

By Senator Smith

29-00064-11

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1 A bill to be entitled

2 An act for the relief of Herman Lindsey; providing an
3 appropriation to compensate Mr. Lindsey for a
4 miscarriage of justice which resulted in his 3-year
5 imprisonment for a crime in which the state failed to
6 prove its case and present sufficient evidence to
7 support Mr. Lindsey's conviction of felony murder;
8 prohibiting any amount of the award from being used as
9 payment for attorney's fees, lobbying fees, costs, or
10 other similar expenses; providing an effective date.

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12 WHEREAS, on April 19, 1994, the owner of the Big Dollar
13 pawn shop, Gerald Singer, went to Big Dollar to set up the store
14 for the day. He spoke by phone to Joanne Mazollo who worked as a
15 clerk at the shop around 9:30 a.m., and she let him know that
16 she had arrived and everything was okay, and

17 WHEREAS, around 10:30 a.m., Mr. Singer called the shop
18 several times, but Ms. Mazollo did not answer. Concerned, Mr.
19 Singer got in his car and drove to Big Dollar where he
20 discovered her dead body slumped in a chair in the back room.
21 Mr. Singer testified at trial that between five and seven
22 firearms were missing from the store and that the cash drawer he
23 had filled that morning was empty. Additionally, he stated there
24 were around 50 individual envelopes of jewelry and a blue velvet
25 Crown Royal bag containing jewelry missing from the safe in the
26 back room, and

27 WHEREAS, in October 1995, Herman Lindsey gave a taped
28 statement to police, which was played for the jury, in which he
29 implicated Ronnie LoRay for the crime. Mr. LoRay is currently

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30 incarcerated for second-degree murder for the death of Ms.
31 Mazollo and the robbery of Big Dollar pawn shop. Mr. LoRay was
32 arrested in December 2005, and

33 WHEREAS, Herman Lindsey was charged with first-degree
34 murder and robbery on March 8, 2006, for the same crimes.
35 Because the crimes occurred on April 19, 1994, Mr. Lindsey moved
36 to dismiss the charges on the basis that the delayed charges
37 violated due process; however, Mr. Lindsey's motion was denied.
38 A jury trial commenced on September 19, 2006, and at the close
39 of the state's case, Mr. Lindsey moved for judgment of
40 acquittal, which was denied. The robbery charge was nol prossed,
41 but Mr. Lindsey was found guilty of first-degree murder. The
42 jury recommended the death penalty, and the trial court
43 sentenced Mr. Lindsey to death on June 19, 2007, and

44 WHEREAS, Mr. Lindsey said that on the day of the robbery,
45 Mr. LoRay came to his house and was very upset. He said that Mr.
46 LoRay said that "they" robbed a place and that he heard a shot
47 but did not know if the woman was dead or not. Mr. Lindsey
48 stated that Mr. LoRay had gold jewelry in his pockets, a few
49 hundred dollars, and a gun. Mr. Lindsey admitted being in the
50 store before the commission of the crime and pawning his Sega
51 under a false name. He also admitted that he sometimes helped
52 Mr. LoRay to dispose of stolen merchandise, but he denied being
53 involved in the robbery, and

54 WHEREAS, at the conclusion of the presentation of the
55 evidence, Mr. Lindsey's attorney moved for a judgment of
56 acquittal, contending that the evidence was insufficient for a
57 conviction and that the state failed to prove its case. The
58 trial court denied the motion and Mr. Lindsey was adjudicated

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59 guilty and sentenced to death, and

60 WHEREAS, Mr. Lindsey appealed his conviction, and the
61 Florida Supreme Court concluded that the circumstantial evidence
62 presented at trial was insufficient to support Mr. Lindsey's
63 conviction and it reversed and vacated the conviction and
64 sentence and remanded with directions to the trial court that a
65 judgment of acquittal be entered, NOW, THEREFORE,

66

67 Be It Enacted by the Legislature of the State of Florida:

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69 Section 1. The facts stated in the preamble to this act are
70 found and declared to be true.

71 Section 2. The sum of \$ is appropriated out of funds
72 in the State Treasury to be paid to Herman Lindsey as
73 compensation for his having been the victim of a miscarriage of
74 justice.

75 Section 3. The Chief Financial Officer is directed to draw
76 a warrant in favor of Herman Lindsey in the sum of \$ upon
77 funds in the State Treasury, and the Chief Financial Officer is
78 directed to pay the same out of such funds in the State
79 Treasury.

80 Section 4. This award is intended to provide the sole
81 compensation for any and all present and future claims arising
82 out of the factual situation in connection with Herman Lindsey's
83 conviction and imprisonment, and no part of the award shall be
84 paid for attorney's fees, lobbying fees, costs, or other similar
85 expenses.

86 Section 5. This act shall take effect upon becoming a law.