

By Senator Holzendorf

2-198-98

1 A bill to be entitled
2 An act for the relief of Freddie Lee Pitts and
3 Wilbert Lee; providing an appropriation to
4 compensate them for being victims of a
5 miscarriage of justice; providing an effective
6 date.

7
8 WHEREAS, on August 1, 1963, Grover Floyd and Jesse
9 Burkett, two white men who were attendants at the Mo-Jo gas
10 station in Port St. Joe, Florida, were murdered, and

11 WHEREAS, Freddie Lee Pitts and Wilbert Lee, both black
12 men who had separately stopped at the gas station within
13 approximately 24 hours before the attendants were discovered
14 to be missing, were accused of the murder and intensively
15 interrogated by means that included several lie detector
16 tests, and

17 WHEREAS, initially, both men maintained their innocence
18 during repeated interrogations and their innocence was
19 supported by several alibi witnesses, but, subsequently, a
20 crucial alibi witness changed her testimony and the accused
21 themselves, on August 17, 1963, pled guilty to first-degree
22 murder, and

23 WHEREAS, on August 28, 1968, Mr. Pitts and Mr. Lee were
24 tried, found guilty of first-degree murder, and sentenced to
25 death, and

26 WHEREAS, numerous circumstances surrounding the trial
27 cast doubt upon the finding of guilt, including: the fact
28 that the men did not attempt to flee in the intervals between
29 periods of questioning that closely followed the murders; the
30 fact that one of their alibi witnesses, Willie Mae Lee, who
31 had seen Mr. Lee at the gas station the day before the

1 attendants were discovered to be missing, initially contended
2 that she knew nothing of the crime but later accused Mr. Pitts
3 and subsequently accused both men of the crime; the fact that
4 the court-appointed attorney who represented both men was the
5 family attorney for one of the victims; and the fact that the
6 state attorney failed to provide to the counsel for the men
7 three important evidentiary documents, and

8 WHEREAS, when the conviction was appealed to the
9 Florida Supreme Court, the defendants' attorney filed only a
10 three-page brief that did not cite any legal authorities, and

11 WHEREAS, in 1964, a man named Curtis "Bo" Adams, who
12 was incarcerated in Key West for armed robbery, told a law
13 enforcement officer that he had information about the murder
14 of Mr. Floyd and Mr. Burkett and also told the Sheriff of Bay
15 County the location of the murder weapon, and

16 WHEREAS, after Mr. Adams's 1966 incarceration in
17 Broward County for the murder of a gas-station employee by
18 means that were similar to those used in the Floyd-Burkett
19 murders, Mr. Adams led the Port St. Joe state attorney to the
20 site where Mr. Floyd's and Mr. Burkett's bodies had been
21 found, and he later confessed to murdering them, and

22 WHEREAS, Mr. Adams's girlfriend with whom he was living
23 in Port St. Joe at the time of the Floyd-Burkett murders
24 testified that he had told her that he robbed the Mo-Jo
25 station and killed the attendants, and

26 WHEREAS, after Mr. Pitts's and Mr. Lee's convictions
27 were set aside on April 29, 1969, partly on the grounds that
28 there was a "knowing or negligent withholding of evidence by
29 the state," and, while that decision was on appeal, Attorney
30 General Robert Shevin requested a new trial, conceding that

31

1 the state in 1963 had suppressed evidence, and the new trial
2 was granted by the Florida Supreme Court and held in 1972, and

3 WHEREAS, at that trial, Curtis "Bo" Adams's request for
4 immunity was denied and he invoked the Fifth Amendment and
5 refused to testify, and both his taped confession and the
6 testimony of his former girlfriend were ruled inadmissible and
7 were never heard by the jury, and

8 WHEREAS, at that trial, both Mr. Pitts and Mr. Lee were
9 again convicted of first-degree murder and sentenced to death,
10 which sentence was appealed, and

11 WHEREAS, before that appeal was decided, the United
12 States Supreme Court, on June 29, 1972, held that the death
13 penalty was unconstitutional as applied, and

14 WHEREAS, the First District Court of Appeal of this
15 state, on February 3, 1975, upheld the murder convictions, and
16 the men seemed bound to serve sentences of life imprisonment,
17 and

18 WHEREAS, on September 11, 1975, Governor Reubin Askew,
19 with the concurrence of three members of the Cabinet, granted
20 Mr. Pitts and Mr. Lee a full pardon, stating that
21 "[s]ubstantial doubt exists as to the guilt of Pitts and
22 Lee...", and

23 WHEREAS, since that time, a number of unsuccessful
24 claim bills have been filed on their behalf in the Florida
25 Senate and the Florida House of Representatives, and

26 WHEREAS, despite his pardon, Mr. Lee has also suffered
27 the inequity of being removed from his position as a Child
28 Care Worker II at the Juvenile Justice Center in Dade County,
29 because of chapter 85-54, Laws of Florida, which prohibits
30 even rehabilitated felons who have been convicted of
31 first-degree murder from holding a position in a program of

1 the Department of Health and Rehabilitative Services that
2 provides care to children for 15 hours or more per week, and
3 WHEREAS, there is a strong argument, supported in dicta
4 by the Third District Court of Appeal of this state in Eula
5 Mae Calhoun vs. Department of Health and Rehabilitative
6 Services, 500 So.2d 674 (Fla. App. 3rd Dist., 1987), that a
7 full pardon could exempt employees from the child-care law's
8 inflexible ban on rehabilitated ex-felons, and

9 WHEREAS, the Legislature, in its decision about whether
10 to compensate Mr. Lee and Mr. Pitts, may consider matters that
11 were inadmissible before a court, such as the confession by
12 Mr. Adams and the corroborative testimony of his girlfriend,
13 and

14 WHEREAS, there is, as Governor Askew indicated,
15 sufficient evidence to doubt the guilt of Mr. Pitts and Mr.
16 Lee, and

17 WHEREAS, considering the totality of the circumstances,
18 even though there is no legally responsible entity that is
19 liable to Mr. Pitts or to Mr. Lee, equity and justice dictate
20 that a miscarriage of justice occurred and that agents of the
21 state cooperated in that miscarriage, either deliberately or
22 negligently or both, NOW, THEREFORE,

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. The sum of \$1.5 million is appropriated
27 from the General Revenue Fund to be paid to Freddie Lee Pitts
28 and the sum of \$1.5 million is appropriated from the General
29 Revenue Fund to be paid to Wilbert Lee, as compensation for
30 having been victims of a miscarriage of justice.

31

1 Section 2. The Comptroller is directed to draw his
2 warrants upon the General Revenue Fund in the sum of \$1.5
3 million in favor of Freddie Lee Pitts and in the sum of \$1.5
4 million in favor of Wilbert Lee, and the Treasurer is directed
5 to pay the same out of funds in the General Revenue Fund not
6 otherwise appropriated.

7 Section 3. This act shall take effect July 1 of the
8 year in which enacted.

9

10

11

SENATE SUMMARY

12

Appropriates \$1.5 million from the General Revenue Fund
to be paid to Freddie Lee Pitts and \$1.5 million to be
13 paid to Wilbert Lee as compensation for a miscarriage of
14 justice.

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31