JOHN HENRY YABLONSKY
(PROPRIA PERSONA)

GROUND ONE

COUNTY DISTRICT ATTORNEY MICHAEL A. RAMOS COMMITTED PROSECUTORIAL MISCONDUCT WHEN HE INJECTED HIS OPINION OF MY GUILT IN HIS RE-ELECTION FLYERS, VIOLATING DUE PROCESS CLAUSES OF THE VI AND XIV AMENDMENTS OF THE UNITED STATES CONSTITUTION.

FACTS

IN MARCH OF 2010 MY CASE WAS SCHEDULED FOR TRIAL TO BEGIN ON OR ABOUT JUNE 15,2010. ON OR ABOUT APRIL 19, 2010 FLYERS FROM THE RAMOS CAMPAIGN OFFICE (COUNTY DISTRICT ATTORNEY RE-ELECT) WERE BEING MAILED TO THE ENTIRE REGISTERED VOTER POPULATION HOMES IN THE ENTIRE SANBERNARDINO COUNTY, EACH DISPLAYING HIS OPINION OF MY GUILT WHILE HE PROMISED"CLOSURE TO THE VICTIMS FAMILY" WITH MY CONVICTION. HIS BARAGE OF MAILINGS TO THESE VOTERS HOMES OF THREE SEPERATE FLYERS OF THE SAME CONTENT [OPINION OF GUILT], AS HE PROMISED CLOSURE IN THE CONVICTION OF THE SLAYING OF A LUCERNE VALLEY WOMAN. (SEE EXHIBIT A)

CASE , RULE , AND AUTHORITY:

AS A MEMBER OF THE ABA, MICHAEL A RAMOS IS BOUND TO CALIF. RULES OF PROFESSIONAL CONDUCT (CAL.RULE PROF. COND.), RULE 5-120 EXPLICITLY DEMANDS THAT [ALL] ATTORNEY'S, DEFENSE AND PROSECUTION MUST REFRAIN FROM EXTRAJUDICIAL STATEMENTS, THAT A REASONABLE PERSON WOULD EXPECT TO BE DISSEMENATED BY MEANS OF PUBLIC COMM-UNICATION, IF THEY KNOW OR [REASONABLY] SHOULD KNOW THAT IT WILL IN FACT HAVE SUBSTANCIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN ADJUDICATIVE PROCEEDING IN THE MATTER, AND THIS MUST APPLY EQUALLY TO PROSECUTORS AND CRIMINAL DEFENSE ATTORNEY'S . CAL.RULE PROF. COND:RLUE 5-320 (A),(B),AND (F) STATE THAT MEMBERS CONNECTED WITH A CASE [SHALL NOT] COMMUNICATE DIRECTLY OR INDIRECTLY WITH ANYONE THE MEMBER KNOWS TO BE OR KNOWS THAT THEY ARE A MEMBER OF THE VENIRE FROM WHICH A JURY WILL BE SELECTED FOR TRIAL IN THAT CASE,INDIRECTLY OR DIRECTLY WITH ANY JUROR, AND THAT THESE RESTRICTIONS MUST APPLY ALSO TO...

COMMUNICATIONS WITH MEMBERS OF THE FAMILY OF A PERSON WHO IS A MEMBER OF THE VENIRE OR A JUROR OR A MEMBER OF HIS OR HER FAMILY OF WHICH THE MEMBER HAS KNOWLEDGE.

CALIFORNIA CRIMINAL PROCEDURE AND PRACTICE (CAL.CRIM.PRO.&PRAC.) § 2.36, AN ATTORNEY CONNECTED WITH A CASE MAY NOT COMMUNICATE DIRECTLY OR INDIRECTLY WITH JURORS, POTENTIAL JURORS OR THEIR FAMILY MEMBERS WHILE THE CASE IS PENDING EXCEPT IN THE COURSE OF OFFICIAL PROCEEDINGS AND BEFORE THE JUDGE AND THE OPPOSING COUNSEL PRESENT. CITING PENAL CODE §95 (CORRUPT INFLUENCE OF JURORS) IN RE POSSINO (1984) 37 c3d 163,170,207 cr 543.

CAL.CRIM PROC.& PRAC.§ 2.37,THE SUBSTANCIAL LIKELIHOOD TEST HAS BEEN UPHELD AGAINST COLLATERAL ATTACK. GENTILE V. STATE BAR(1991) 501 US 1030, IN THE DISCIPLINARY HEARING, NEVADA SUPREME COURT, 106 NEV. 60, 787 p.2d 386,FOUND THAT AN ATTORNEY THAT HELD A PRESS CONFRENCE AFTER ~~THE~~ DEFENDANT WAS INDICTED ON CRIMINAL CHARGES VIOLATED NEVADA SUPREME COURT RULE PROHIBITING LAWYERS FROM MAKING EXTRAJUDICIAL STATEMENTS TO THE PRESS, SHOULD REASONABLY KNOW ITS "SUBSTANCIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN ADJUDICATIVE PROCEEDING". "CERTIORARI WAS GRANTED"

SUPREME COURT JUSTICE KENNEDY HELD THAT 1)AS INTERPRETED BY NEV. SUPREME COURT, THE RULE WAS VOID FOR VAGUENESS AND AS PER CHIEF JUSTICE REHNQUEST, THAT 2) "SUBSTANCIAL LIKELIHOOD OF MATERIAL PREJUDICE" TEST APPLIED BY NEVADA SATISFIED THE FIRST AMENDMENT,

A) THE SPEECH OF LAWYERS REPRESENTING CLIENTS IN PENDING CASES MAY BE REGULATED UNDER A LESS DEMANDING STANDARD THAN THE "CLEAR AND PRESENT DANGER" OF ACTUAL PREJUDICE OR IMMENENT THR~~EA~~T STANDARD FOR RELATING PRESS DURING PENDING PROCEEDINGS. NEBRASKA PRESS ASSN. V. STEWART,427 US 539;A LAWYERS FREE SPEECH IS EXTREMELY LIMITED AND CIRCUMSCRIBED IN, CACHER V. UNITED STATES SUPRA AND IN PENDING CASES, IS LIMITED TO OUTSIDE THE COURTROOM AS WELL, SEE e.q. SHEPPARD V. MAXWELL, 384 US 333.

B) "SUBSTANCIAL LIKELIHOOD OF MATERIAL JUSTICE" STANDARD IS A CONSTITUTIONALLY PERMISSIBLE BALANCE BETWEEN FIRST AMENDMENT RIGHTS OF AN ATTORNEY IN A PENDING CASE AND THE STATES INTEREST

IN A FAIR TRIALS. THEIR EXTRAJUDICIAL STATEMENTS POSE A THREAT TO PENDING PROCEEDINGS FAIRNESS, SINCE THEY HAVE SPECIAL ACCESS TO INFORMATION AND SINCE THEIR STATEMENTS WILL BE PERCEIVED AS ESPECIALLY AUTHORATIVE BY SOCIETY. FEW INTERESTS UNDER THE CONSTITUTION ARE MORE FUNDAMENTAL THAN THE RIGHT TO A FAIR TRIAL BY IMPARTIAL JURORS, AND THE STATES SUBSTANCIAL INTERESTS IN PREVENTING OFFICERS OF THE COURT FROM IMPOSING COSTS [redacted] ON THE JUDICIAL SYSTEM ARISING FROM CHANGE OF VENUE TO ENSURE [501 US 1030] WHILE DURING CIVIL PROCEEDINGS BETWEEN YABLONSKY AND RAMOS, RAMOS' ATTORNEY DANA FOX STATED FOR THE RECORD "THAT YABLONSKY HAS THE RIGHT TO FILE FOR A CHANGE OF VENUE," AND THAT YABLONSKY' CLAIM OF PREJUDICE WAS PREMATURE SINCE THERE WAS NO PROOF THE JURY WAS BEING INFLUENCED, AND THAT "THE STATEMENTS BY RAMOS WERE IN FACT [EXPRESSIONS OF HIS OPINION]" AS RAMOS' ATTORNEY STATED HIS POSITION FOR THE RECORD.

(SEE EXHIBIT B)

VI AMENDMENT OF THE UNITED STATES CONSTITUTION, IN RE HARRIS(1993) 5 Cal. 4 th 813[21 cal.rptr.2d]VIOLATIONS OF PROCEDURAL RIGHTS THAT MAY BE CONSIDERED FUNDAMENTAL INCLUDE THE DENIAL OR INFRINGEMENT ON THE ELEMENTS [redacted] VI AMEND.US CONST. TO A JURY OF IMPARTIAL JURORS; IN RE ANDERSON (1968) 69 cal.2d 613; U.S. V BOYLAN, 898 f.2d 230,261(1st cir 1990) PRESUMPTION OF PREJUDICE IN EGREGORIOUS TAMPERING INTO THE JURY PROCESS; U.S V. SMIT,982 f.2d 681, 684 (1st cir. 1989)STATEMENTS THAT THE DEFENDANT WAS GUILTY IMPROPER BECAUSE IT IMPLIED PERSONAL BELIEF RATHER THAN POSITION; CARGLE V. MULLIN,317 f.3d1196,1218(10th cir 2003)PROSECUTIONS STATEMENT THAT THE STATE DOES NOT PROSECUTE INNOCENT PEOPLE IMPROPER BECAUSE [I]T IS ALWAYS IMPROPER TO SUGGEST A DEFENDANT IS GUILTY MERELY BECAUSE HE IS BEING PROSECUTED; U.S. V. BOYLAN.898 f.2d230 261(1st cir.1990); U.S. V. WHIBY,75 f.3d 761,773(1stcir.1996) COURTS CONSIDERED WHETHER PROSECUTORS REMARKS IMPROPER AND WHETHER REMARKS AFFECTED THE OUTCOME [OR] THE FAIRNESS OF THE TRIAL; UNITED STATES V. HASTINGS,462US 499,(1983)APPLYING THE HARMLESS ERROR ANALYSIS ESTABLISHED IN CHAPMAN V CALIFORNIA 368US 18(1967)

IN CHAPMAN THE SUPREME COURT HELD THAT PROSECUTORS STATEMENTS ON THE FAILURE OF THE ACCUSED TO TESTIFY WOULD NOT REQUIRE REVERSAL IF THE STATE COULD COULD SHOW "BEYOND REASONABLE DOUBT" THAT THE

ERROR COMPLAINED OF DID NOT CONTRIBUTE TO VERDICT OBTAINED" 386 US at 24,87 S. CT. AT 828.

WHILE IN THIS INSTANT CASE THE FLYERS THAT THE COUNTY DISTRICT ATTORNEY' CAMPAIGN INJECTED INTO THE COMMUNITY HIS "PROMISE OF CLOSURE" THE MEDIA HAD ALSO INTERPRETED THE DISTRICT ATTORNEY' AUTHORITY IN HIS PROMISE WHILE THEY RAN ARTICLES STATING "JUSTICE AFTER 25 YEARS", AND "BECAUSE OF MODERN FORENSIC THE CASE OF RITA COBB HAS BEEN SOLVED"AND SO MANY MORE BEFORE TRIAL, BUT THESE WERE NOT BASED ON FACTS THEY WERE SOLEY AS PARTICIPANTS ON THE SHOULDERS OF THE COUNTY DISTRICT ATTORNEY'S PROMISE OF A CONVICTION . THE ENTIRE CASE WAS A FARCE AND THERE WAS NO EVIDENCE PRESENTED IN THIS TRIAL THAT YABLONSKY EVER COMMITTED ANY CRIMES TO RITA COBB OR ANYONE ELSE FOR THAT MATTER, WHILE IN FACT SEVERAL VENIREMAN DECLARED THEIR POSSIBLE PREJUDICE WHILE THE COURT ASKED NO VOIR DIRE QUESTIONS THAT PERTAINED TO THIS CAMPAIGN FRENZY AND IN FACT THE ONLY QUESTION THE COURTS ~~ASKED~~ ASKED WAS HAD THEY READ IT IN THE NEWS PAPERS(E.G.AUG.RT 35;13-14) QUESTION NO. #5. AFTER THE DEFENSE COUNSEL SHOWED THESE FLYERS TO THE ENTIRE PANEL OF THE ONES CALLED UPON, ONE VENIREMAN STATED "IT HAD JOGGED HER MEMORY"(AUG RT 169:20-26), AND ANOTHER " SHE DID SEE THE POSTCARD MAILER(AUG.RT 164:27-165:4) EMPHASIS ADDED(BANBURY) " THAT SHE BELIEVED THE COUNTY TO HAVE PROOF OF GUILT BEFORE THE MAILING OF A FLYER LIKE THAT" AND THAT YABLONSKY HAD BEEN SHAFTED" (AUG.RT. 164:24-166:12) AND THIS VENIREMAN WAS IN FACT ON THE JURY PANEL DURING THE TRIAL,ANOTHER VENIREMAN (TIERNY)AUG.RT 113;27-114:1) AND ANOTHER (BRADFIELD)(AUG.RT.77:3-23)WHILE THIS VENIRE MAN STATED THAT "WHEN THERE IS THAT MUCH SMOKE THERE MUST BE FIRE" (AUG.RT. 77:14-17).

