(Incorporated by reference with grounds Nine through Twenty)

GROUND TWENTY ONE

Defense counsel Dave Sanders (attorney) public defender committed Ineffective Assistance of Counsel (IAC) when he failed to investigate states witness Sun Kye, violating VI and XIV Amendments of the United States Constitution.

FACTS

During pretrial defemdant asked the attorney for all the evidence to this case, in the 300 pages the attorney gave the defendant, there was police reports from an arrest in Texas from 1982. The state in this case was intending to call the alleged victim from that arrest, whish was the result of the filing of false charges. The defendant was in the Army in 1982, and had on one occaision gone to a faw bars in the local area one nite, In one of the bars, the defendant was approached by a local asian bar prostitute, and she propositioned the defendant for sexual encounters in exchange for his purchase of a bottle of champagne that costed $60.00. The defendant rejected this proposal and played a game of pool with the local hooker, that may have been one or two games of pool, but at some point this lady excused herself to use the restropom. She stood at the restroom door and hand motioned for the dedfendant to approach her, and when he did she pulled his t-shirt pulling him into the restroom. She again propositioned him for the sixty dollars, and the defendant again refused this price, but this lady aked how much then? How about twenty dollars, and we do it in here (the restroom). The defendant agreed to the twenty dollars and paid this ladt the money.After they were done she told the defendant that he neededd to leave the bar as soon as she opened the door. Once the door was open, the defendant walked directly to the exit door, but was blocked pasage by some man that states he wanted the sixty dollars, and when the defendant told him he had already paid the prostitute the twenth they agreed on, the man said he wanted the other fourty. The man b;locking the door said that I was not allowed to leave the bar until the full sixty was paid to him, and four or five other military men stood behind me asking what the probloem was, therfore influencing the man to back down.

As hthis man stepped out of the way he told me I was never going to be allowed in his bar again, and I left. I went to another bar just down the street, and was there for only a few moments before I left there to0, and was pullded over by the police a few blocks away. I was cuffed and returned to the lastr bar I had attended. Some lady I never seen came out cryiong and said "that's Himm". I was plased under arrest and taken to jail for aggrivated rape. The lady that came out of the bar was not the lady I had had sex with in the bars restroom, and paid the twenty dollars to.An attorney wass hired that conducted and investigation,and then had a deposition of some kind. The XXX lady told my attorney abd the other peole that she was forced to filing the charges by her pimp, and that she wasn't the one who went into the restroom with me. The charges were dismissed and an arrangement was made to help this person relocate out of the state.
After telling my attorney what really happened in Texas, he di nothig to investigate any of these facts. There was court records at his disposal, and certainly some kind facts to prove everything I Had told him about thisaccusation,and certainly he had had enough time to investigate the entire records from Texas.

CASE, RULE AND AUTHORITY

Evid.C § 1101(b) Evidenc of character to prove conduct, nothing in this section prohibits the admission of evidence that a person committed a crime... or other act when the relevant to prove some fact....or whether a defendant in a prosecution for anunlawfulsex act , or attempted unlawfulsex act did not reasonably and ih good faith believe that the victim consented, other than his or her disposition to commit such an act.Wiggins V. Smith (2003) 539 US 510, a pa capital case, the courts described the significance of thorough investigations by counsel "[S] trategy choices made after thorough investigations are virtually unchallengeabl and strategic choices made after less than thorough investigations are reasonably precise to the extent that reasonable professionals judgements support the limitations. "thus", counsel has a duty to make reasonable investigations or to make reasonablle investigations partic- ularily unnecessary. In any effect, every ineffective case, a particular decision not to investigate must be directly assesed for the measures of deference to counsels judgement"

(123 s.ct. 2535,156 l.ed.2d 485, Strickland V. Washington, in this case counsel failed to investigate and hence to discover powerful admissible evidence to mitigation of the death penalty, that if presented, might have persuaded the jury to render a lessser punishment,123 s.ct. 2536,156 l.ed.2d 486. While in this case there was a deposition that was conducted in front of the prosecutor, and the result of that deposition is ultimately why the states prosecutor in XXXXXXX Texas dismissed the charges completely. Even the military found this dismissal as complete when they restored my secret clearance and then transfered me to a rapid deployment unit in Germany, just months after the dismissal.

