

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

**In the Matter of the Wrongful Conviction of
JERENO KINSLOW,**

Claimant.

Docket No.: 2600295

2600295-OSAH-WCIC-CLAIM-67-Walker

FINAL DECISION

I. Introduction

This matter arises pursuant to the Wrongful Conviction and Incarceration Compensation Act (“Act”), O.C.G.A. §§ 17-22-1 to -12. The Claimant, Jereno Kinslow, filed his claim for compensation on July 8, 2025. On August 5, 2025, Patsy Austin-Gatson, the District Attorney for the Gwinnett Judicial Circuit (“Prosecuting District Attorney” or “Respondent”), filed a response in opposition to the claim pursuant to O.C.G.A. § 17-22-6(b). On August 28, 2025, the undersigned found that the Claimant had established preliminary eligibility as required under O.C.G.A. § 17-22-5(a)(1), (3),¹ and this case proceeded to a full evidentiary hearing to determine whether the Claimant should be awarded compensation for wrongful conviction and incarceration, and to establish the amount of compensation, if any. See O.C.G.A. §§ 17-22-3(c), 17-22-5(a)(2), 17-22-7. The evidentiary hearing took place on October 6, 2025, in accordance with the Georgia Administrative Procedure Act, O.C.G.A. §§ 50-13-1 to -44, and

¹ At the preliminary hearing, the Claimant demonstrated, by a preponderance of the evidence, preliminary eligibility pursuant to O.C.G.A. § 17-22-5(a)(1), (3) in that the Claimant was:

- Convicted of a felony by a court of this state and
- Served all or part of the sentence for such felony and
- The Claimant’s conviction was reversed or vacated and the charges were dismissed after the conviction was reversed or vacated.

See Notice of Evidentiary Hearing and Prehearing Order in Court File.

Ga. Comp. R. & Regs. 616-1-2-.01 to -.44. The Claimant appeared and represented himself. As authorized by O.C.G.A. § 17-22-6(c), Gwinnett County Assistant District Attorney Christopher Deneve appeared for the Respondent.

II. Background

1.

On or about September 12, 2016, the Respondent filed an Accusation against the Claimant charging him with one felony count of Computer Trespass in violation of O.C.G.A. § 16-9-93(b). The Accusation alleged that between January 1, 2014, and August 28, 2014, the Claimant used a computer network with knowledge that such use was without authority and with the intention of obstructing and interfering with data from a computer, by copying Greg Cothran's emails and causing them to be forwarded to the Claimant's own private email account. (State v. Kinslow, Accusation 16-B-3320-8; Ex. R-5.)

2.

A jury trial took place from January 9, 2018, through January 11, 2018, and the Claimant was convicted of Computer Trespass under O.C.G.A. § 16-9-93(b). On January 16, 2018, the Gwinnett County Superior Court sentenced him to ten years to be served on probation. As a special condition of probation, the Claimant was ordered to serve six months in a Work Release Program. (State v. Kinslow, Criminal Action Number 16-B-3320-8; Preliminary Hearing Ex. R-1.)

3.

The Claimant appealed. On January 17, 2020, the Georgia Court of Appeals affirmed his conviction. (Kinslow v. State, 353 Ga. App. 839 (2020); Ex. R-3.) Subsequently, the Georgia Supreme Court granted certiorari and reversed the Claimant's conviction, holding that the evidence did not show that the Claimant had hindered the flow or use of the data as specified in O.C.G.A. § 16-9-93(b)(2). (Kinslow v. State, 311 Ga. 768 (2021); Ex. R-4.) On July 8, 2025, the Claimant filed a claim for Wrongful Conviction and

Incarceration Compensation with the Office of State Administrative Hearings. (See OSAH Form 3 in Court File.)

III. Findings of Fact

1.

In 2013, the Claimant worked for the City of Norcross (also “City”) as an information technology (“IT”) employee. (Testimony of Claimant.) He was the City’s only IT employee. (Trial Transcript dated January 11, 2018, at p. 380 (hereinafter T-).)² His responsibilities included disabling, adding and modifying computer accounts, and resetting computer passwords. (T-403.)

2.

It was not unusual for City employees to forward emails sent to their work account to a personal email account. (T-307-308.) To allow him to monitor and address the City’s IT issues when he was offsite, the Claimant forwarded his work emails to a personal email address (the “@me.com email address”). (T-502-503.)

3.