U.S. V WILSON ,149 f.3d 1298,1301(11th cir. 1998)(SAME) A PROSECUTOR MAY NOT EXPRESS HIS PERSONAL OPINION ABOUT THE DEFENDANTS GUILT OR INNOCENSE OR CREDIBILITY, QUOTING ,U.S V. BESS ,593 f.2d 749,754(6th. cir. 1979) WHERE A JURY CONVICTED ROBERT BESS OF CONCEALING AND RETAINING U.S GOVERNMENT PROPERTY WORTH OVER $100 WHILE KNOWING THAT THE PROPERTY HAD BEEN UNLAWFULLY CONVERTED PRESENT YET ANOTHER INSTANCE OF PROSECUTORIAL MISCONDUCT BY THE U.S. STATES ATTORNEY OFFICE FOR THE WESTERN DISTRICT OF KENTUCKY, REVERSED BY A PANEL,SENIOR CIRCUIT JUDGE, WHEN DURING TRIAL AND

CLOSING STATEMENTS [INSINUATED] "THAT IF THE UNITED STATES DID NOT BELIEVE THE DEFENDANT WAS GUILTY OF COMMITTING THESE CHARGES IN THE FIRST PLACE DURING THE INDICTMENTS BASED ON THE EVIDENCE THAT HAS BEEN PRESENTED TO YOU, OF COURSE, WOULD NEVER HAD BEEN PRESENTED TO YOU IN THE FIRST PLACE".

WHILE IN THIS INSTANT CASE THE PROMISE OF [CLOSURE] TO A VICTIMS FAMILY WOULD INGEST THE IDEA THAT THE COUNTY DISTRICT ATTORNEY KNEW SOMETHING THAT [THEY] THE JURY HAD IN FACT NOT KNOWN, WHILE HE PLACED HIS ENTIRE REPUTATION ON THE LINE WITH SUCH PROMISES. WASHINGTON V. HOFBAUER,228 f.3d 689,701-03(6thcir.2000),QUOTING UNITED STATES V BESS(CITATION OMMITTED)(COLLECTING CASES): HOPSINGER V. SHILLINGER,866 f2d 1185,1209(10th cir.)SUCH SUGGESTIONS ARE PARTICULARLYEGREGIOUS)AFF'D888 f2d 1286(10th cir. 1989)(en banc) OVERULING ON OTHER GROUNDS RECOGNIZED IN ,DAVIS V. MAYNARD,911 f2d 415,417(10th cir. 1990); DEVINE V. UNITED STATES,403 f2d 93 ,96(10th cir.1968)SUCH SUGGESTIONS ARE DEPLORED UNITED STATES V. SPLAIN, 545 f2d 1131,1134 (8th cir.1976)SUCH SUGGESTIONS HAVE NO PLACE IN CRIMINAL LAW: SEE YOUNG ,470 US at18 105 s.ct. 1038 PROSECUTORS EXPRESSION OF PERSONAL GUILT IS IMPROPER, IT IS RAMOS AND HIS ATTORNEY THAT BROUGHT THIS ARGUE-MENT INTO THE ABOVE STATED COURTS THROUGH THEIR PRESS RELEASES + FLYERS AND BY THE COURTS OF U.S. V BECKNER, 69 f3d 1290 1292(5th cir. 1995)PREJUDICE BECAUSE RETRIAL OCCURED JUST FIVE MONTHS AFTER EXTENSIVE PUBLICITY AND THE COURT VOIR DIRE INSUFFICIENT TO DISCOVER POTENTIAL PREJUDICIAL IMPACT OF PUBLICITY ON JURORS.

THIS INCORPORATED THE FACT THAT NOT ONE QUESTION BY THE COURT WAS ASKED ABOUT THE FLYERS.

IT IS THE AFORE MENTIONED COURTS THAT THE PETITIONER IN THIS INSTANT CASE RIGHTS WERE VIOLATED BY THE COUNTY DISTRICT ATTORNEY MICHAEL A RAMOS

(SEE EXHIBITS A AND B)

xxxpetitionerxxaskaxthisxcourtxtoxgrantxhabeasxandxaxxxxxxxxxxxxx

GROUND TWO (Incorporated by reference with ground one)

Sanbernardino County sheriff Detective Robert Alexander violated Due process rights of the XIV Amendment of the United States Constitution when he initially alterd/detroyed evidence from an interrogation recording, submitting them as facts to the court, and the prosecutor accepted them on the record.

Facts

On March 9, 2009 recordings of an interrogation were conducted by Detectives Greg Myler and Robert Alexander of John Henry Yablonsky, through audio, and audio visual recording devices from two seperate locations, the suspects home and the Signal hill police station. These recordings were transcripted and (allegedly) verified by Det. Alexander, of whom was the prosecutions lead investigator, and was conducted on Nov.23,2010 bt the detective himself. These transcripts were then given to the defense as accurate and part of the discovery for this case .
I demanded from my attorney [all] of the discovery for this case and he gave me 300 pages, and of them pages were a copy jail phone recordings, interviews with my exes family and my ex herself as well as the transcripts from the interrogation during my arrest. Immediately I noticed that there was a serious discrepency in the recording transcript that were conducted by the detectives during my arrest, and I immediately notified my attorney Dave Sanders of the public defenders office out of victorville. Mr Sanders told me that these were only interpretations of the recordings and that if this case went to trial that [verbatim] transcripts would be used. I argued that the detective stated that they knew that I owned a dark blue Pinto but that one of the police reports showed that a witness seen a silver pinto at the scene at the time of the crime, that I attempted several times to end the interrogation end even though the detectives repeatedly told me that I was free to leave they wouldn't allow me to leave, that I had offered to the detectives a non-custodial place to continue the interrogation but was denied this offer and was forced to the police station. That in the police station I had had several arguements with the detctive about several facts , and these portions of the recording were missing from the transcripts and that this entire interrogation was conducted in violation of the miranda rights that I am protected under. Again this attorney assured me that the [VERBATIM] transcripts would be used. It was in fact these transcripts that were used [Altered] that the attorney professed at a later date to negotiate further damage and this arguement will follow in the later grounds.

Case, Rule ,Authority

California Evidence Code§ 403(a)(3) Determination of foundation and other preliminary facts of relevancy,personal knowledge, or authenticity is disputed. The proponent of proffered evidence has the burden of producing evidence as to the existance of a preliminary fact....The preliminary fact is the authenticity of a writting.

California Evidence Code§ 404, Whenever the proffered evidence is claimed to be priveledged underClaifornia Evidence Code§940 the person claiming the priveledge has the burden of showing that the profferd evidence is intended and might incriminate him; and the proffered evidence is inadmissable unless it clearly appears to the court that the proffered evidence cannot possibly have a tendency to incriminate the person that is claiming this priveledge.
California Evidence Code§ 405 (a) When the existance of a preliminary fact fact is disputed. the court shall indicate which party has the burden of proof of producing evidence and the burden of the issue as implied by the rule of law under which the question arrises.
Ca.EV Code §940 To the extent that such priveledges exist under the Constitution of The United States or the Constitution of the State of California, a person has the right to refuse to disclose any matter that may incriminate him.
Calif.Ev. Code §1421 A writting may be authenticated by evidence that the writting refers to or states matters that are unlikely to be known by any other than the person that is claimed by the proponent of the evidence to be the author of the writting.
Ca. Ev Code § 1401(b) Authentication of a writting is required before a secondary evidence of it's content may be received into the evidence(stats. 1965,c 299§2 operative jan. 1 ,1967)
This is declarative of existing california law.
Spottiswood v. Weir,80 cal. 488,22 pac. 289(1889); Smith v. Brannan ,13 cal. 107,115 (1859); Forman v. Goldberg, 42 cal.app. 2d 308,316-317, 108p.2d983,988 (1941) under section 1401, therefore if a person offers into evidence a copy of a writting, he must make a sufficient showing (preliminary) of the authenticity of[Both] the copy and the original(i.e. the writting sought to be proved by the copy)This is certainly not what happened in this instant case , while the attorney proffessed that he would assure the verbatim version at trial, it was his opine that he allowed the prosecutor to further alter this/these recordings..
This not the case with this specific exclusionary rule declaration and that none of the primary nor the secondary results were presented to the court for authentication, and certainly both copies were not submitted.
Thereby violating Ca. Ev.Code §1401(b)[requirements]
People V. Gallegos(cal.1971)93 cal. rptr 229,4 cal.3d 242.
Where Gabriel was convicted in superior court of second degree burglary and appealed, on the grounds that his counsels stipulation to police reports by the trial courts constituted prejudicial error. In Gallegos, his plea of guilty was consistant with

the stipulation by his counselfor transcripts in the courts and his pleas were not only voluntary but were made [only] by the defendant who had intelligent understanding of the consequences of the pleas and his waiver of his constitutional rights(Boykin v. Alabama(1969) 395 US 238;IN RE Tahl(1969) 1 cal.3d 122, 81 cal.rptr. 577,460 p.2d 449) In this stipulation by the defendant and his counsel to submission of the cause on the transcript of the preliminary examination when they appeared for trial on Aug.5,1969, the stipulation was accepted by the courts after the defendant was examined by counsel during voir dire to establish the defendant was aware of the nature of the charges, of the meaning of the stipulation and that by the stipulation he was waiving his right to a jury trial, to confront witnesses and cross examination of those witnesses and to testify on his own behalf. A week later the courts found his stipulation to consideration of the crime and lab reports, the court then found him guilty of burglary of the second degree.

Unlike Gallegos , there was never a pleas of guilty in this instant case and there was never any such stipulation to the fact that the transcripts were to be changed ,altered or erased for the purpose of this trial. Contrary to the fact had the attorney took my inquiry as to the validity of the transcripts that he had given me and had the authentic and original recording tested he would have discovered the damage to the recording, or found that I was in fact interrogated outside the miranda requirements of the constitution and certainly he would have seen the need to file a suppression motion to admonish the entire recording and to prevent the incriminating evidence from being used during the trial. This interrogation fell within the laws of miranda,

*The detectives considered me a suspect
* The questions were interrogative
* John was not allowed to terminate the interrogation
* John was interrogated in two seperate locations by many officers
* A portion of the interrogation was conducted in a locked facility
* Because of the surrounding circumstances John felt he couldn't leave.

Most important of all , had the unaltered recording been used at the trial when the state presented a witness that swore she saw a [silver] pinto at the scene of the crime, the

recording could have been used to impeach the states witness or at the very least , undermind the state, that if the crime was in fact committed by a person that owned a silver pinto, Yablonsky was not the suspect since he in fact owned a dark blue pinto. People v. Fonville,111 cal rptr 53, 35 cal.app3d693 (cal,app. 5th dist. 1973) Where a phone call was recorded by jail authorities in the Kern county jail and was recorded by Mr. Goodwin, of the KernSheriff's office . Neither Goodwin nor anyone else was called to testify that the tape was an accurate reproduction of the conversation. Undoubtly the usual way of laying a foundation for the playing of a recording is to call one of the participants or monitor to testify the conversation was accurately recorded.People v. Finch(1963) 216 cal app.2d 444,452-454,30 cal.rptr 901,cert.den. 377 US 990,84 s.ct.1907,12 l.ed.2d 1044,reh.den. 397 US 871,85s.ct.16, 13 l.ed.2d 77) However it is clear that this method is not exclusive EV.Code §250 defines a writting to include a taperecording (comment to ev.c.§250) Under Ev,Code § 403(a)(3) The preliminary fact of authentication is first determined [35cal.app.3d 709] When there was no evidence or proof the tape was authenticated and the admission of the tape was based on insufficient foundation or the recording was accurate, Fonville judgement was modified and the judgement was then affirmed.Gargano and Transon, J.J. concur.