Rompilla V. Beard (2005)545 US 374 (defense counsel must make reasonable effort to obtain and review material that counsel knows the prosecution will probably rely on as evidence of aggrivating at the sentencing phase of the trial, citing Wiggins: In Re Cox (same); In Re Lucas (2004)33 c4th 682;People V Jones (2010) 186 ca4th 216 , where the testifying officer after the defense investigatiions proved that there was no way the officer could see the defendant run the stop sign.In Re Hill (2010) 198 ca4th 1008,1023,129 cr3d 856, where defense counsel in child molestion case was (IAC) in fa9iling to obtain forensic photographs of aaleged victim and in failing to obtain assistance of independant medical expert to aid in the investigations of possible defense.

Here the defense counsel stated that he would look into the records, and since this was in fact amilitary town, and the bar was known for it's prostitution as was x the others in the strip called "DYER STREET" in El Paso Texas, there would be station reports throught the local policing agancies, that this was in fact a heavily trafficed prostitution bar, abd that there was in fact [several] legal complications that came from such invironments as the military towns usually present.

This person could have been looked up on the records for other police involvements with the solicitatrion of prostitution and possibly enen arrests in Texas or even California, since she did in fgact relocate ourt here from Texas after the alleged incident.

People V Pope (cal.1979) 152 cal.rptr.732.Where right to effective representation is denied if counsel makes critical decisions which would not be made by diligent, ordinary prudent lawyers in criminal cases even if the decision were not made from ignorance or facts of law.

HarerXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Here the defense counsel asked that the state give him the contact information before XXXXXXXXX Oct. 15, 2010, and then on Jan. 13,2011 the state prosecuting investigator released the information that the defense asked for, but then on Jan.14, 2011 the defense counsel declared readiness for trial, with out even trying to contact this witness for the state, to inquire as to her true position in this case, same as LOri Amaro.

People V Ibarra (1963) 60 cal.2d 460,464 ,34 cal.rptr. 863,866,386 p.2d 487,490, this court standard articulated a strict standard to measure the constitutional right to "effective aid in the preperation and trial of the case. Powell V. State of Alabama,287 US 45,71 53 s.ct. 55,77 l.ed.XX 158.

XXXXXXXXXXXXXX People V. Vest (1974) 43 cal.app.3d 728,736,118 cal.rptr.84,88 criminal attorney's have a duty to"investigate carefully all defenses of fact and law that may be available through the investigation to the defendant...." In Re Williams,supra,1 cal.3d at p.175,81 cal.rptr.at p.789,460 p.2d at p 989. This obligation includes confering with the client " without undue delay and as often as necessary... to ellicit matters of defense... " Coles V. Payton(4th cir. 1968()389 f2d 224,226

SEE EXHIBIT (S) and (U)

(Incorporated by reference with grounds nine through twentyone)

GROUND TWENTYTWO

Defense counsel Dave Sanders (attorney) public defender, committed Ineffective Assistance of Counsel (IAC) ,by failing to perfect a recusal motion , to recuse the prosecuting authority in this case, violating VI and XIV Amendments of the United States Constitution.

FACTS

In April of 2010, 30 days after my trial was scheduled on the court calendar, the county District Attorney utilized my case in his re-election campaign, and the defendant in that case filed civil litigations for the amount of $5,000,000 daoolars, and to venue the case into another county. The attorney for the defendant filed a recusal motion with the trial court, but failed to perfect that motion by serving only the court, and the prosecutor in that case, and failing to serve the Attorney General for the record. That recusal motion was not heard because the court did not have the authority to honor a motion of such standing without giving the state it's proper due process rights, to defend such accusat-ions that were incorporated in that specific motion.The court opined to deny the motion on insufficient showing of prejudice, while the record on both the criminal and the civil courts will reflect that the [Entire] county's registered voters were mailed (three seperate) copies each of the Prosecutors campaign flyers, and all three declaring his opinion XXXXXXXX that the defendant was guilty, and with the trial that was upcoming, [he] the county's Prosecutor was promising closure to the victims family in my trial thatw was scheduled to begin in just over thirty days. The defendants attorney never served the Attorneyx General, a cppy of that motion.

CASE, RULE AND AUTHORITY

A recusal motion should be brought as soon as defense counsel is aware of the conflict. It can be made before the preliminary hearing. Trujillo V. Superior Court (1983) 148 ca3d 368,370,196 cr 4. see also People v. Municipal Court (Henry)(1979) 98 ca3d 690,692,159 cr 639. The motion [must] be served on the prosecutor and on the Attorney Grneral at least 10 (ten) court days before the hearing. Penal Code § 1424.