In October of 2013, Greg Cothran was hired to manage the City of Norcross’s IT Department and supervise the Claimant. (T-381, 378-379.) According to the Claimant, after Mr. Cothran was hired he began “quiet quitting,” and spent a substantial portion of his time at work looking for another job. (Testimony of Claimant.) The Claimant admitted that he had lied to Mr. Cothran on multiple occasions. (T-522, 532-533.) His testimony at the administrative hearing also indicated that he had misled his colleagues while working for the City. (Testimony of Claimant.)

4.

Mr. Cothran told the Claimant that he was displeased with the Claimant’s job performance. (T-

² During the administrative hearing, the parties jointly stipulated to the admissibility of the Trial Transcript as Ex. J-1.

383-384.) In turn, the Claimant filed a complaint with the Equal Employment Opportunity Commission (“EEOC”) against Mr. Cothran. (T-509-510.)

5.

As a system administrator, the Claimant had authority and access to the City’s IT systems. (T-520.) During his tenure with the City, and as is common throughout the industry, the City’s IT Department contracted with two outside companies to make changes or updates to the computer system. (Testimony of Claimant.) The two companies had administrator rights to the network. (Testimony of Claimant.) According to the Claimant, the last time he used his administrator access to the City’s computer network took place well before the City hired Mr. Cothran because he began to outsource IT work involving server access. (Testimony of Claimant; T-504, 508.)

6.

The Claimant left his employment with the City in June 2014. (T-383, 420.) After his departure, Mr. Cothran became concerned that the Claimant might attempt to damage Norcross’s computer network. (T-389.) Mr. Cothran directed that the Claimant’s access to the City’s computer system be revoked and his email account disabled. (T-391, 423, 431.) The Claimant’s access and accounts were disabled on or about June 19, 2014. (Testimony of Claimant.)

7.

In August 2014, two months after the Claimant had resigned, Monique Lang, the City’s Clerk, sent an email from her work account to Mr. Cothran. (T-292, 295.) In response she received an email notification that her email was undeliverable to a recipient with an “@me.com” email address. (T-295-96, 392.)

8.

Subsequent investigation revealed that the @me.com email address was an account that had been

established by the Claimant. (T-297-298, 463.) Although the Claimant left his employment in June 2014, the evidence reflected that the @me.com email address had been accessed after this date. (T-409, 463-64.)

9.

Only employees with an administrator account can access the City's computer network. (Testimony of Claimant.) Accordingly, the Claimant had the necessary administrator level access to alter the settings that would forward Mr. Cothran's incoming emails to the @me.com email address. (T-313, 359.) After further investigation, the City determined that its computer network settings had been altered to cause Mr. Cothran's incoming email messages to be copied and forwarded to the Claimant's @me.com account. (T-318, 395-396.)

10.

The Respondent filed an Accusation charging the Claimant with Computer Trespass in violation of O.C.G.A. § 16-9-93(b). (Ex. R-5.) Georgia Code Section 16-9-93(b) includes three subsections. Under O.C.G.A. § 16-9-93(b)(2), a person commits Computer Trespass by "using a computer or computer network with knowledge that such use is without authority and with the intention of obstructing, interrupting, or in any way interfering with the use of a computer program or data" (cleaned up).³ Although the Accusation charged the Claimant with a violation of O.C.G.A. § 16-9-93(b), it specified that the Claimant had violated the statute by "us[ing] a computer network with knowledge that such use was without authority and with the intention of obstructing and interfering with data from a computer, by copying Greg Cothran's emails and causing them to be forwarded to his own private email account." (Ex.

³ Under O.C.G.A. § 16-9-93(b) the crime of Computer Trespass includes any person who uses a computer or computer network with knowledge that such use is without authority and with the intention of: (1) Deleting or in any way removing, either temporarily or permanently, any computer program or data from a computer or computer network; (2) Obstructing, interrupting, or in any way interfering with the use of a computer program or data; or (3) Altering, damaging, or in any way causing the malfunction of a computer, computer network, or computer program, regardless of how long the alteration, damage, or malfunction persists shall be guilty of the crime of computer trespass.

R-5.) After a jury trial, the Claimant was found guilty of one count of Computer Trespass under O.C.G.A. § 16-9-93(b). (Preliminary Hearing Ex. R-1.)

11.