Penal Code § 134 PREPARING FALSE DOCUMENTARY EVIDENCE

PENAL CODE § 135 DESTROYING OR CONCEALING DOCUMENTARY EVIDENCE

Penal Code § 132 OFFERING FORGED;ALTERED, ANTEDATED BOOK OR RECORD

Penal Code §1054-1054.10 DISCLOSURE OF EVIDENCES

Penal Code § 1473(b)(1) A writ of habes corpus may be prosecuted for but not limited to,false evidence that is substancially material and probative, on the issue of guilt or punishment was introduced against a person during any hearing or trial relating to his incarceration .

Cal. rules of Prof. Cond Rule 5-220 A member shall not supress any evidence that the member or the members client has a legal obligation to reveal or produce.

Cal.Crim. Law Proc. & Pract. § 2.226 Destruction or concealment

of evidence may be a crime as well as the basis for attorney discipline,Penal Code § 134-135, Price v, State Bar (1982) 30 c3d 537, 179 cr 914.

Cal.Crim.Proc.& Pract. §2.43 Duty to disclose exculpatory evidence, the prosecutions duty to disclose extends to all material evidence or material information that is favorable to the accused, and is in the possession of the prosecutor, investigating law enforcement agencies or other government agency that is part of "the prosecution team". IN RE BROWN (1998) 17 c4th 873, 72 cr2d 698; Strickler V. Greene (1999) 527 US 263,1441.ed.2d 286, 119s.ct. 1936;Kyles V. Whitley (1995) 514 US 419,131 1.ed.2d 490,115s.ct. 1555. See also Penal Code§1054.1 Brady V. Maryland (1963) 373 US 83; INre sassounian (1995) 9 c4th 535, 545, 37 cr2d 466.

It was states contension that because I denied having sex with Rita Cobb that I was in fact the killer, yet in the unaltered version of the interrogation it would have shown the jury that I was question of sex with a woman that was murdered in front of my current wife at the time, but the version of me introducing the detectives to my current wife Melody was doctored out of the transcripts but you could still hear her voice in the back-ground, that would have shown my deception was to prevent an arguement with my wife about having sex with women outside of the marriage, and not necessarily to be deceptive of my involvement with Rita Cobb.Had the true full version of the interrogation been played the following would have shown.

* Yablonsky owned a blue pinto not silver as the witness seen
*Yablonsky denied having sex with Rita while in front of his wife of current standings, AND MOVED IN LAW
* That Yablonsky attempted to terminate the interrogation several time but was refused the right to leave.
* That Yablonskys' offer of a non-custodial destination to continue the interrogation was refused while he was forced to go to the Signal Hill police station
* That Yablonsky was interrogated outside the miranda requirements
* That Det. Alexander stated that he knew my finger prints were at the crime scene, when during trial he testified there was no fingerprint report from this scene.

* That several arguements occured during the interrogations with regards to several people Yablonsky knew to have frightened Rita Cobb, namely her son that the entire town knew of his repeated attacks on his mother Rita. CONSTANTLY TORMENTING HER. California V. Trombetta,467 US 479 (1984), Where a driver was arrested and tested for blood and a breathalizer to indicate his intoxication. In this case the samples were not preserved for trial purposes, or available for supression purposes. showing that the fourteenth Amendment of the U.S. Constitution requires the disclosure to criminal defendants favorable evidence that is favorable to the defense, material to guilt or punishment. United States V. Agurs,427 US 97(1976);Brady V. Maryland,373 US 83 (1963) under the fourteenth amendment due process clauses criminal prosecution must comport with prevailing notions of fundamental fairness, to safegaurd that right, what the courts might loosely call "CONSTITUTIONALLY GUARANTEED ACCESS TO EVIDENCE" United States V Valenzuela-Bernal 458 US 858,458 US 867 (1982). While under People V, Pope (cal 1979) 152 calrptr 732,23 cal.3d 412. Where defendants claim of IAC on such cases that thebasis for certain arguements are better argued in the habeas corpus, since the defense counsels action in Pope were so futile the courts interpreted the failure as an absolute miscarriage of justice where counsels fiduciary duties were disparged to the valuation of a constitutional violation of the sixth amendment of the united states constitution. United States V Decoster,supra 159 US app. d.c. 326,487 f.2d 1197, and remanded Pope for an evidentiary hearing where proof could be aduced as to the counsels explanations for his apparant inadequaccies(Decosta,supra at 333-334,487 f.2d at pp. 1204-1205) It is the above stated courts that this arguemment, penal laws , and statues were violated, violating rights guaranteed to the petitioner in the instant case by the Detective Robert Alexander and the DDA Thomas, prosecutor and his "Lead Investigator"

SEE EXHIBIT (C)

(Incorporated by reference with ground one and two)

GROUND THREE

DDA John Thomas committed prosecutorial misconduct, violating Due Process Clauses of the V and XIV Amendments of the U.S. Constitution by mistating facts during an InLImine motion hearing with regards to third party culpability elements.

FACTS

DDA John Thomas (from here foward called "Prosecutor"), during an InLimine hearing intensionally mistated facts with regards to third party issues, that involved the murder of Helen Brooks and the person that committed that crime. The prosecutor stated for the record "that he had not even investigated the Helen Brooks case, and that Yablonsky was not a suspect to that case", as the defense was attempting to argue facts of culpability elements that are brought in through People V. Hall, Supra, and the identical circumstances between the two cases of which had for several decades been considered to have been committed by the exact same perpetrator.

The arguement evidently hinged on the fact that the prosecutor stated that he had not even investigated the case in question, and that it was of his opinion that Yablonsky wasn't even a suspect to that case, while the prosecuting investigator had in fact investigated the Brooks case while he was gathering datas for the Cobb case and collecting weather reports for the months that these cases were being committed. It was in the collections of this data that the Sanbernardino Sheriff Detective Robert Alexander had actually stated to the agency he was gathering these datas from that he was investigating "two homicide case from 1985" . Since these cases were connected for the entire duration of time from the time they were committed and were "verifiably" connected through [numerous] agencies and by [numerous] reporting officers that it was [ALWAYS] assumed that these murders were committed by th same perpetrator, and the fact that Det. Alexander was for all purposes intended as the states [lead] investigator, it can only be assumed that he was and had in fact investigated the "Brooks " case when he investigated the Cobb case, for if the cases were connected, there is no presumable way that any one folder could be opened without find "both" cases in the opened folder.

SEE EXHIBIT (D)

CASE , RULE , AND AUTHORITY:

Cal. Rule Of Prof.Cond Rule 5-200 (A)(B) That a member of the bar must always employ all means that are consistant in the truth, and shall not seek to mislead the judge, judicial officer or the jury by any artifice or false statement or fact of law. Buisness and Profession Code § 6068, California attorney's may never mistate facts or law, People V. Kirkes (1952) 39 c2d 719, 249 p2d 1;People V. Villa (1980) 109 ca3d 360,167 cr 265,counsel have broad discretion in discussing the legal and factual merits of a case; however it is improper to mistate facts,factual merits laws . While this prosecutor was seasoned enough to know that the merits of the People V.Hall were that there only needed to exist Direct or Circumstancial evidences to link the culpability issues which support Hall, and in this case there was not only circumstancial evidence that linked these cases, bur it was linked by several factors of direct evidences, making this a hallmark candidate for the Hall theory. To directly mistate the fact that he knew that his investigator investigated this case [Brooks] was irrelevant to the requirements of Hall in order for the Hall theory to apply but it was directly attached to the fact he is to [NEVER] mistate facts and the fact is is that his investigator did probe in his investigation for characters of the Brooks case, while he bragged that he was "a cold case detective" and that "he was investigating [two] cases from 1985".
Cal.Crim. Law Proc.& Pract. § 58.17 Impunging the courts integrity, either orally or in writting. IN RE Buckly (1973) 10 c3d 237,248, 110 cr 121(This court obviously doesn't need to apply the law) Cal. Crim. Proc. & Pract. § 5820 A willful misrepresentation to the court can form the basis of a contempt charge'Vaughn V. Municipal Court (19670 252 ca2d 348, 60 cr 575.
Cal.Crim.Proc. &Pract. §31.10 Foundational issues when counsel moves to exclude evidence because of foundational inadequacies, the court may grant the motion without prejudice to allow the proponent of the evidence an oppertunity to introduce sufficient foundational facts during trial to obtain a favorable ruling, see People V. Morris(1991) 53 c2d 152,187,279 cr 720,disapproved on other grounds, People V Stanbury (1995) 9 c4th 824,830 n.1, 38 cr2d 394.

GROUND THREE (2)

Where in this case the facts were inaccurate and intensionally mistated and were based on foundational issues, that had the prosecutor been honest, may have allowed the court to favor the In limine for the defense, even though the standard of relevancy is the same for evidence of third party culpability as for any other evidence, it must be capable of establishing"reasonable doubt" as to the defendants guilt and must constitute direct circumstancial evidence linking the third party to the actual crime and the perpetration of that crime, Hall did not abrogate EvCode 1101 as applied to evidence of third party culpability issues. Evidence of that type must still be excluded if it offered "not to show fact other thanthe third party's criminal disposition, such as motive, or intent, but merely to show that the third party was the actual perpetrator or the more likely perpetrator, People V. Farmer (1989) 47 c3d 888, 254 cr 508,765 p2d 940.

To the fact that Yablonsky has [no] criminal charges that would satisfy any court that he had any type of history of violence that would lead this or any court that he was a violent person, while the prosecutor stated that Yablonsky was in fact [not] even a suspect to the Brooks case, stating under the Hall theory that he was not a suspect of the Cobb case as well, instead the prosecutor chose to state he had in fact never even investigated the Brooks case.

PENAL CODE § 118 PERJURY DEFINED, EVIDENCE NECESSARY TO SUPPORT A CONVICTION.

PENAL CODE § 1473 (b)(1) Awrit of habeas corpus may be prosecuted for but not limited to, false evidence that is substancially material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to his incarceration.

The prosecutor is an officer of the court whose duty is to present a forceful and truthful case to the jury , not to win at any cost,see e.q. Jenkins V Artuz ,294 f3d 284, 296 n.2(2d cir. 2002) (noting the duty of prosecutors under New York law " To seek justice not merely convict") Shih Wei Su V. Fillion ,335 f3d 119,127,127-130(2d cir. 2003)(The court held that the prosecutor had breached it's duty to not illicit false testimony it knows to be false); Mooney V Holohan,294 US 103(1935)(that it is established the law

of the United States that a conviction obtained through false testimony the prosecution knows to be false is repugnant to the constitution); Jenkins V, Artuz,294 f3d 284, 296 n.2 (2d cir. 2002) This case was also considered part of the Brady act and the discovery wasnot even released to the defense until a civil litigation was filed against the County Prosecutor by the defendant on related issues that involved [misconduct] by the prosecution team, after the trial dates had already been set on calendar. This intensional mistatement of fact impeded into the defenses ability to establish some sense of a strategy. Incorporated with the fact that states expert witness testified that Yablonsky' DNA was as few as one and a half (1½) days older than this crime and not quite as many as a full week. Indicating that this crime was committed almost two full days after the last sexual encounter between Yablonsky and the(victim) Rita Cobb, along with the same experts testimony that there was in fact no proof of sexual deviance (rape) according to the evidence which again establishes circumstancially that the crime was in fact not committed by Yablonsky and was in [redacted] fact quite possibly committed by the same person as the perpetrator that had in fact killed Helen Brooks just two months prior under the same conditions, strangled and gagged in their homes.
While this is all too convenient for the state since they know that Gregory Randolph was also a verifiable acquaintance of Rita Cobb and Helen Brooks and that he was in fact a prime suspect of the Cobb case and was arrested for the Cobb case while his DNA was located on the Cobbcrime scene, and he had perported to confess to the Cobb case , while his suicide scene that was processed had produced a series of photograph of [murdered women] in his home and his peculiar and bizzare behavior arround female homicide scenes as he worked as a county coroner and was noticed by a detective. This detective then putinto the system cigarette butts he gathered from Mr. Randolphs use, and it was these butts that belonged to Randolph that got hits from the Cobb Scene on at least three seperate butts ,and the suspicion was of such interests that the state assigneed the code name "William Backoff"

SEE EXHIBIT [redacted] (E)
GROUND THREE (4)

(Incorporated by reference with grounds one through three)

GROUND FOUR

DDA John Thomas (prosecutor) committed prosecutorial misconduct, when he presented a states witness and [lead] investigator Detective Robert Alexander as states expert, who testified falsely, violating Due Process Clauses of the VI and XIV Amendments of the United States Constitution.

FACTS

During pre-trial, discovery was given to the defense attorney and in thids discovery was a fingerprint report from this crime scene. During trial the state called Detective Alexander as an expert, who testified [under oath] that he was states lead expert investigator and the arresting officer to this case, during direct examination by the prosecutor.

