforcement and ultimately determined to be unreliable; and

15 WHEREAS, one of the State's two key witnesses was Angela Bruce, who claimed that during
16 a party at her home after Mr. Bowling's death, she heard Mr. Storey say he had shot and
17 killed Mr. Bowling, and heard Mr. Clark say he was present at the time of the shooting; and

18 WHEREAS, the second of the State's two key witnesses was Charlie Childers, a functionally
19 illiterate and severely hearing and speech impaired man with limited and unique sign
20 language skills, whose trial communications were presented through a standard sign language
21 interpreter and then supplemented with assertions made by a Floyd County Police detective,
22 leaving the jury with information that Mr. Childers had seen a person named "Daryl" flee
23 from Mr. Bowling's yard immediately after the shooting, and that Mr. Childers had identified
24 Mr. Clark in a police photo lineup; and

25 WHEREAS, on January 19, 1998, Mr. Clark and Mr. Storey were both convicted of murder
26 and conspiracy to commit murder and sentenced to life imprisonment; and

27 WHEREAS, in late 2021 during an independent investigation, it came to light that police
28 suppressed and failed to turn over evidence that, though they had spoken to other party
29 guests, not a single person confirmed Ms. Bruce's story; and in late 2021, Ms. Bruce admitted
30 for the first time to reporters and the Georgia Innocence Project that her incriminating
31 testimony concerning Mr. Clark's and Mr. Storey's admissions was false and made under
32 duress at the hands of law enforcement, who threatened to take away her children and had
33 shared their plan with the Bowling family; and

34 WHEREAS, the independent investigation further established for the first time that Mr.
35 Childers's translator at Mr. Clark's trial later questioned the accuracy of her own translation
36 of Mr. Childers's testimony, and regretted providing the translation at trial, because Mr.
37 Childers's manner of communication was not standard American Sign Language, but instead

38 a communication method unique to Mr. Childers and his former teacher (an ASL expert who
39 knew and understood Mr. Childers's unique communication method, having worked with him
40 from the time he has been a child); and

41 WHEREAS, through interpretation by a new translator (his former teacher) in 2021, it was
42 made clear for the first time that Mr. Childers had never identified Mr. Clark in a photo
43 lineup as fleeing from the scene, had never marked Mr. Clark's photo with an "X" during the
44 lineup as the police detective had claimed at trial, had never identified Mr. Clark as running
45 through the Bowling's yard when Mr. Bowling was shot, and had never seen anyone outside
46 the Bowling's residence at the time of the shooting; and

47 WHEREAS, the 2021 independent investigation also revealed for the first time that the lead
48 police investigator in the case was having a sexual relationship with a member of Mr.
49 Bowling's family at the time that he decided, at the Bowling family's request, to investigate
50 the case as a homicide and to pursue Mr. Clark as a primary suspect; and

51 WHEREAS, based upon this newly discovered evidence of police misconduct, the
52 withholding of critical and material evidence, false testimony, and grounds of actual
53 innocence, on September 16, 2022, Georgia Innocence Project lawyers filed an Extraordinary
54 Motion for New Trial (EMNT) and a petition for a writ of habeas corpus; and

55 WHEREAS, on December 8, 2022, Mr. Clark's convictions were overturned and vacated by
56 the Superior Court of Floyd County, which granted the EMNT in a consent order prepared
57 by Mr. Clark's attorneys and the District Attorney's Office for the Rome Judicial Circuit
58 stating that the newly discovered evidence called into question the accuracy of the testimony
59 of the State's two critical witnesses; and

60 WHEREAS, on that same date, the District Attorney's Office for the Rome Judicial Circuit
61 sought, and a Floyd County Superior Court Judge granted, dismissal of all charges against
62 Mr. Clark based upon evidentiary considerations; and

63 WHEREAS, after more than twenty-five years of wrongful imprisonment by the State of
64 Georgia, Mr. Clark was finally exonerated and freed from his incarceration on December 8,
65 2022; and

66 WHEREAS, as a result of his wrongful imprisonment, Mr. Clark was deprived of his
67 irreplaceable, God-given, and constitutionally guaranteed rights to liberty, freedom of
68 speech, movement, association and worship, and robbed in his pursuit of happiness, family
69 life, and belonging and contributing to his community; and

70 WHEREAS, Mr. Clark suffered personal injury, lost wages, injury to his reputation, health,
71 emotional trauma, psychiatric injury, and suffered the daily deprivations, fears, risks and
72 indignities of imprisonment, and other damages as a result of his wrongful incarceration; and

73 WHEREAS, during his imprisonment, Mr. Clark obtained his GED and took a variety of
74 adult education courses, dedicated himself to cultivating stronger and sustained relationships
75 with his family in the unnatural prison setting, and, upon release has become active in his
76 church community and the Georgia exoneree community, providing both support to other
77 victims of wrongful imprisonment and heightening awareness about the causes and
78 consequences of wrongful incarceration through his volunteer work with the Georgia
79 Innocence Project; and

80 WHEREAS, the conviction, incarceration, and subsequent loss of liberty and other damages
81 suffered by Mr. Clark occurred through no fault or negligence on his part, and it is only

82 fitting, just, and proper that he be compensated for his losses in the amount of \$75,000.00 for
83 each year of wrongful imprisonment; and

84 WHEREAS, Georgia is one of only eleven states that does not have a statutory regime for
85 compensating innocent individuals who have been exonerated following wrongful conviction
86 and incarceration; and

87 WHEREAS, this lack of a statutory regime for compensation requires introduction of a
88 private resolution to secure such compensation in Georgia.

89 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF
90 GEORGIA that the Department of Administrative Services is authorized and directed to pay
91 the sum of \$1,917,128.00 to Mr. Daryl Lee Clark as compensation as provided above. Said
92 sum shall be paid from funds appropriated to or available to the Department of
93 Administrative Services and shall be paid subject to the provisions of this resolution. After
94 an initial payment of \$632,652.00, the remainder of said sum shall be paid immediately into
95 a commercial annuity account bearing interest at the prevailing market rate, payable in equal
96 monthly installments over ten years beginning in 2026 with interest payable to Mr. Daryl Lee
97 Clark. The State of Georgia shall be entitled to a credit equal to the amount it pays under this
98 resolution should Mr. Daryl Lee Clark recover damages as a result of a lawsuit against any
99 state official or employee acting in an official capacity whose tort liability for wrongful
100 conviction arises from the same circumstances as described herein, less any attorney's fees
101 or costs Mr. Daryl Lee Clark paid in obtaining those damages. Should Mr. Daryl Lee Clark
102 recover damages totaling less than the amount the State of Georgia pays under this
103 resolution, the State of Georgia shall be entitled to a partial credit no greater than the amount
104 of damages Mr. Daryl Lee Clark recovers less any attorney's fees or costs Mr. Daryl Lee
105 Clark paid in obtaining those damages. Upon the death of Mr. Daryl Lee Clark, all payments

106 and all obligations of the State of Georgia regarding any and all future payments with
107 respect to the annuity shall continue to be made to his estate or heirs.

108 BE IT FURTHER RESOLVED that any amount received by Mr. Daryl Lee Clark pursuant
109 to this resolution shall be excluded from his taxable net income for state income tax
110 purposes.