The Claimant appealed to the Georgia Court of Appeals and then to the Supreme Court. In reversing the Respondent's conviction, the Court found sufficient evidence to support the jury's factual findings that that "the City's computer network settings had been altered by checking a box in the City's computer program to cause Cothran's incoming e-mail messages to be copied and forwarded to [the Claimant's] personal @me.com account." Kinslow, 311 Ga. 768, 769. Nonetheless, the Court held that the evidence was insufficient to prove that the Claimant had obstructed or interfered with the use of data because "the State presented no evidence that [the Claimant's] e-mail forwarding scheme 'blocked' or even 'hindered' the flow of data in the form of e-mails to Cothran, who continued to receive those e-mails intended for him." Id. at 772. To the contrary, "the evidence showed only that Kinslow's actions created an additional flow of data to another account." Id. Even if he had committed the acts described in the Accusation, the Court held his conduct did not obstruct or interfere with data. Id.

12.

The Claimant denies forwarding Mr. Cothran's emails to his personal @me account. He testified that a review of technical evidence, including Apple Corporation ("Apple") logs tied to the @me.com address, proves that he never received any of Mr. Cothran's emails or accessed the @me.com email address after he left his employment with the City. (Testimony of Claimant.)

13.

The Claimant also suggests that the bounce back email sent to Ms. Lang in August 2014 was an anomaly caused by the City's "migration" to a new exchange server. (Testimony of Claimant; T-413.) The migration was completed by July 31, 2014. During a migration from an old to a new server, it is

common to have technological problems. (Testimony of Claimant.) The Claimant proposes that the @me.com email bounced back to Ms. Lang because “somebody made some mistake at some point trying to fix something” during the migration. (Testimony of Claimant.)

14.

The Claimant faults the Respondent for failing to check the exchange logs or additional access logs on the exchange server to determine who caused Mr. Cothran’s emails to be forwarded before filing the Accusation. (Testimony of Claimant.) According to the Claimant, the Respondent never had “any proof that I checked the box,” and “they don’t know who checked the box.” (Testimony of Claimant.)

15.

Further, he notes that the Respondent failed to identify the Claimant’s IP address during its investigation. According to the Claimant, Apple's records confirmed that his IP address does not appear on access logs. Even though the Claimant acknowledges that he “wasn’t doing much,” after Mr. Cothran was hired, he asserts that the “one thing I wasn’t doing was messing with [Mr. Cothran’s] account.” (Testimony of Claimant.)

IV. Conclusions of Law

1.

The pertinent laws and regulations governing this matter include the Wrongful Conviction and Incarceration Compensation Act, O.C.G.A. §§ 17-22-1 to -12, the Georgia Administrative Procedure Act, O.C.G.A. §§ 50-13-1 to -44, and the Rules of Procedure for the Office of State Administrative Hearings, Ga. Comp. R. & Regs. 616-1-2-.01 to -.44.

2.

The Act tasks the Office of State Administrative Hearings with considering claims of wrongful conviction and incarceration and determining 1) whether a Claimant qualifies for compensation and 2) the

amount of compensation, if any, to be awarded. See O.C.G.A. § 17-22-3(a), (c).

3.

The Claimant contends that he was wrongfully convicted and seeks compensation for the time he spent incarcerated.⁴ To be eligible for compensation, a Claimant must establish by a preponderance of evidence, that:

- (1) The claimant was convicted of a felony by a court of this state and served all or part of the sentence for such felony;
- (2) The claimant did not commit the crime for which the claimant was convicted and did not commit any lesser included offense; and
- (3) One of the following apply to the claimant
 - (A) The claimant's conviction was reversed or vacated and the charges against the claimant were dismissed after the conviction was reversed or vacated; [. . .]

O.C.G.A. § 17-22-5(a).

4.

Both the Respondent and the Claimant agree that the Claimant satisfied the conditions specified by O.C.G.A. § 17-22-5(a)(1) and (3). However, the Respondent maintains that the Claimant did not prove that he did not commit the crime for which he was convicted, or any lesser included offense, as required by O.C.G.A. § 17-22-5(a)(2).

A. Crime of Conviction

5.

Under O.C.G.A. § 16-9-93(b)(2), a person is guilty of the crime of Computer Trespass when he or she uses a computer or computer network with knowledge that such use is without authority and with the intention of “[o]bstructing, interrupting, or in any way interfering with the use of a computer program or

⁴ The parties do not dispute that the Claimant was incarcerated for the purposes of the Act.

data[.]” The Accusation charged that the Claimant had used a computer network with the intention of obstructing and interfering with data, but did not allege that he had obstructed, interrupted or interfered with a computer program. (Ex. R-5.)

6.