Defense counsel must seek pretrial review of trial courts denial of
a motion to recuse the district attorney's office

Defense counsel must seek pretrial review of a recusal denioal by trial courtson a motion to recuse the distriat attorney's office. On pretrial review, the showing of a (likelihood) of unfairr treatment will suffice for reversal. In contrast, raising the issue after a conviction requires showing a due process violation or prejudice for reversal. See,e.g. People V Vasquez,supra....

Cal Rules of Prof. Cond Rule 5-120, demands the attorney's from the record, defense and prosecution must refrain from extrajudicial statements. Cal. Rules of Prof cond. 5-320(A)(B)XXX(F) states that members connected with a case [shall not] communicateXX directly to any members that may be jurors or may become jurors to a jury trial.

Gentile V. state bar)(1991) 501 Us 1030, in the disciplinary hearing, Nevada XXX Supreme court found that an attorney that held a press confrence after defendant was [indicted] on criminal charges violated supreme court rule prohibiting lawyers from making extrajudicial statements to the press, should know the "substancial likelihood of the prejudicial impact" of such statements.

While in this case the county District attorney mailed three different and seperate flyers into the homes of every registered voter that lived in the county of San Bernardino California, and each one of the flyers carried the Prosecutors "promise of closure" to the victims family, and his first mailings were over a month after the defendants trial was XXXX on the calendar scheduled to begin, and the last of his mailings were just under a moth from the date that the trial was to begin.

The fact remains that this defense attorney did not follow what [is] considerd to be (normal) and (regular) and reasonably competant actions on behalf of a trial attorney that is defending a murder case that has capital consequences, and to serve all parties this motion was a simple task that was not properly satisfied by the rules of california court, and defined in depth byy hthe California Criminal Law Procedures and Practice that are to be [expected] by the California courts, and this failure to satisfy the courts requirements severely prejudiced the defendant in this case

Cal. Rules of Prof. Cond.3 110 (A) a member shall not intensionally, recklessly,or repeatedly fail to perform legal serviced with competance. Waysman V. State Bar (1986) 41 cal3d 452. As a demonstratable prong of the Strickland test, had this ~~continuance~~ RECUSAL been prepared correctly

SEE EXHIBIT (A)(B)

XXXXX XXXXXXXXXXXXXXXXX

the court could have heard the Attorney Generals position in this matter and possibly granted the recusal on the grounds that the county District attorney did in fgact prejudice the pool of jurors that were to be sequesterd in just a couple of week, or the defendants speedy trial right would have been forfeited andf therefore violated by the state in delaying the trial in an attempt to dilute the prejudice sufficiently to allow a trial to be conducted with non bias jurors,since the only disputable party to this moXtion was in fact hthe prosecuting office in recusal of this case and therefore this motion was heard by prejudicial parties for the state and not fairly heard by the courts, even if the court surmised to rule nomn-prejudicially,,. Theee was sufficient proof to establish the district attorney's ½prejudice in this matter, being that the [entire] county was on the county district attorney's mailing list to receive these flyers. Had the trial been conducted by a seperate agancyt, the probabil;ity that the new agency would be prepared in the time limits of the defendants speedy trial rightd, and to competantly defend the strates position would be far fetched without the presence of Due Process dangers, and certainly the [new] prosecutors would not have presented four witness that were [liars] and possibly have decided to play the entire interrogation recording to the jury, and quite possibly would have conceded that the confession by Gregory Randolph was in fact admissible to this case, thereby injecting just enough "reasonable doubt" to satisfy a hung jury since the jury had at one time came back hopelessly dead-locked, or even come back with a not guilty, since the states expert did testify that the defendant DNA was deposited at least one and a half days before the murder ever took place. Eventually the jury would have been presented with facts and truth that would satisfy X an acquittal.

Even if the court did in fact justifyingly deny the recusal motion, the appealable issues would have very distinctly been preserved for the defendabt, where the record does reflect that at least three of the jurors to have possible inadvertant interests in this case and definately the presence of prejudicial positions, therefore contaminating the entire panel of jurors because of the County Re-Elect District Attorney voicing his personal opinion of the defendants guilt in this case.