Under cross-examination defense counsel asked the states expert investigator,

(defense counsel Sanders)
Q. You were familiar with the entire investigation that had been done up to 2009 when you spoke to my client ?
(Detective Robert Alexander)
A. Yes
Q. All of the reports that have ever been generated in this case were in your possession ?
A. All the reports that I Knew abouit were in my possession, YES.
Q. Did you later find out there was others you didn't know about ?
A. No. (RT 687:9-19)
Q. Just to be clear, you knew that there was no evidence that my client'ds fingerprints were at Rita Cobb's House ?
A. That's correct
Q. In fact, you already knew whose fingerprints were at Rita Cobb's house ?
A. I'm not sure if there were any fingerprints developed.
Q. You didn't read the fingerprint reports ?
A. I probably did, but i don't remember all the names
Q. Do you remember one of the glasses in the kitchen had a fingerprint?
A. Yes (RT 688:5-19) (see exhibit F)

This mistatement was intensional, deliberate and false in nature since the fingerprint report does exist and has since 8-9-1988. The relevance to this goes to the fact that Yablonsky's prints weren't located at this scene, and Joseph Saunders was.On re-direct by the prosecutor, he did not correct his witness'false statement, refresh his memory or show his lead investigator [Their] fingerprint report [they] gave defense counsel.

The state relied on the inappropriate miststment and regarded it as Hearsay. While the judge sustained the states objection to defense counsels questioning about the results of this [ONE] report that showed only [TWO] set of prints found. Ca. Ev.code §1203 (b) and Ca.Ev.code § 776(d)(4), Ca.Ev.Code § 1202, the mistatement was to prevent the defense from submitting the fact that Joseph Saunders prints were found at the seene, undermining the states theory that Yablonsky was a lone suspect.The fact that tha states

[lead] investigator that is responsible for the examinations for the evidences for the states prosecution and is testifying for the state as an expert , as to the accuracy and authenticity of probative evidences , it would be expected that this witness who is a representative of the state , to testify truthfully and honestly with regadds to [all] matters in this case.

CASE, RULE AND AUTHORITY:

Penal Code § 118 Perjury defined
Penal Code § 127 Subornation of perjury
Penal Code § 1473 (b)(1) (DEfinition as in ground two ANOTHER)
Cal.Crim.Proc& Pract.§ 2.31 In RE Branch (1969) 70 c2d 200,210, 74 cr 238, when a states officers testimony in good faith,and testifies falsely, the ninth circuit held that the governments had independant obligation, (Buis.+Prac.§ 6068(d)) to immediately take steps to correct his witness' known false testimony whish went uncorrected, and even when the state did not illicit the false testimony which went to the witnesses credibility.
When failure to correct the false testimony of prosecutions witnesses, reversal is required. People V Dickey (2005) 35 c4th 884, 909,28 c3d 647.
Cal. Rules of Prof.Cond. Rule 5-200 (b) Attorney' shall not seek to mislead the judge , or the jury by an artifice or false statement of fact or law
Cal Rule of Prof.Cond.Rule 5-220 A member of the bar shall not supress any evidence that the member or members client has the legal obligation to reveal or to produce.
Ca. Evid. Code § 604 , Effect of presumption affecting burden of producing evidence.
Ca. Evid. Code § 607, Effect of certain presumptions in a criminal action, when a presumption affecting the burden of proof operates in a criminal action to establish presumptively [any fact] that is essential to the defendants guilt, the presumption operates only if the facts give rise to the presumption and have been found or otherwise established beyond reasonable doubt as to the existance of the presumed fact. While it was prosecutions sole

contension that Yablonsky was the only suspect to this case, declaring to the jury "we didn't even indict martians", while this two page report would say otherwise, and under People V, Hall, supra. the fact that not only were Yablonsky' prints not found , but in fact Joseph Saunders were found along with the (victim) Rita Cobb. Joseph Saunders prints at the scene presents numerous suspicious accounts,

* That he stated he was "looking" for where the (victim) lived AFTER HE ONLY MET HER ONCE, AND SHE DIDNT TELL HIM WHERE SHE LIVED.
* That he drove 5 miles out of town searching for her house
* That when he found her home he parked out on the highway to her drive and parked ,then [walked] up her drive that was over a 100 yards uphill, and had no gated restrictions to see her
* That she professed to meet him at the sullivan/ for a party later SINCE SHE JUST GOT HOME FROM WORK.
* That she had commented on how nice it was to have friends close AS SHE SAW HER FRIEND CAR DRIVE BY. (PINKY)
* That nobody recalls his presence at this party at the sullivans EXCEPT CYNTHIA, VAGUELY
* That to his statement she invited him to her home after the sullivans drinking party, but he refused to go/??
* That when he was first questioned he lied about the last time he seen her
* That it was on the Friday before she was found that her son said she (victim) left an alarming call and message on his answering machine"that somebody had frightened her and that she needed his help", SINCE SHE'D JUST ARRIVED FROM WORK WHEN SAUNDERS WALKED UP.
* That Rita Cobb had stated that she was only interested in a platonic relationship , and that they never discussed sex---?
* That he stated the last time he seen her she was not drunk, when in fact everyone at this drinking party said that she was unusually drunk TO THE POINT THEY OFFERED HER A RIDE HOME, BUT SHE REFUSED.
** That when his suicide scene was processdd just a few few months later , the detectives surmised that his change to his insurance policy, and his possible involvement with the Cobb case was the reason for his suicide, along with details that were located in saunders journal of his involvement with Rita

SEE EXHIBIT (G)

Shih Wei SU V. Filion, 335 f3d 119,127,128-130(2dcir,2003)The courts held that prosecution had breached it's duty to ,(a) It's duty to disclose exculpatory evidence, se e.q. Brady V, Maryland,373 US 83,s.ct. 1194,10 l.ed.2d 215(1963) and its duty to not illicit testimony that is known to be false; see e.q.Napue V. Illinois,360 US 264,79 s,ct. 1173,31.ed.2d 1217 (1959);

GROUND FOUR (3)

Fama V. Comm'r of Corr. Serv.,235 f3d 804,810-11 (2dcir.2000) "[W]hen a state court has not adequately indicated that its judgement rests on a state procedural bar, and that reliance on local laws is not clear from the face of courts opinions, since at least 1935, it has been established law of the united states that a conviction that was obtained through testimony that the prosecution knows to be false is repugnant to the Constitution, see Mooney V. Holohan,294 US 103,112,s.ct.1340,79 l.ed.2d 791 (1935) where the attorney general stated that,if the acts or ommisions of a prosecutor have the effect of witholding from a defendant the notice which must be accorded him under Due Process Clause, or if they have the effect of preventing a defendant from presenting such evidence as he possesses in defense of the accusations against him, then such acts or ommissions of the prosecuting attorney may be regarded as resulting in the denial of due Precess of law. If evidence was used at trial the petitioner is not required to show that the prosecution knew that it was false (InRe Richards (2012) 55 cal.4th 948,960-962)
Yarborough V. Keane,101 f3d 894 ,897 (2dcir.1996);Arizona V Fulaminante,499 US 279,307-10,111 s.ct. 1246,1263-65,113l.ed.2d 303(1991), where chief justice Renquist opined that trial errers are subject to harmless error review, and a limited class of errors called"structural" which require automatic reversal regardless whether the error had any applicable effect on the outcome of the trial; see also Rose V. Clark,478 US 570 (1986), where here, the prosecutor was withholding information that is covered by the Brady act, of full disclosure of [all] exculpatory evidences. Knowing the document exists and not disclosing to the jury that it exists, when it is questioned of the states witness during crossexamination, and is distinctly asked for by the defense precisely of its existance,and is told by the prosecutions witness/lead investigator"it does not exist", or misleading the truth by stating the "he don't recall",while it does in fact exist, must be considered as plain error and amounts to prejudicial error that violates the Due Process Clauses described in the XIV Amendment of the U.S. Constitution.
Giglio V. United states,450 US 105(1976);

GROUND FOUR (4)

People V Strickland (1974)11 c3d 946,955,114 cr 632(Prosecutorial misconduct refers to the use of deceptive or reprehensible methods to influence the jury); Merrill V. Superior Coutt (1974) 27 ca4th 1586,33 cr2d 515(failure to disclose evidence may also supprot the grant of a new trial.);People V prysock(1982),supra , while had Det. Alexander told the truth, defense counsel could have probed for it's content an d results whish would have diminished the states persistant contension,

* Yablonky is the only suspect

* There is no proof there are other suspects that were presented in this trial,

while the finger print report shows that not only are Yablonsky' print not found at this scene, but in fact that Joseph Saunders were in fact located along with the V (victimd) Rita Cobb, and nobody elses.Bringing this phase of this arguement into the Strickland court with the states deception, lying about the exiatance of a piece of evidence that would disprove the states theory that the defendant is the only [suspect].

Napue V. Illinois,360 US 264 (1959) The supreme court in Napue held, the jury's estimate of truthfulness and reliability of a given witness may well be determined of guilt or innecense, and it is upon such subtle factors as the possible interests of the witness in testifying falsely that a [defendants] life ot liberty may depend. While during the murder trial of Napue, states princ-ipal witnes testified the he had not promised consideration to his witness in consideration of a 199 year sentence in exchange for his testimony. The assistant attorney had in fact promised his witness consideration, but did nothig to correct his witness false testimony. Mr. Juatice Schaffer, joined by Chief justice Davis, rightly opined in their dissent, that testimony that can be misleading jurors of truth that may weigh on the jury members decision must be considered, and that such false testimony on behalf of the state witness and the states principal may not use false testimony to obtain a tainted conviction, the judgement was reversed in Napue.Jencks V. United States,353 US 657,668, 77 s.ct. 1007,1013. See Exhibit (F)(G)

GROUND FOUR (5)

(Incorporated by reference to grounds one through four)

GROUND FIVE

DDA John Thomas (prosecutor) committed prosecutorial misconduct when he presented states witness [Bruce Nash[ ] who testified falsely, violattng Due Process Clauses of the VI and XIV Amendments of the United States Constitution.

FACTS

Bruce Nash madex statements to police in 1985 jud days afeer the crime against Rita Cobb was committed, that his last direct knowledge of the (victims) destination, as she told him personaily while he and his wife Cynthia tried to offer Rita a xe ride home. His statement to the Detective Knapp was that he felt that Rita was too intoxicated to drive home safely, and that he and his wife offered to drive her home, but that she refused the offer and insisted that she "wasn't going home, and that she xwas going to go to a bar in town, possibly the Zodiac Lounge instead", and that he and Cynthia left to go home, and believed that Rita had in fax fact gone to the Zodiac as she said.

Again in 2009 Bruce Nash related the exact same recollection to Detective Myler of the S.B.S.D. "that Rita told him that she wasn't going right home after the Sullivan drinking party and that the (victim) stated that she was going to a bar in town possibly the Zodiac Lounge" and that was where he bekieved she had gone when she left the drinking party at the Sullivans'. Again in 2010 Nash told the defense investigator the exact same statement, "that the (victim) was headed to a bar in town when she left the drinking party on Friday nite" and that if he (Nash) were to testify to the jury in a trial, thnt he was going to testify to the [same] statements he had [now] made to theee seperate parties. It can only be understood that this [statement] was in fact the truth, and that is where the x (victim) was last headed. To the Zodiac Lounge. On the stand during the trial Bruce Nash testified starkly different thn his last [three] statements, testifying that he now believed the (victim) was headed home after the drinking party at xha the Sullivans , and that his 1985 statement would be more accurate.

Since he failed to state what thAt statement was , he led thejury to believe that his 1985 statement was the same.

The prosecutor failed to correct his witness' intensional mistatement of accurate rememberance of the topic in question [where the victim was headed after the Sullivan drinking party], and since it was told to the defense investigator exactly as the two prior time to Detectives of the Sheriff' Department, the investigator too believed this was the destination the (victim) was headed. During cross examination the Witness did admit to being coached the Friday before the day he was to testify.

CASE, RULE AND AUTHORITY

PENAL CODE § 118 PERJUY DEFINED,EVIDENCE NECESSARY TO SUPPOT A CONVICTION

PENAL CODE § 127 SUBORNATION OF PERJURY

PENAL CODE § 1473 (b)(1) (Definition as in grounds two and three)

EVIDENCE CODE § 607 When a presumption affecting the burden of proof operates in a criminal action to establish presumptively any fact that is essential to the Defendants guilt, the presumption operates only if the facts give rise to the presumption have been found or otherwise established beyond a reasonable doubt as to the existance of the presumed fact

While Bruce Nash stated, in 1985 uncoersed and while he stated that he did not drink any alcohol, was presumed to be the truth and accurate in content sinc e there was only the need for truth. His Statement in2009 was again made while he claimed to not been intoxicated or influenced for any other reason than the truth, then his statement to the investigator for the defense being exactly as the same as the two to police, it is presumed to be truthful.