In Kinslow, the Court held that the “only question” it considered was whether the evidence was sufficient to find the Claimant guilty under O.C.G.A. § 16-9-93(b)(2) by using a computer network with the intention of obstructing or interfering with the use of data. Kinslow, 311 Ga. at 769-70.⁵ The Court offered “no opinion on whether there was sufficient evidence to convict Kinslow under O.C.G.A § 16-9-93(b)(2) for ‘[o]bstructing, interrupting, or in any way interfering with the use of a computer program[.]’” Id. at 770 n.2.

7.

In reaching its conclusion, the Court noted that the State had “waived any reliance on the ‘computer program’ language in the ‘use of a computer program or data’ phrase of the statute.” Kinslow, 311 Ga. at 770 n.2. Although the Court specifically found that it was not “bound by such a concession,” it determined that it was prudent to adopt the State’s position “given the potential due process concerns involved in convicting a defendant on a ground not charged in the accusation.” Id. (citing Pippen v. State, 299 Ga. 710, 713 (2016) (“We have held that the giving of a jury instruction which deviates from the indictment violates due process where there is evidence to support a conviction on the unalleged manner of committing the crime and the jury is not instructed to limit its consideration to the manner specified in the indictment.”)).

⁵ Although the Claimant maintains that as an administrator he had the authority to access the server, O.C.G.A. § 16-9-92(18) defines “without authority” as “the use of a computer or computer network in a manner that exceeds any right or permission granted by the owner of the computer or computer network.” The Claimant does not contend that anyone had authorized him to forward Mr. Cothran’s emails to his personal @me.address.

8.

Here, the Claimant is not a defendant in a criminal case but seeks compensation for wrongful conviction and incarceration. He bears the burden to prove that he did not commit the crime for which he was convicted. Accordingly, consideration as to whether he committed the crime of Computer Trespass in a different manner than as alleged by the Accusation does not implicate the due process concerns identified by the Court in Kinslow. Cf. Rigdon v. State, 270 Ga. App. 217, 220 (2004) (citing Crane v. Kentucky, 476 U.S. 683, 690 (II) (1986) (due process requires that a criminal defendant be given a meaningful opportunity to present a complete defense to the charged offense)); Brown v. State, 307 Ga. 24, 27-28 (2019) (“allegations must definitely inform the accused as to the charges against him so as to enable him to present his defense and not to be taken by surprise” and “must be adequate to protect the accused against another prosecution for the same offense”) (citations omitted).

9.

The Respondent argues that the Claimant is not entitled to compensation because he committed the offense of Computer Trespass under O.C.G.A. § 16-9-93(b)(2) by interfering with a computer program. Accordingly, the first question presented is whether the statute compels the Claimant to prove that he did not commit the crime of Computer Trespass as charged in an Accusation or whether he must show that he did not commit the crime at all.⁶ See Kinslow, 311 Ga. at 768- 69 (“Although the statute in general is extremely broad, the portion of (b)(2) on which the State exclusively relies does not reach Kinslow’s conduct.”)

⁶ The Accusation charged a general violation of O.C.G.A § 16-9-93(b), rather than O.C.G.A § 16-9-93(b)(2). (Ex. R-5.) Similarly, the Final Disposition also reflects a conviction for the charge of Computer Trespass under O.C.G.A § 16-9-93(b). (Preliminary Hearing Ex. R-1.)

10.

Although this is a question of first impression in Georgia, the Kansas Supreme Court recently considered whether a similar wrongful conviction compensation statute obligates a claimant to “show the causal element related to actual innocence as charged” or if the claimant must demonstrate “actual innocence of the statutory elements of the crime[.]” In re Warsame, 563 P.3d 1281, 1285 (Kan. 2025). In Kansas, as in Georgia, to obtain compensation for a wrongful conviction, a claimant must demonstrate that “the claimant did not commit the crime or crimes for which the claimant was convicted” K.S.A. 2021 Supp. 60-5004(c)(1)(C). Concluding that the statutory scheme was not intended to compensate every defendant whose conviction was reversed on appeal, but only those who were “actually innocent” of the crime of conviction, the Court determined that the crime of conviction is not limited to the specific facts alleged in the charging document. In re Warsame, 563 P.3d at 1286; cf. People v. Palmer, 182 N.E.3d 672 (Ill. 2021) (Claimant need only prove innocence of the offense as charged in the underlying criminal proceeding because [wrongful conviction compensation statute] specifies that claimant must show claimant is “innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State.”)

11.