(Incorporated by reference with grounds nine through twentytwo)

GROUND TWENTY THREE

Defense counsel Dave Sanders (attorney)publicdefender, committed Inneff-ective Assistance of Counsel (IAC) when he failed to perfect a motion to continue, writting motion (other persons name) and (other persons case number), violating VI and XIV Amendments of the United States Constitution

FACTS

On Jan.13,2011, the states prosecuting investigator presented contact information to two of the XXXXXX statXes witnesses to the defense counsel of record, attorney. The attorney wrote a motion to continue his clients case, for the court to allow him time to contact and investigate the states witnesses LOri Amaro and Sun Kye. There was a hearing date on Jan.14, 2011 where this motion was to be heard, and for the courts to consider the nature of the defendants request for an extension of time from which the defense attorney could reasonably investigate theses two witnesses that the states prosecution intended to call.
The defense attorney wrote this motion in another persons name (George Yablonsky) and used some unknown persons case number in that motion that he describes his need through investigative practices to inquire these witnesses intent and to follow up with (ordinary) and (regular) investigative practices the defendant has substancial right. In that motion the attorney declares his [need] to investigate and the basis of his investigations, but declares his fudiciary duty to George Yablonsky with case No.FVI 021929, while he represented John Yablonsky with the case number FVI 900518. When the courts denied the defense motion as as a matter of procedural error, the defendants right were violated through this attorney's incompetance.

CASE, RULE AND AUTHORITY

Cal.Crim.Law Proc. and Pract § 20.1, The most important statue in Penal Code § 1050, which that a motion to continue any hearing or trial be made in writting, served on all parties, and filed at least two court days before the hearing, how ever in counties with more"last-day" cases XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

than available departments, continuances may be offered in an effort to prevent speedy trial violations ands dismissals. When the rules are not consistantly enforced, even good lawyers get sloppy.
While in this case there is [no] reasonable , plausible or even extraordinary excuse for this attorney to write a motion in somebodies name he doesn't represent, and a case number that belongs to somebody else and axpect the courts to honor his motion. Motions can be addressed before the courts in-camera, orally without notice, based on factual representation made from the counsels table. While the prosecutor was in this hearing and was represented by the investigator that faxed these evidences the day befor this specific hearing, and was available to verify that these evidences were only sent to the defense the day before,Owens V Superior Court (1980) 28 c3d 238,250,168 cr 466(prosecution):People V Wilson (1965) 235 ca2d 266,237,45 cr 267(defendant),while the moving party must present evidence to support of the motion, Evid.C §§300,500. People V. Avila (2005), 131 ca4th 163,31 cr3d 441,The time to ascertain the availability of witnesses is when the trial date is set.People V Rodriguez (1971) 15 ca3d 481,484,93 cr 182 (1-day search is not enough). Here the defense counsel neither attempted to object to the courts denial, nor was there an attempt to make the oral request for the continuance that would allow thid defendant the right to sufficiently investigate the states witnesses that were to testify for the state.
Pickett V. Municipal Court (1970) 12 ca3d 1158,1162,91 cr 315, defense counsel lack of effort or unprofessional errors to secur a witness is not excused on the ground that the defendabt obstructed defense counsel from speaking with witness. A court is justified id denying due diligence when it finde that counsel employed "delaying tactics" People v.fudge(1994) 7 c4th 107,1105,31 cr2d 321. People V Manchetti(1946) 29 c2d 452,458,175 p2d 533, a defendant should not be prejudiced by a situation which he/she is not responsible, see People V Manchetti,supra.
Cal. Rules of Prof.Cond. X 5-200
Cal. Rules of Prof. Cond. 3-110 (A) a member shall not intensionally, recklessly,or repeatedly fail to perform legal services with competance
Waysman V. State Bar (1986) 41 cal3d 452

SEE EXHIBIT (V)

The demonstratable prong og the strickland test is that had this continuance been granted granted because the defense attorney properly filled out the motion and properly served and filed the motion, that the courts would have granted the continuance, and after preliminary interviews withthe states witnesses Amaro and Kye, he would have found need to follow up with further investigations. The investigations would have shown that Lori amaro did in fact falsify the complaint to get even with John for moving out of their home while Lori was at work in the Strp Club she worked at, and that she had confided to Tony Larue her complaint was only to get even with John's leaving her.
Sun Kye's investigations would have shown that Sun was neber touched by the defendant in a sexual way, and that she only filed the complaint at the influence of her pimp, and that she wasnt the one John had paid to have sex with in that bar that nite, nor could she tell the truth as to whether the defendant was circumcised, or that there was ever any DNA on her, because she wasn't the person that was paid to have sexual relations with the defendant for the twenty dollars. Thje defense attorney could have pulled her rap sheet from Texas and possibly here as well to undermiune this witnesses credibility showing that she was only acting at the direction of her Texas pimp, and thereby with these two witnesses that XXXX the states was going to use to prove the defendants character of violence. Had the motion to continue benn denied, the appealble issues would have been preserved for the higher court, and therefore been prejudicial.