Yet when he gets on the stand to testify differently, the admits the states prosecutor had coached his testimony, being that it was different then the three previous statements ,one would presumably believe that his perjured testimony was as a direct influence by the prosecuting team since also this was states witness.

Shih Wei Su V. Fillion ,335 f3d 119 ,127,128-130(2dcir.2003) The court held that the prosecution had breached its duty to not

illicit testimony that it knows to be false;see e.q. Napue V. Illinois 1360 US 264(1959); Fama V. Comm'r of Corr. Servs..,235 f3d 804,810-11(2d cir.2000)Petitioner/Appellant ShiWEi Su brought habeas corpus writ under 28 U.S.C.§2254, claiming that the prosecution misled the trial court concerning the cooperation agreement it had with a key witness,Jeffry Tom, and that the prosecution knowingly allowed Tom to perjure himself, District Court (Ross,J.) first found that the states court had reviewed petitioners conviction had adjudicated his prosecutorial misconduct claim on the merits and held prosecution had in fact breached,duty to disclose exculpatory evidence,Brady V. Maryland(1963)(citation ommitted) and it's duty to not illicit teatimony known to be false, Napue V. Fillion (1959) (citation ommitted) and the courts granted certificate of appealability. Mooney V. Holohan, 294 US 103 (1935) held that a conviction obtained through false testimony the prosecution knew to be false is repugnant to the constitution.
Qouting Yarborough V. Keane, 101 f3d 894 ,897(2dcir.1996); United States V. agurs, 427 US 97 (1976):Giglio V United States , 405 US 150 (1972); see also United States V. Wallach, 935 f2d 445, 446 (2d cir. 1991) citing Agurs , and adding that the Supreme court cases mean that "if it is established that the government knowingly permitted the introduction of false testimony [Reaversal] is virtually automatic"(quotation marks ommitted) if the false testimony was introduced, and prosecution should have known to be false, whether it went uncorrected and was it prejudicial as defined by Supreme Court in Agues. Where in this case prosecution made the detective his lead investigator and this investigator was present when the 2009 statement was made to the same detective(Robert Alexander) That the witness (Nash) stated the (victim) stated that she was headed to abar after the party and not home, in the detectives presence. This Detective was present during the trial sitting next to the prosecutor, while the witnes Nash was being cross-examined , giving the prosecutor and the detective sufficient time to relate this (discrepency) in truth before their oppertunity to re-direct. Even after redirect the state still let thid perjurdd testimony to stand. Since it was states contension that Yablonsky"was the only suspect to this case, and

had the (victim) actually headed home after the Sullivan drinking party this would be difficult to dispute since the (victim) was found the following monday, and that states expert stated that the (victim) was killed sometime between Friday and Saturday, with the limited access of other people this would in fact be difficult to reason ,if she had in fact headed home.

The truth being is that the (victim) stated that she was [not] going home and that she was going to go to a bar in town. This obviously increased the possibilities of [other] suspects to this case , since it is precisely where the person named Gregory Randolph confessed to have picked the (victim) up , took her home and strangled her before he KILLED her because she was sexually turned off. Being the fact that Randolph was a deputy county coroner, and the fact that his peculiar behavior alarmed a seasoned detective into collecting (randolphs) DNA through cigaretee but on a location of the county coroners' presence at a local crime scene and it is these cigarette butts that got a DNA hit on the Cobb Crime scene. In short , had the witness who testified for the state (Nash) told the truth, defense counsel had the elements to bring in x third party issues with regards to Randolphs confession to having been at this crime scene and the fact that his DNA was recovered from this scene, shows that Yablonsky wasn't the only suspect to this caes, destroying the state theory ,that Yablonsky is the only suspect to this case. When Randolphs suicide scene was processed a few years later the detectived recovered over a dozen photographs of murdered women from Randolph's home,possibly one of the (victim).

The arguements are possible through People V. Hall, supra, and the prosecutor knew that unless there was some kind of direct or circumstancial evidence ~~evidence~~ that [exists] that the defense wouldn't be able to bring this arguement into the case, and while his prime subject and witness helped to prevent these elements that are held through Hall, by [lying] and preventing any defense in this area ,the prosecutor prejudiced the defendant.

Napue V. Illinois,360 US 264 (1959) Where assistant states attorney had in fact promised consideration to his witness for testimony and the witnes lied on the stand stating he was never promised this consideration.

GROUND FIVE (4)

PEOPLE V. Savvides, 1 N.Y. 2d 554,557,N.Y.S.2d 885,887,136 N.E.2d 853,854-855(IT IS OF NO CONSEQUENCE THAT THE FALSEHOOD BORE UPON THE WITNESS' CREDIBILITY RATHER THAN DIRECTLY UPON THE DEFENDANTS GUILT. [" A lie is a lie, no matter]" and that the responsibility rests upon the prosecutor's duty to correct what he knows to be false and to ellicit the truth) Killian V. United States,368 US 231 (1961) Where petitioner in that case , an officer of a labor union, had falsely sworn an affidavit that he was not amember of the communist party, and that he was not affilieated to the communist party either , and was found guilty of 18 U.S.C.§1001. While the government introduced evidence [tending] to show that the petitioner was a member and that he was active from 1949-1953. During the trial non-production of the agents notes were allegedly occured, while the courts found this Non -production harmless error,these notes were not exculpatory, where in the instant case the victims [true] destination was exculpatory, and probative in nature, while the gatekeeper to the truth was this witness Bruce Nash, and the lock that held the truth from the defendents right to know the truth was the prosecutor himself along with his lead investigator, Bringing this arguement into the Napue court by the illicitation of the false testimony and incorporating it's presence into the Shih WEi Su courts and violating rights that the petitioner in this instant case wishes to bring before this court . CAL.RULE PROF. COND. RULE 5-200(a)(b),;Cal.Crim. Proc.&Pract.§ 2.31,In Re Branch.Supra. People V.DIckey (2005) 35 c4th 884,909,28 c3d 647.

See Exhibit (H)

GROUND FIVE (5)

(Incorporated by reference with grounds one through five)

GROUND SIX

DDA John Thomas (Prosecutor) committed prosecutorial misconduct when he presented as states witness John Sullivan who testified falsely, violatig Due Process Clauses of the VI and XIV Amendments of the United States Constitution

FACTS

In 1985 John Sullivan told investigating Detectives Knapp, that his last reccollection of Rita Cobbs (victim) whereabouts and destination after she left the drinking party at his house on Friday nite, was that she was left after he had already fallen asleep around 1030 p.m., and that she had told Bruce Nash and Cynthia Nash that she was headed to a bar in town instead of going home as the Nash' had attempted to offer.

In 2009 John Sullivan stated to Detective Myler and Alexander, that his last rememberance was that the victim had in fact not left after he went to sleep, but that he remembers now that he saw Bruce Nash get into the drivers seat of Rita' cadillac to drive Rita home after his liquor party because Rita was too drunk to drive. In 2010 John Sullivan told the defense investigator that his last recollection of Rita' destination was that she was headed to a bar in town and that she left after he had fallen asleep at or around 1030 p.m., and that if he was called to testify for the state that he would testify that he was told that Rita told Bruce and Cynthia that she didn't want to go home and that she intended to go to a bar in town ,possibly the the Zodiac Lounge. When John Sullivan Testified in the trial for the state he stated that he witnessed the (victim) being driven home by Bruce Nash as Cynthia Nash followed in their [pinto] car during direct examination by the prosecutor, then during cross-examination the defense counsel asked"had Mr. Sullivans testimony been coached? " and he stated"Yes". The prosecutor failed to corerect his witness and at least attempt to straighten this statement up for the jury since his witness Bruce Nash just testified that he had not given the victim a ride home, also the states witness Cynthia Nash also testified

that they had not given Rita a ride home. this intensional misleading of the facts was deliberate and at the very least meant to confuse the jury

SEE EXHIBIT (I)

CASE .RULE, AUTHORITY

Calif. Ev. Code § 352 distinctly defines the intensional misleading of the jury of the facts £b· create substancial danger of undue prejudice, of confusing the issues or misleadind the jury.Adkins V. Brett,184 cal. 258,193 pac.251,252 £1920); see Due Peocess Const.Art. 1 § 15.

Cal.Crim. law Proc.& Pract. § 2.31 In Re Bransh (1969) 70 c2d 200, 210,74 cr 238,;Buis.+Prac. § 6068 (d) to take immediate steps to correct the states witnesses mistated or misleading facts.

Cal.Rules of Prof. Cond Rule 5-200(b) Attorney' shall not seek to mislead the judge, ot the jury by an artifice or false statement of fact.

PENAL CODE § 118 Perjury defined

PENAL CODE § 127 Subornation of perjury

CA. EV. CODE § 607 Effect of certain presumptions in a criminal action , when a presumption affecting the burden of proof operated in a criminal action to establish presumptively any fact that is essential to the defendants guilt, the presumption only operates if the facts give rise to the presumption and have been found or otherwise established beyond reasonable doubt as to the existance of the presumed fact

While it was the prosecutors intension to establish the destination of Rita Cobb after she left the Sullivans drinking party on Friday nite, and this was his primaty purpose to call Sullivan as his corroberating witness as to establish a repeated tastimony ,that Rita was][allegedly] headed home after the party, and in fact the original police report taken by Det.Knapp in 1985 directly contradicts Sullivans statement and Sullivans statement directly contradicts Nash' statement,

then Francesca Drake testified starkly different thanBruce,and John Sullivan' testimony,while she did in fact testify exactly as her 1985 statment to Det. Tuttle, that she indicated Rita left at 2230 alone after Bruce offered her the ride home, but Rita refused his offer.That she left feeling good, but lonely as always ,then she states that Rita went to the Zodiac lounge.

Seee Exhibit (J)

People V. Strickland(1974)11 c3d 946,955,114 cr 632)prosecutorial misconduct refers to methods that are deceptive in nature and reprehensible methods to influence the jury); Shih Wei Su V. Fillion,335 f3d 119(2dcir. 2003) that the prosecutor may not illicit testimony the state knows to be false.;Napue V. Illinois,1360 US 264(1959) where petitioner brought habeas writ in the,Shih Wei Su under 28 U.S.C.§2254, claiming that the prosecutor[misled] the trial court with regards to an agreement, letting his witness testify falsely, stateing that there was no agreement and perjuring himself, when there was infact an agreement between the prosecutor and Jeffry Tom.Dist. Court Ross,J. found that the court had reviewed the petitioners conviction, had adjudicated his prosecutorial misconduct claim and had breached his duty to not illicit testimony known to be false or misleading (Citation) and the court granted certificate of appealability. Mooney V. Holohan,294 US 103(1935);Quoting Yarborough V. Keane, 101 f3d 894(2dcir.1996);United STates V. Agurs,427 US 97(1976);GIglio V, United Staes,405 US 150(1972)'See United Staees V Wallach,935 f2d 445 (2dcir.1991); citing Agurs and adding the Supreme Court means that "if it established the government permitted knowingly the introduction of false testimony reversal is automatic". The fact that Sullivans testimony was so different than Bruce Nash, and Francesca goes to the fact that the states witnesses were all testifying the (victim) was headed in different directions and by different means, when in fact their first statements to police just days after the body was found , that the (victim) was (offered a ride but refused, and stated she was going to a bar instead), (That the (victim) left after he had already fallen asleep,and was headed to a bar instead ofgoing straight home) and (That she left after 2230, feeling good, and that she was lonely as always) . These distinctly different sworn testimonies show that Bruce Nash and John Sullivan had in fact perjured their testimonies, while Francesca told the truth, yet the result was no different [confusion] to all of the jurors to the point during deliberations the jury sent one question from the deliberation room,

Q.Who mentioned Joseph Saunders presence at the Sullivan drinking party first,the prosecutor or the defense.?
The courts reporter stated A. The Prosecutor!
But it was the prosecutors witness that lied of the existance of the finger print report, which woplld have shown that saunders was the only person besides the (victim) at the the crime scene. That Gregory Randolphs DNA was located at this crime scene as well, and that he confessed to this crime while describing motive , intent and direct descriptive means as to where , how,and why he commited this crime.The jury was not only confused with all these misleading testimonies but on their merits alone indicate nobody was able to verify where Rita had actually gone after she left the Sullivans drinking party.The evidences that were being buried by california evidence requirements for probative values was being destroyed with lies that misled the jury of the facts, that ahd the witnesses told the the truth the jury could have deciphered that the (victims) last known destination was in fact [The Zodiac Lounge]which would have allowed the defense to enter the overwhelming elements of the Hall theory on third party culpability issues, and ingested enough Reasonable Doubt into the jury' minds that,Yablonsky was in fact not the true suspect in this case, and supported with the states expert statement that Yablonsky' DNA was AT LEAST 1½ days older than this crime,. Meaning that if Rita Cobb was killed on friday nite as the stated testimonies, that the last known time that John Yablonsky was with the (victim) was no later than the Wednesday afternoon prior to that friday. Since the states expert did also testify the DNA that was found to belong to Yablonsky could have been at the scene as many several days before the crime ,but not as many as a full week, meaning that Yablonsky could very well have been with Rita as early in that week as Monday, making the states case virtually impossible to pin on Yablonsky if his [Lead investigator],[Witness Nash], or this witness [Sullivan] had only testified truthfully.
The third party culpabilities that exist in the Randolphs confession and Saunders fingerprints are overwhelming and it is when this witnass just stated he "witnessed Nash give the victim a ride home" that the prosecutor has brought this arguements into the afore mentioned courts and statues and penal violations.People V Savvides,1 N.Y.2d 554,557 154 N.Y.S.2d 885,887,136 N.E. 853,854-855 (It is of no consequence that the falsehoods bore upon the witness' credibility rather than directly upon the defendants guilt [" A lie is a lie, no matter]

GROUND SIX (4) see exhibit(I)(J)

(Incorporated by reference with grounds one through six)

GROUND SEVEN

DDA John Thomas committed prosecutorial misconduct when he presented for witness Daryll Kramer , who testified falsely,violating Due Prosess rights of the VI and XIV Amendments of the United States Constitution.