Like the statutory scheme created in Kansas, Georgia’s Act does not provide that every criminal defendant whose conviction was reversed is entitled to compensation. The Claimant must establish that he “did not commit the crime for which he was convicted and did not commit any lesser included offense.” O.C.G.A. § 17-22-5(a)(2). Further, the Claimant may not receive compensation if he “was an accomplice in the commission of the crime for which the claimant was convicted” or caused the conviction to protect the perpetrator from conviction. O.C.G.A. § 17-22-5(c)(1), (2).

12.

The Claimant argues that he is entitled to compensation because he did not commit the crime for which he was convicted, Computer Trespass, as set forth in the Accusation filed by the Respondent. But the meaning of the word “crime” is unambiguous. Georgia Code Section 16-2-1(a) defines “crime” as “a violation of a statute of this state in which there is a joint operation of an act or omission to act and intention or criminal negligence.” See Daddario v. State, 307 Ga. 179, 184 (2019) (“In Georgia, all crimes are defined by statute”); In the Interest of T. B., 313 Ga. 846, 853 (2022). A “conviction” includes “a final judgment of conviction entered upon a verdict or finding of guilty of a crime or upon a plea of guilty.” O.C.G.A. § 16-1-3(4).

13.

Given that Georgia defines a crime as a violation of a statute, the undersigned concludes that a charging document may set forth different methods of proving the same crime but cannot be understood, for the purposes of the Act, as the crime itself. See Deal v. Coleman, 294 Ga. 170, 172-73 (“[I]f the statutory text is ‘clear and unambiguous,’ we attribute to the statute its plain meaning, and our search for statutory meaning generally ends.”) Therefore, the Claimant must not only show that he did not commit the specific facts alleged in the Accusation, but must prove by a preponderance of the evidence that he did not commit the crime, Computer Trespass, for which he was convicted.

14.

Accordingly, the burden rests with the Claimant, and he must prove that he did not obstruct, interrupt, or in any way interfere with the use of a computer program under O.C.G.A § 16-9-93(b)(2).

15.

In Kinslow, the Court found that the jury had sufficient evidence to determine that “the City’s computer network settings had been altered by checking a box in the City’s computer program to cause

Cothran's incoming e-mail messages to be copied and forwarded to [the Claimant's] personal @me.com account.” Kinslow, 311 Ga. at 769. It did not consider whether the Claimant interfered with the use of a computer program. Id. at 777 (Bethel, J. concurring) (emphasizing that the State did not charge that the Claimant interfered with the use of a computer program, viewed in the light most favorable to the verdict the evidence showed “that Kinslow caused the computer program (the email system) to replicate the data and forward that data to his own private address.”) The Claimant denies “checking the box” that caused the e-mail messages to be copied and forwarded.

16.

The Claimant was the only witness at the administrative hearing. He admitted that while working for the City he lied to Mr. Cothran and his coworkers. After listening to the Claimant's testimony, observing his demeanor and assessing his credibility, the undersigned does not find the Claimant's testimony denying that he accessed and altered the City's computer network settings persuasive.

17.

The Respondent argues that the Claimant does not qualify for compensation because the Supreme Court reversed his conviction on a “legal technicality;” moreover, the Respondent suggests that the Court found “that other portions of (b)(2) do reach the Claimant's conduct.” Post-Hearing Argument of Respondent at 8. Given that the Kinslow Court explicitly declined to consider whether there was sufficient evidence to convict the Claimant for obstructing, interrupting, or interfering with the use of a computer program, the undersigned rejects this argument. See Kinslow, 311 Ga. at 770 n.2.

18.

Having determined that the Claimant failed to provide sufficient proof that he did not alter the City's computer network settings, the undersigned must consider whether the Claimant demonstrated that

even if he had altered the City's computer network settings his conduct did not obstruct, interrupt, or in any way interfere with the use of a computer program as prohibited under O.C.G.A. § 16-9-93(b)(2).

19.

In Kinslow, the Court examined the meaning of the terms “obstruct,” “interrupt” or “interfere” as used in O.C.G.A. § 16-9-93(b)(2). After applying the canons of statutory construction, the Court concluded that “obstruct” meant to block or hinder, whereas “interrupt” might “denote[] a more temporary stoppage than ‘obstruct.’” Kinslow, 311 Ga. at 771-72. The Court reasoned that “[a] meaning of ‘interfering’ consistent with the terms ‘obstructing’ and ‘interrupting’ thus would be more like ‘to come between so as to be a hindrance or an obstacle.’” Id. at 773-74.