Instead the counsel had no clue who he was defending in that courtroom, which is displayed in the previous grounds in this petition and are in the following grounds to come.

(Incorporated by reference with grounds nine through twentythree)

GROUND TWENTY FOUR

Defense counsel Dave Sanders (attorney) public defender committed ineffective assistance of counsel (IAC), failing to subpena defense witnesses for trial purposes, Violating VI and XIV Amendments of the United States Consţitution.

FACTS

During pre-trial phase the attorney for this case wrote a speedy trial motion, that implied that the defendants rights were substancially prejudiced for the absence of certain witnesses that had genereated the defendant right to confrónt his accusers, and to support tha states case. the attorney named several people that were from this small community, and statedx that their statements to the police regarding this case could support a defense fpr the defendant. While defendant wqs housed in the county jail a phxone call that was conducted between the defendant and the aatorney discussed the witnesses and their [need] to be subpenaed for trial purposes, and the defendant also told him that there were two more that needed to be added to this list of subpenas. The agreed list was Don Stow (or his police report),Cheryll D. (or her police report), Ed White (or his police report), Sherman Anderson (or his police report), Linda Mitchell (or her interview transcripts), Holly Mitchell/Yablonsky/ Brown (or her interview transcripts), Frank Leftwhich (or his police report) Daryll Kramer,John Sullivan,Francesca Drake, Marta Simon, and Bruce Nash. These witnesses were not subpenaed at any time, and their testimonies were crucial to the defense. The state did present for the trial Sullivan, Nash, Drake, and The Kramers (Daryll and Marta are married). The failure to subpena the other witnesses,Linda and Holly Mitchell were hostile witnesses that knew the defendant personally and were to support that John was at the famoly grandparents on the week-end that this murder took place. Frank Leftwhich was a hostile witness that would have testified that his relationship was questionably violent between him and the (victim) Rita Cobb, and that he had been at her home under severely violent circumstances on severaal tomes under the influence of alcohol andx drugs, and the defendant (twice) had to forcefully remove him from the Cobb property, whil;e he expressed agressive action towards the (victim), and was possibly the person that was witnessed in her front yard swinging a board over his

head at passing traffic, because that is his very nature, and that he and Rita Cobb had had sexual interests with each other and were witnessed in the local bars clinging on each other in a romantic expression.
The other witnesses had either made supporting statements to the police, that would support the defenses position. That Rita Cobb had numerous relationships with several people in towm, some violent and some sexual in nature since she was always looking for companionship, and was rarely concerned of the age differences. The fact that she had sexual relationships with a large majority of the towns men was part of the defense, declaring that she had a relationship with the defendant for months prior to someone killing her, and that there were witnesses to the fact that she [bragged[] of having a cougar relationship with Jihn Yablonsky, which wasa then called a(Mrs. Robinson) relationship. The fact thAt these witnesses were agreed to have either been subpenaed, or their latest reports put in the record was the agreement between the defendant and the attorney, but nome were, and as result the defense had [no] witnesses to testify from the defendants table to any of these arguements, the state could hardly dispute because they were the truth, and that there was in fact corroberating witnesses that would support one another. Linda and Holly Mi Mitchel were definately alibi witnesses, that could have helped support the defense, and even John had written their subpenas from the county jail before the agreement between the defense,and were never sent or used. The fact that the attorney was appointed does not give him the authority to withold information or to persue strategic or defensive actions or to decide on]]any] matters without first discussing the defendants options or exposures, and certainly his authority does not allow him to say he's going to one thing then do another without at leastr discussuing the case with the defendant on a full and understandable level. The defendant was told these were witnesses that were going to be subpenaed, and when the trial started he told me didn't subpena any of them.

CASE, RULE AND AUTHORITY

George town law journal criminal procedure, defendant have raised ineffective assistance claims concerning professional qualifications, performances before trial,Kimmelman V. Morris ,477 US 365 91986)(counsels failure to conduct any pretrial discovery and timely file suppression motion was prejudicial base on counsels ignorant,