FACTS

DDA John Thomas(prosecutor) put on the stand for states witness Daryl Kramer, and during the states questioning ,the prosecutor asked questions that regarded the relationship between the (victim) Rita Cobb and her son Daryll Kramer,the states witness. Daryll stated that his relations was good, and that they for the most part got along. Daryll also stated the phone message he received on the Friday before he found his mother murdered, was that she was frightened by somebody and that she needed his help.

What Daryll failed to state was that on his last previous visit with his mother Rita,was extremely violent and that he had in fact been interupted by Ronald Kobs while he(Daryll) was violently accausting his mother(Rita) in her driveway, and that this incident was in fact six weeks prior to her emergency call, asking of his help.So when Daryll stated his relations was [Good] was a gross mistatement of fact, and the fact that he left out that he had in fact been interupted while he was beating her in her driveway and was incapable of defendeing herself, was extremely misleading the jury of the very fact of which the prosecutor was attempting to illicit from the states witness when Daryll lied to the jury and said his relations was good. When in fact the mother son relattionship was anything but good, and was in fact extremely violent which is exactly why the last time he had seen her was [Six[] weeks prior to her call,and the fact that she called him goes to the fact that she truely must have been frightened in order for her to call the man who [beats] her.Dayrll also testified that the reason he went to John Sullivan' when Daryll found his mother was for help, when in fact Daryll knew his mother to have [Sexual]

relations and the fact that Marta Daryll' wife stated when they found Rita was that she believed the murder XXXX looked sexual in nature, this concluding to Daryll that since John Sullivan had sex with his mother,that John might be the perpetrator to his mothers murder. Why else would he [storm] out of Rita' house when he found his mother dead and [race] to the Sullivan residence in his car to search for John Sullivan. Daryll instead stated for the jury the reason he went to Sullivans was to get help, when there was a phone in Ritas house to caall the police.The fact of this ground is that most of Darylls testimony in this trial was bolstered lies and the prosecutor knew this and did nothing to correct his witnesses perjured testimony.

CASE, RULE AND AUTHORITY

CAL.EV. CODE §403 (a)(3)
CAL.EV.CODE § 607
Cal. Rule of Prof. Cond. Rule 5-200 (a)(b)
Buis. Prof Code § 6068 People V, Kirkes (1952) (citation ommitted)
PENAL CODE § 118Perjury Defined
PENAL CODE § 1473XXXXXX (b)(1) A writ of habeas corpus may be prosec uted for but not limited to, false evidence that is substancially probative on the issue of guilt or punnishment was introduced against a person at any hearing or trial

The prosecutor is an officer of the court whose duty is to present a forceful and truthfull case to the jury, not to win at any cost, see e.q. Jenkins V Artuz,294 f3d 284,296 n.2 (2dcir.2002);Shih Wei Su V. Fillion,335 f3d 119, 127,128-130(2dcir.2003)(the court hled the prosecutor had breached it's duty to not illicit testimony it knows to be false(); Mooney V. Holohan, 294 US 103(1935); Napue V. Illinois,Supra.
Cal Rules of Prof. Cond. 5-200 (b) Attorney' shall not seek to mislead the judge or the jury by any artifice or false statement or fact of law.
Cal. Rules Of Prof.Cond. 5-220 A member of the the bar shall not supress any evidence that the member or members client has the legal obligation to reveal or to produce.

People V. Strickland(1974) 11 c3d 946, 955,114 cr 632(Prosecutorial misconduct refers to the use of deceptive or reprehensible methods to influence the jury);Merrill V Superior Court (1974) 27 ca4th 1585,33 cr2d 515.

The district attorney repeatedly presented witnesses that basicaally told everything other the the real truth, so when the district attorney presented this witness that was to testify that he had a loving normak mother//son relation ship with his mother was only because the prosecutor [knew] that Ronald Kobs had passed away and would not be available to testify for the defense to impeach Darylls false statements, but since the report does exist and can only be presumed that it was taken and logged by the detective who in fact took the statement from Mr. Kobs, and the fact that Kobs is no longer to dispute the detectives report, we must consider the memorialization of Ronald Kobs testimony to the detective.

The fact the prosecutor had in fact had this report in his records and had given this report of Ronald Kobs to the defense through discovery exchange, and this one specific report was not in [any] sence disputed by the prosecutor then this report [must] be considered as factual and truth, which in fact directly impeaches the states sworn testimony .

United States V. Agurs,427 US 97(1976) Quoting the supreme court, that if is established the government knowingly permitted the introduction of false testimony[reversal] is automatic. People V Savvides,Supra (IT IS OF NO CONSEQUENCE THAT THE FALSEHOOD BORE UPON THE DEFENDANTS GUILT [" A LIE IS A LIE, NO MATTER"]0(

SEE EXHIBIT (K)

GROUND SEVEN (3)

(Incorporated by reference with grounds one through seven)

GROUND EIGHT

DDA John Thomas and Michael A.Ramos(prosecution) committed prosecutorial misconduct, committing cumulative errors violating V,VI and XIV Amendments of the United States Constitution

FACTS

The entire states prosecution team,trial prosecutor, County Prosecutor, and the states prosecutors [lead investigator], intensionally and deliberately violated the rights of the defendant substancially to cumulative destruction and accumulation of absolute miscarriage of justice throughout the investigative, evidence verifications, pretrial conduct, and the trial conduct, as well as professional responsibilities to the state as representatives of the state of California.

When Michael Ramos knew that a trial was on the calendar for the defendant, and he intensionaaly sent to each and every registered voter, three seperate flyers, declaring his opinion of the defendants guilt by promising "closure"to the victims family in the [upcoming] trial of John Henry Yablonsky"Later that year" when in fact it was scheduled to begin in the next sixty days. These flyers were intensional and intended to influx the States opinion and guarantee the conviction of the person who killed " Rita Cobb" and the fact that"Yablonsky" was the only one on trial for this murder, the states position waas to violate [only] Yablonsky' substancial rights guaranteed in the United States VI Amendment, to a trial of [impartial] jurors. It was in the trial of Yablonsky that [several] jurors declared prejudice,affect of the flyer', and their belief that the county had proof of guilt before the trial ever began.

The state assigned S.B.S.D. Detective Robert Alexander as the states "lead investigator" and assigned to this case for prosecution purposes, [Before] the interrogation was transcribed by K Alexander, and it was this transcript that was doctored, altered, destroyed to the accumulative value the "entire interrogation"was considered [false] and then presented to the defense as "accurate" without [any] type of authentication. The state then professed to "again" alter this interrogation and present it to this jury as authenticate and accurate.

The only possible reason to conduct this behavior was to destroy incriminating evidence against the state for IV Amendment violations, and to destroy impeaching evidence against state witness Dianne Flagg.

Then the states expert and lead investigator testified in the trial and under oath Det. Alexander,during direct examination stated he was the arresting officer and that he was the County' cold case homicide detective assigned to this case. During cross-examination the defense asked,

(defense) Q. Did you have enough time to review this entire case add all the evidences to this case?

(Det.Ale) A. Yes i have.

Q. Do you recall a finger print report from this crime scene?

A. No, not that I recall!

Q. Q. So, you don't recall a finger print report ?

A. No, not that I can recall.

It wass states complete contension that Yablonsky was the only suspect to this entire case, except when the defense aked for the lead detective to reveal to the jury that there was in fact a fingerprint report lifted from the scene of this crime, and the fact that this evidence the states [Expert Lead Investigator[] just lied of the existance was to prove to the jury that without this report that was part of the states evidence the defense couldn't show the third party culpable existance that is required in the Hall theory. Since the results of this report not only show that Yablonbky' prints were not found at this scene, but the fact that Joseph Saunders were the only prints found at this scene besided the (viatims), indicating that Yablonsky wasn't even at this scene when the murder was being committed to the (victim).

During the Inlimine hearing with regards to cul;pability issues, the state prosecutop stated the state "He" hadn't investigated the Brooks case and that was the basis of his dispute to the defenses motion, that since the prosecutor had't investigated the Brooks case that the court should deny the defense inlimine hearing on third partty issues, but that the state did take the position that Yablonsky wasn't even a suspect to the Brooks murder, yet under the Hall theory, this was not one of the requiements in Hall. The fact exists that the states lead detective did investigate the Brooks case and the fact that he played the role of states lead investigator, indicated the state knew they had investigated the Brooks case, why else could the state say that [Yablonsky isn't even a suspect]. This mistatement of fact was deliberate and intensional, and was only meant to prejudice the defendabt and his right to present culpability issues of the third party. Since the cases were connected since,

they were committed over twenty five years ago, and by numerous detective investigations were considered as the exact same perpetrator had committed theses crimes, and by several policing agencies these two crimes were connected at the hip sorta speak.

The state still took the position that There were no other suspects to this case since the (victim) was killed the nite she left the Sullivan drinking party, and the state presented a witness to clarify that the victims last known destination was in fact that she was headed home after the Sullivan drinking party because she stated so.The state presented as witness to testify to this contension, that the (victim)said she was headed home after the drinking party, while Bruce Nash did in fact testify to this exact same contension , that he recalled the nite Rita left the party she was headed home, and that she left after he and his wife left. The truth is that on three seperate occaisions and over a duration of over twenty five years made seperate statements to three seperate policing agencies, two detectives, and one defense investigator, that He offered the (victim) a ride home because he beklieved the (victim) too intoxicated to drive herself home, but that she refused his offer and insisted that she [wasn't] going home and that she intended to go to a bar in town called the zodiac lounge. The state then presented yet another witness that was to testify to where the (victim) was headed after the Sullivan' drinking party, John Sullivan testified for the state the recollection he had as to that nite was that he remembers the (victim) was driven home by Bruce Nash, and that he remembers seeing Bruce get in the drivers seat of Ritas Cadillac to drive her home while his wife Cynthia followed in their pinto. The fact remains that Sullivans testimony was contradictory to the states witness Bruce Nash, and was starkly different than his two previous statements to police and the defense investigator. Being that he stated just two days after the crime was committed that the (victim) had left his house on friday nite after he had already fallen asleep around 10:30 p.m., and that he was told she was headed to a bar in town called the Zodiac Lounge. These two perjured testimonies were to cover up the fact that the state had wrongly released the true perpetrator to this case since it was the Zodiac Lounge that Gregory Randolph Had confessed to have picked the (victim) up on the Friday nite she was last seen alive,again th e third party culpability elements required in People V. Hall,supra distinguish that the circumstancialness of this along with the fact that Randolphs DNA was located at this scene.