20.

Ultimately, “proving that a person violated O.C.G.A § 16-9-93(b)(2) by ‘interfering’ with the use of data requires proof that a person engaged in a level of interference that hindered the use of data.” Kinslow, 311 Ga. at 775-76. Because Mr. Cothran continued to receive his email messages without interference, the Court reasoned that “the State did not present sufficient evidence as a matter of constitutional due process to convict Kinslow *as charged* under O.C.G.A. § 16-9-93(b)(2).” Id. at 776 (emphasis added).

21.

Georgia Code Section 16-9-92(4) defines a computer program as:

[O]ne or more statements or instructions composed and structured in a form acceptable to a computer that, when executed by a computer in actual or modified form, cause the computer to perform one or more computer operations. The term “computer program” shall include all associated procedures and documentation, whether or not such procedures and documentation are in human readable form.

After considering the evidence and testimony presented at the administrative hearing, the undersigned finds that the Claimant presented insufficient evidence that altering the City's computer network settings

did not block or hinder the use of a computer program including “all associated procedures and documentation.” O.C.G.A. § 16-9-92(4).

B. Lesser Included Offense

22.

To be eligible for compensation, O.C.G.A. § 17-22-5(a)(2) requires not only that the Claimant establish that he did not commit the crime for which he was convicted, he must also demonstrate that he did not commit a lesser included offense. O.C.G.A. § 17-22-5(a)(2). The Respondent argues that Computer Invasion of Privacy, O.C.G.A. § 16-9-93(c), constitutes a lesser included offense because it could be established by proof of the same or less than all the facts required to establish the commission of the crime charged.⁷

23.

A lesser included offense is “a crime included in a crime charged in the indictment or accusation.” O.C.G.A. § 16-1-6. For the purposes of the instant proceeding, a crime is so included when “established by proof of the same or less than all the facts or a less culpable mental state than is required to establish the commission of the crime charged[.]” O.C.G.A. § 16-1-6(1).

24.

Pursuant to O.C.G.A. § 16-9-93(c):

Any person who uses a computer or computer network with the intention of examining any employment, medical, salary, credit, or any other financial or personal data relating to any other person with knowledge that such examination is without authority shall be guilty of the crime of computer invasion of privacy.

⁷ The Court observed that “it is possible that [the Claimant] could have been charged properly under subsection (c) in this case, assuming that the State could have proved that Kinslow used the City's computer network to copy and forward Cothran's e-mails with the intention of examining Cothran's personal data.” Kinslow, 311 Ga. at 775 n.5.

There was scant evidence regarding the content of the emails forwarded to the @me.com account in the trial transcript. Nonetheless, even if, as the Respondent suggests, the evidence established that the Claimant's conduct constituted both Computer Trespass under O.C.G.A. § 16-9-93(b)(2) and Computer Invasion of Privacy under O.C.G.A. § 16-9-93(c), one offense is not included in another if the offense requires proof of a fact that the other does not. Linson v. State, 287 Ga. 881, 885 (2010) ("If the same conduct established the commission of both offenses, it is necessary to take the next step in the analysis by applying the required evidence test for determining when one offense is included in another.")

25.

To be guilty of Computer Trespass under O.C.G.A. § 16-9-93(b)(2), a person must: 1) use a computer or computer network, 2) with knowledge that such use is without authority, and 3) with the intention of obstructing, interrupting, or in any way interfering with the uses of a computer program or data.

26.

Although Computer Invasion of Privacy also forbids the use of a computer or computer network, with knowledge that such examination is without authority, it requires proof of an additional fact, that a defendant have the "intention of examining any employment, medical, salary, credit or any other financial or personal data relating to any other person." O.C.G.A. § 16-9-93(c). Accordingly, Computer Invasion of Privacy cannot be considered a lesser included offense of Computer Trespass. See O.C.G.A. § 16-1-6(1); Drinkard v. Walker, 281 Ga. 211, 215 (2006) (If same act or transaction constitutes a violation of two distinct statutory provisions, the "required evidence" test, which asks whether each provision requires proof of a fact which the other does not, should be applied to determine whether there are two offenses or only one.)

IV. Decision

In accordance with the foregoing findings of fact and conclusions of law, the Claimant is not eligible for compensation under the Wrongful Conviction and Incarceration Compensation Act and his claim is **DENIED**.

SO ORDERED, this 3rd day of November, 2025.



RONIT WALKER
Administrative Law Judge