WERE COACHED BY THE STATE, BOTH WITNESS' ADMITTED THIS UNDER OATH AND

WAS ARRESTED FOR THE MURDER OF RITA COBB JUST A FEW DAYS AFTER GREGORY

When his suicide scene was processed by the local detectives, they located dozens of photographs of murdered female victims, possibly one of the (victims) at his home when it was searched.
While the state didn't stpp there, they again presented yet one more witness to testify and this witness Daryll Kramer stated for the record that his relations were good between he and his mother, and that there were arguements but nothing more. When in fact the son of Rita Cobb, Daryll Kramer and his mother had a very violent relationship and that the son was interrupted while beating his defenseless mother in her driveway by the local propane gas man Ronald Kobs, and was interrupted six weeks prior to her death.
The states County Prosecutor more than likely knew the evidence was extraordinarily weak, and that there were several suspect to this case, but still infudsed his opinion of guilt contrarily to the state statues and penal cades with regards to pretrial publicity as well as bar association rules and professional rules of conduct, that directly admonish any attorney from extrajudicial comments that may influence the jury, which distinctly includes his personal opinions on the defendants guilt.
While his deputy prosecutor presented false evidence in the form of a recorded transcript, that was *never authenticated ,* was copied without further authentication and presentation af both copied to verify the accuracy of these cpoies, * then the prosecutor presented four witnesses that gave perjured testimonies, while he himself intensuxxionally mistated true and accurate facts to the courts, AND COACHED WITNESS TESTIMONY

The cumulative effect of the absolute [intensional] acts on behalf of the state were to diminish the defendants right to a fair trial, and by a jury of my peers of impartial jurors, AND THE RIGHT TO CONFRONT; ALL COVERED BY THE STATE AND FEDERAL CONSTITUTION

CASE , RULR AND AUTHORITY

In the above mentioned cases used in the grounds one through seven are incorporated by reference along with the following,
Cal.Crim.law Prac. and Pract. § 42.22 The writ of habeas corpus antedates the federal constitution see Bushnell's case (1677) 124 eng rep 1006. Habeas corpus is explicitly recognized in the federal constitution (US Const art I ,§ 9) and the California Constitution (cal const VI,§10; art I,§11) Through reaching issues that cannot be raised on direct appeal see People V. Pope (1979) 23 c3d 412,428,152 cr 732.

Challenging false evidence "that is substancially material or probative on the issue of guilt or punishment" and was introduced against the petitioner at a hearing or trial(pen.c §1473(b)(1), see also In Re Pratt (1999) 69 ca4th 1294;challenging false evidence;,
Asserting actual innocense base on newly discovered evidence or proof of false evidence produced at trial, see e.g InRe Lawley(2008) 42 c4th 1231;In Re Bell (2007)42 c4th 630;In RE Hardy(2007) 41 c4th 977.
C.C.P. § 475 .....the said party complaining or appealing sustained substancial injury , and that a different result would have been probable if such errors, ruling,instruction,or defect had not occured or existed. There shall be no presumption that the error is prejudicial, or that injury was done if error was shown.
Cal.Crim.Proc.and Prac. § 44.37

In the demonstration of prejudice, to obtain a reversal of aconviction, the errors proved must also show that the error was prejudicial, and must be applied to one of the three standards to measure prejudice,
1() The"reasonable probability" or watson test; this test first set forth in People V. Watson(1956) 46 c2d 818,299 p2d 243, applies to errors of the state law that don't implicate Federal Constitution guarantees, these errors must show they were prejudicial and that a more faverable rusult would have occured in the absence of that error, typically erroneously admitted evidence(such as the testimony by Diannne Flagg that stated that she seen a silver pinto at the crime scene while the crime was being committed, when the state erased the fact from the interrogation that they knew that the defendant owned a [dark blue] pinto), People V price (1991) 1 c4th 324,3 cr2d 106

2) The "hamless beyond reasonable doubt" or the Chapmanm test, this first in chapman V California (1967) 386 US 18, and applies to federally constitutional errors, such errors will be found prejudicial unless prosecution can show beyond reasonable doubt that the [error] did not contribute to the verdict,Neder V US (1999) 527 US 1; People V Ducu (1991)26 ca3d 1412,277 cr 464,(such as the class of perjurers in this trial, ands the prosecutor mistatement of fact)
3) The "prejudicial per se" test, a federally constitutional error that amounts to a structural defect in the framework within the trial proc-

edures (e.q. total deprivation of counsel during the trial, or the judge that does not conduct the trial impartially)

The above stated grounds are indicatore for grounds valued at the cost and result of an absolute miscarriage of justice, inclusive in the prosecutorial misconduct claims and discovery that is included in this petition, People V. Rodrigues(1994)8 c4th 1060;Sometimes the record disclosses a number of errors that individualy might be relatively unsubstancial,however where the errors take place in a continuous manner their cumulative effect may be considered highly prejudicial and command grounds for reversal. This is particularly true of misconduct of the counsel, the court or the jury,Delzell V. Day (1950) 36 c2d 349,351,223 p2d 625; Gacksteter V. Market street ry.co.(1933) 130 ca 316,326,20 p2d 93.

If the constitutional provisions supra § 416 were applied litterally no error could be held reversible by itself and without regards to the circumstances and the evidence. But this is not the practice of reviewing courts, some errors are regarded so serious that under any circumstances they [MUST] be deeemed prejudicial, and although it may be inconsistant with the comstitutional theory, there is an undeniable practice of placing certain fundamental rights beyond the reach of the"procectire mantle" CALIFORNIA CONSTITUTION ART. VI § 13, UNITED STATES CONSTITUTION V,VI, AND XIV AMENDMENTS

* Ramos' flyeres were highly prejudicial and are determined as prejudicial by the Chapman test, and supported by Shih Wei Su V. Fillion,Supra
* Prosecutor' mistatement of facts, that should have reflected the truth are determined by the watson and chapman tests,also by the People V Villa, supra,and should be considered as prejudicial.
* Detective Alexander' doctoring of the transcript are determined by the Chapman test , and supported with Forman V. Goldberg,supra, and should be considered as prejudicial
* Prosecutor ' witness Bruce Nash perjured testimony for the state was prejudicial and is determined by the Watson and Chapman tests.,and is supported by the Napue V. Illinois,supra. courts
* Prosecutor' witness John Sullivan' perjured testimony for the state was prejudicial and is determined by the Watson and Chapman tests, and supported by the Napue V. Illimois, supra courts.
* Prosecutor' witness Daryll Kramer' perjured testimony for the state was prejudicial and is determined by the Watson and Chapman tests, and is supported by the Napue V. Illinois,supra. courts.

It is in the above stated grounds incorporated and in conjunction with the following exibits that support these arguements,exhibits A through K

GROUND NINE

Defense Attorney Dave Sanders(defense) committed ineffective assistance of counsel (IAC) when he failed to object to a mistatement of fact on the prosecutors Inlimine arguement,violating the VI Amendment of the United States Constitution.

FACTS

During a pre-trial inlimine hearing, defense attempted to argue third party culpability elements with the Cobb case and the Brooks case. The court asked the defense on which authority,and the defense stated, People V, Hall,supra. The prosecutor then objected and stated for the record, that hehad in fact [not] investigated the Brooks case, and that Yablonsky wasn't even a suspect to the Brooks case. The states prosecutor' lead investigator had in fact investigated the Brooks case while he was conducting strategy research for the trial of the Cobb case against Yablonsky' trial, Detective Robert Alexander was assigned as the states lead investigator for the purpose of this trial. Since it was defense that initiated the culpability arguement , it would be reasonably understood that defense had infact investigated the discovery that the prosecutor had given the defense, and in ths discovery was at least two pages showing the prosecutors investigator investigating the Brooks case, and a two page report from VICAP of the F.B.I. that shows the two cases being matched by the criminalists in regards to the two cases Cobb/Brooks. Knowing this information the defense had enough data to impeach the prosecutions intensional mistatement of accurate information to the courts in the inlimine hearing.

When the prosecutor mistated this fact the defense failed to object to the inadmissible evidence that the state was attempting to defend the states side of the culpability arguement.

CASE , RULE AND AUTHORITY

Ca.Ev.Code § 1101 , People V. Hall(1986) 41 c3d 826,226,cr 112,718 p.2d 99. The standard of relevancy is the same for evidence of third party culpability as for any ather evidence, it must be capable of raising reasonable doubt as to the defendants guilty and must constitute direct circumstancial evidence linking the third party to the actual perpetration of the crime. Hall did not abrogate Ev.C. 1101 as applied to the evidence of that type must still be excluded if it is offered ,

"not to show a fact other than the third party' criminal disposition, such as motive, or inteent, but merely top show that the more likely perpetrator because he had a history of violence,citing People V Farmer (1989) 47 c3d 888, 254 cr XRX 508,765 p2d 940, while in this VICAP xxxpx report it shows that the Cobb case was linked to four other crimes the exact same, and shows that Robert Edwards was convicted for one of the five, and that his arrest wasn't until three months after this case of [Cobb] for a unrelated incident. the records show that when R. Edwards was first inter viewed for the Cobb case he stated that he was X arrested three months prior to the commision of the Cobb murder, and that after the verification was conducted for the"true time Edwards was arrested"in XXXX 2002 Det Espinoza verified that Edwardes wasn't arrested until three months after the Cobb murder, and Six months after the Brooks murder and he was in jail from 12/1985 until 12/1986, making Robert M. Edwards the more likely perpetrator since he was in fact convicted to one of the five typed cases and sentenced to death for that conviction.

SEE EXHIBIT (L)

In Re Marquez (1992) 1 c4th 584,595,3 cr 2d 727; In Re Edwards(2009) 173 ca4th 387,407,92 cr3d 725 (public defenders failure to investigate potential exculpatory evidence not excused by caseload. The defdnse failure to object to inadmissible evidence,People V. Ledesma,supra;People V, Straton (1988) 205 ca3d 87,252 cr 157; People V. Freeman(1984)8 cal 4th 450,509, in demonstrat: prejudice as a " demonstatable reality" not simple speculation as to the effects of the errors,People V. Williams(1988)44 calXXXXX 3d 833,937 (whether counsels performance was deficient in an exercise of scutiny); People V. Crome(2001) 24 cal4th 889, 901fn3 counsel should realistically examine the case ,evidence and issues and prrsue these avenues.

CAL.RULE OF PROF.COND. RULE X-200(A)(B)

BUIS.& PROFF. CODE § 6068

People V Ledesma,supra (other grounds) People V Stratton(1988) 205 ca3d 87,252 cr 157,failure to object to inadmissible evidence

PENAL CODE §1472 (a)

PENAL CODE § 1473 (b)(1)

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Pepple V Pope (cal.1979)23 c3d 412,428,152 cr 732.Where the trial counsels failure to effectively defend his client, and these failure were of extrinsic nature that the defendant wass incompetantly represented and fell below the constitutional standards.

People V Villa (1980) 109 ca3d 360,167 cr 265(counsels may never mistate the law or facts. While the ADA just committed prosecutorial misconduct, and an objection would have preserved the integrities of the prosecutors flagrant disregards for the laws behind,Jenkins V Artuz,294 f3d 284,296 n.2 (2nd cir.2002) where district attorney's are bound by the truth.

The strickland test would have shown that the failure to object did in fact prejudice the defendant, since it was the defense that initiated the inlimine, and the district attorneys' intensional mistatement was not according to laws or statues and in fact false, had the defense enterd the objection, the court could have seen the deception on behalf of the state and granted the inlimine hearing in favor of the defense. the motion was based on the fact that the state continually declared that the [only] suspect to this case was Yablonsky, and had the states prosecutor just been caught lying to the judge may very well have destroyed the states entire case, and certainly would have destroyed the states credibility with this judge. the win on the culpability issues is covered by the constitution, and it is the defendants right to display other possible perpetrators of the crime,and certainly Robert Mark Edwards was certainly the more likely perpetrator, since he,

* Lied when he was first confronted,Stating he was already arrested.
* was convicted in [one] of the five typed cases for MURDER/RAPE
* Rita and Brooks was two of the five cases typed by the F.B.I.

An objection would have preserved for the appellate court the dedeption on behalf of the states prosecution and shown on the record that thestate was attempting to win the trial through the injections of false evidence.

Blcaks Law definition of evidence,

something= including testimony,documents and tangible objects that tends to prove or disprove the existance of alleged fact.

The prosecutor lied to the judge and the defense knew he lied but did nothing to correct that lie nor to preserve it for the appellate courts.

SEE EXHIBITS (D) AND (L)

GROUND NINE (3)

(Incorporated by reference with ground nine)

GROUND TEN

Trial attorney Dave Sanders (attorne6y) public defender committed Ineffective Assistance of Counsel (IAC) when he failed to object to inadmissible evidence, violating VI and XIV Amendments of the United States Constitution.

FACTS

States witness Detective Alexander falsely testified about the existance and content of a two page fingerprint report, hiding the fact that Yablonsky wasn't the only suspect to this case.The defense counsel failed to object to this false evidence,

(attorney) Q.you were familiar with the entire investigation that had been done up until 2009 when you spoke to my client ?

(Det. Alexander)

A. yes

Q. Allof the reports that have ever been generated in this case were in your possession ?

A. All the reports that I knew about were in my possession,yes.

Q. Did you later find out there was others you didn't know about ?

A. No (RT 687:9-19)

Q.Just to be clear, you knew that ther was no evidence that my client's fingerprints were at Rita Cobb's house ?

A. That's correct

Q. In fact, you already knew whose fingerprints were at Rita Cobb's House?

A. I'm not sure if there were any fingerprints developed.

Q. You didn't read the fingerprint report ?

A. I probably did, but I don't remember all the names

Q. Do you remember one of the glasses in the kitchen had a fingerprint ?

A. Yes (RT 688:5-19) 9see exhibit F)

The district attorney objected on the grounds of hearsay, but this was not the defendants attorney's job to correct the states witness and certainly the testimony that was about the states evidence and the state qualified this detective as his [lead investigator] and the court accepted this witness as an expert, it was the defendants right to question the state about the stabes evidence and certainly it was the states obligation to ensure that the testimony that the states witness was giving would be accurate and not misleading in any way. The detective knew that the defendants prints were not found at this scene, and since there were only [two] sets of prints located at this scene, the (victims) and Joseph Saunders. Surely it was not too much for the defendant to expect the states expert that was familiar to the entire investigation, to have a copy of the evidence that they gave the defendant, and certainly to lie to the jury about whoose prints were actually found falls within the scope of [perjury] and this being the prosecutors lead investigator the prosecutor knew it was a lie also. Defense attorney failed to object. (see exhibit F)

CASE RULE AND AUTHORITY

PENAL CODES §118,127,1473(b)(1)
Cal.Crim Law Prac.and Proc. §2.21, failure to object to inadmissible evidence, People V. Ledesma,supra

(other grounds of IAC as well);People V. Stratton(1988) 205 ca3d 87, 252 cr 157.

Cal. crim. Law § 42.22, reaching issues that cannot be as effectively argued in the direct appeal, (or cannot be as effective)because the supporting facts are outside the record of the appeal(see People V Pope (1979) 23 c3d 412,428,152 cr 732(IAC); People V Baustia(2004) 115 ca4th 229,237,8 cr3d 862(same), and Challenging false evidence "that is substancially material or probative on the issue of guilt or punishment" was introduced against the petitioner at a hearing or trial (penal code §1473(b)(1).See also In Re Pratt (1999) 69 ca4th 1294,82 cr2d 260

Cal.Crim.Law § 2.31 In RE Branch(1969)70 c2d 200,210.74 cr 238,when a states officer testimony in good faith, and testifies falsely, the ninth circuit held that the government had an independant obligation (buis,+prac.§ 6068(d) to take immediate steps to correct his witnesses known false statement, even when the state did not illicit the false testimony.The Attorney for the record was also in fact a state government employee,and when he attempted to illicit the truth, by asking the same question [twice] it would appear that he [knew] the states expert witness had just given perjured testimony,and knowingly failed to enter an objection for his client, even though he was assigned to an indigent defendant, his obligation was to defend hid clients substanial rights and interests.

U.S. V. Whibey 75 f3d 761(1stcir 1995) Where Robert Whibey and Claude whitman were tried by a jury and convicted of conspiracy to distribute marijuana, a very different standard is applied when a party forfeits an error by failing to make a contemporaneous objection, as whibey did with respect to comment two. In that case, we have the discretion to reverse only for "plain error",i.e error that is "clear" and "obvious" and that was"prejudicial" to the defendant in that it "affected the out come of the district court proceedings". Olano,507 US at 732-36, 1134 s.ct. at 1777-78 . And ,we exercise that discretion only if the plain error that was forfeited seriously affects the fairness, integrity, or public reputation of judicial proceedings;an example of such ann error is one that causes the convistiOn of an actually innocent defendant.Id at 736-37,113 s.ct. at 1779.

People V Baustia(2004) 115 cal.app. 4th 229,where dave baustia brought Habeas along with their,

appeal, on a plea of guilty for (Health& Safety code §11359), where they believed their rights were violated by the actions of a United States Army dog and his handler had invaded their rights to privacy, while the dog was in theirvacinity on an unrelated incident,and had alerted the dog's owner of possible narcotics. The dogs handler had let the dog off his leash, and the dog went directly to the defendants' locker.The appellante court will usually deny a writ of Habeas corpus where the petitioner has failed to make a motion to or otherwise raise the point in trial court(People V. Lempia (1956)144 cal.app.2d 393,398 [301 p2d 40].However, a habeas corpus petition may be entertained in the first instance by an appellate court if a fundamental constitutional righrt is involved.(In RE Moss(1985) 175 cal.app.3d 913,922[221 cal. rptr.645].) Here , the fundamental constitutional right of effective assistance of counsel is in issue. "We ,therefore, entertain the present matter in the first instance.[citation]"(Ib-Id)

The petitioner in the habeas corpus petition proceeding bears the initial burden of demonstrating that he/she has been deprived of effective assistance)(People V. Haskett(1990) 52 cal.3d 210,248[276 cal.rptr. 80,801 p2d 323].) He must establish that no reasonable attorney or competant attorney would have done what the defense counsel did and that he was prejudiced by the defense counsel' conduct(People V. Frye(1998)18 cal. 4th 894,979 [77 cal. rptr. 2d 25,959 p2d 183])i.e. that is reasonably probable a more ~~xxx~~ favorable determination would have resulted in the absence of counsels failures(People V Lucas (1995) 12 cal.4th ,436 [48 cal. rptr.2d 525,907 p2d 373].)

People V Pope,(cal 1979) 152 cal.rptr.732, 23 cal3d 412, where the record does illuminate the basis for challlnged acts or ommisions, claim of inneffective assistance of counsel is more appropriately made in a petition of Habeas corpus where there is oppertunity in an evidentiary hearing to have trial counsel fully describe his/her reasons for acting or failing to act in manner complained of.

In this specific case where the Attorney nto only failed to make available the discovery in question to the defendant, but had in fact [repeatedly] stated he was going to discuss the case with Yablonsky, but never got around to it. when the defendant told the Attorney that the county jail had terminated his [official] visit right to speak with his attorney' and the defense counsel did nothing to correct this violation to his clients rights, the only time there was to discuss [anything[ ] about

this case was in the courtroom, and still there was no sufficient effort of the defense to make available to the defendant , the full discovery to this case.When the Attorney questioned the states expert [twice] and the states expert lied both times, there was documents available to impeach the states witness,and to correct his false testimony. Defense did finally make available to the defendant , sufficient records of discovery [AFTER] the trial was already over, but before the sentencing. In People V Ibarra (1963) 60 cal2d 460,464,34 cal.rptr. 863,866 386 p2d 487,490,this court articulated a strict standard to measure the constitutional right to " effective aid in the preperation and trial of the case'(PowellV. State of Alabama,287 US 45,71 53 s.ct.55,77 1.ed.158.) In order to obtain relief on appeal,"(i)t must appear that counsel's lack od diligence or competance reduced the trial to a 'FARCE OR A SHAM." (cittation)"(People V Ibarra,supra,60 cal2d at p.464,34 cal.rptr. at p.866,386 p2d at p.490.

Since the states position was that Yablonsky was the only suspect to this case and the fact that this [two] page report shows the states position to be wrong, and in fact deceitful in nature since the states prosecutor would have been caugth lying to the jury during the inlimine hearing, when the attorney should have at the least entered an objection when the prosecutor mistated facts, along with the fact that the states [expert] investigator also would have been caught lying to the jury had the attorney just entered the objection as any ordinary trial litigator would have done,would have drastically undermined the states postition[that Yablonsky was the only suspect to this case] and proven to the jury that,

* The prosecutor and his investigator were lying to the jury!
* That there was another suspect to this case, that was also to the Brooks!
* That the states expert was hiding the fact that there was a fingerprint report from this scene and that report shows that Yablonsky wasn't even at this scene !

Th ese facts could have shown the jury that the state was trying to convict the defendant throgh the submissions of false evidence, and in conjunction with the states expert criminalist that stated that Yablonsky' DNA was older than this crime was by at least one and a half full days and not quite as many a full seven day week. Showing that if this case was especially sexual in nature as the state contended, that since Yablonsky' DNA was older than this case,

and the state knew that the DNA belonging to Yablonsky was not a part of this crime, which would support the reason they presented [lying] witnesses, and that the crime was in fact committed by somebody else. The prosecutor was in the court room when I told the judge [repeatedly] that the county jail TERMINATED all my official visit right s and did nothing as the state to correct this violation,should have known the consequences and or results of this violation and thereby supported the jails termination. The Attorney' failure to object was prejudicial, the failure involved discovery issues and the state and the Attorney had obligations to present this evidence to the jury, and when the attorney knew the state was lying, when he asked for the second time, WAS THERE A FINGERPRINT REPORT FROM THIS CASE ?, his duty to his client was apparent and he failed to secure for appellate purposes the violation he further violated his clients substancial rights, dispaged his fiduciaty duty to his client and bolstered the states lying witness.

Cal.Rules of Prof. Cond. Rule 3-110,FAILING TO ACT COMPETENTLY

(A) a member shall not intensionally.,recklessly,or repeatedly fail to perform legal services with competance,(this attorney twice asked the states witness,who lied.) SEE EXHIBIT (F)

(B) for the purposes of this rule,"competence" in any legal service shall meanto apply the 1)diligence,2)learning and skill,and3)mental,emotional, and physical ability reasonably necessary for the performance of such service.(if this attorney was affraid of the judge, his authority or was unsure of how to act inside the court room, when presented with what is considered normal trial tactics, strategy, and certainly what is considered illegal activity without knowing how or what to do next, and to protect his clients interests then this attorney should move the court to have himself removed from the case.This was a case that his client was and is innocent and the state presented false evidence, as the rest of the states witnesses had [NO] evidence his client did anything wrong, and the states leading expert testified that the defendants DNA was older than one and a half days older than the crime, and the states prosecutor did not challenge this testimony by his expert criminalist, thereby concluding that his client was in fact innocent of this crime, except the state was continually presenting false testimonies, that [was] prejudicing the jury and his clients substancial constitutional rights.

GROUND TEN (5)

Cal.Rules of Prof. Cond.RULE 3-500, the attorney shall keep the client reasonably informed about the case, significant developments relating to the employment or representation,including promptly complying with reasonable requests for information and copies of significant [documents] when necessary to keep the client so [informed](while the defendeant in this instant case repeatedly asked for the evidence to this case, and the attorney gave [only] 300 pages of the actual 4000 pages that exists, declaring that this is all there is. When the defendanbt told the attorney that the interrogation was [very] innaccurate, the attorney stated the [verbatim] transcripts would be used, the assumption would be is that the attorney [knew] exactly what was and what wasn't in these discoveries, and the fact that he intensionally misled his client in the first place, stating that the 300 pages he gave his client was all the discovery that existed, that his intension was in fact to defraud his client of his guaranteed constitutional rights, and assist the state in prosecuting his client, while the existance of this two page report is extremely significant to his clients inte rests and does in fact show that his client wasn't at the scene of the crime, and does raise reasonable issues that would in fact produce "REASONABLE DOUBT" in front of the jury.

Cal. Rules of Prof. Cond. RULE 5-200, TRIAL CONDUCT

In presenting a matter to a tribunal, a member(B)shall not seek to mislead the judge, judicial officer, or the jury by an artifice or false statement or fact of law.

Cal.Rules of Prof.Cond. RULE 5-220 SUPPRESSION EVIDENCE

A member shall not supress any evidence that the member or the members client has a legal obligati9on to reveal or to produce(since it would be expected that his client was praying that the truth would be presented and the attorney just found out that the states LEAD INVESTIGATOR, just lied and was witholding the truth, and about evidence that would help support his clients innocense, showing the jury that the state was lying about Yablonsky being the only suspect, and at the very least impeaching the states expert investigator, and proving to the jury that the states was hiding evidence that is very substancial and favorable to the defense of this case, and possibly even convincing the jury to acquit the defendant in this case, being that the jury at one time had in fact returned from deliberations deadlocked, and the proof that the state waslying may have been all the defense needed to win this case.

GROUND TEN (6) SEE EXHIBIT (F)