and lack of meaningful applications of the law, falling below the prevailing norms of professional law); Raygoza V. Hulick,474bx f3d 958(7th cir. 2007)(counsel's failure to investigate defendants alibi was IAC because additional alibi witnesses existed and trial judge was influenced by the lack of evidence supporting the defendants alibi). Had kthese witnesses been subpenaed they would have testified the matters discussed in the Fcats portion of this ground, and the two witnesses Linda and Holly would have testified, (linda) that she was an expertt criminal xxx authority with over twenty years experience xin the criminal field as a parole agent and probation officer, and that shwe directly knew the defendant on a personal level and also as a probation officer's supervisor, that would have testified the in her professional opinion, the defendant was not of the nature known as a killer, or that this type of crime did not fit the mentality of the defendant and definately, she would have testified that the defendant had on several occaisions spent the week-end with their family in the downey residence, and that duringx this time frame when her daughter was ready to give birhhh to her grandaughter, that Holly did in fact spend alot of her weekends with her family, and it was on these weekends that John was with them that the murder had been committed. Along with the testimony from the states expert criminalist, that the defendants DNA was at least one and a half full days older than this murder, proving that John was provably last with the (victim) on the thursday before she was murdered, and since the expert did opine that the DNA was not as many as a full seven day week, that John XXX could have been with Rita as early in the week as monday or tuesday before she was murdered, and if John was in Downey California with his inlaws on the weekend that shw was killed that John is not the suspect in this case.
Cal. Crim. Law Proc. and Prac. §2.21, inadequate investigations, In Re Marquez(1992) 1 c4th 584,596,3 cr2d 727(attorney did not interview important witnesses, including alibi witnesses in Mexico for one of the murders,not all the witnesses interviewed were not subpenaed for XXXXX trial: new penalty trial ordered):In Re Edwards S. (2009) 173 ca4th 387,407,92 cr3d 725 (public defenders failure to investigate potentially exculpatory evidence not excused by caseload) It was during the first and second marsden hearing, that the attorney repeated that he did in fact spend less than six hours on this entire case and that the defendant should feel happy since that is more than he had spent on any of his cases. While in this case the attorney only came to the county jail two times in the two and

a half years that he represented me, once for ten minutes to tell me that he discussed my case with Deputy Public Defender Canty, and that he was going to test all of the evidences from this case, ands once for three minutes to get my signiture on his motion for speedy trial, andf this attorney never revisited the defendant to discuss [ANY] of the case , and all other discussions were on the phone or in the courtroom.

Under the Sixth Amendment to the United States Constitution and article I, section 15, of the California Constitution, a criminal defendant has the right to the assistance of counsel.(E.g.,Strickland V. Washington(1984) 466 US 668[discussing federal constitutional rights];People V Pope,supra [discussing both state and federal constitutional rights]) The Ultimate purpose of this right is to protect the defendants fundamental rights to a fair trial that is both fair in it'd conduct and reliable in it's result.(see Strickland,supra,466 US at p.684-687[80 l.ed.2d at pp.691-693,104 s.ct. at pp.2063- 2064];Pope,supra23 cal.3d at pp.423-425). The prejudicial impact of this attorney's failure is thatwhen he did not investigate the basic knowledge of this case, and failed to satisfy the defendants need to defend his rights and failed to subpena[one]witness,he virtually had [nobody] to testify in the defense of his defendant when there were witnesses, and were not available because he failed to subpena them. He did state that because the states intended to present their witness LInda Mitchell, and Holly Mitchell, and they were on the states witness list, and expected to testify, that he chose not to subpena them, but these persons were never in the court, nor were they called to testify for the state, when in fact to somne degree they were roles in the state case in chief.

(Incorporated by reference with grounds nine through twentyfour)

GROUND TWENTFIVE

Defense counsel Dave Sanders (attorney)public defender, committed ineffective assistance of counsel (IAC) when he mistated facts during a marsden hearing, violating VI and XIV Amendments of the United States Constitution.

FACTS

During two seperate Marsden hearing where the defendant was relating to the court his attorney's failures, the defensa attorney states that this case was never a DeathPenalty case, and that occurances in the speedy trial hearing in department three were not as the defendant claimed. That during that hearing, the defense had written a motioin based on speedy trial violation to the defendants rights, During the hearing, the attorney told the court (judge Nakata) that he didn't want his motion heard, and that him and that prosecutor Thomas just wanted to set trial dates. The Honorable Judge Nakata had to tell this attorney "look, you took the time to prepare this motion,and I (Nakata) had taken the time to review the motion and the records, and i'd like to rule on the motion. I'm not sure what your doing , but I intend on doing my job". The court then stated that his opinion was that he felt he shouild grant the motion, and dismiss the case,unless there is some evidence that was not on the record. Both the prosecutor and the defense attorney said that they were willing to stipulate that it existed, but the court stated that unless the evidence was in front of him in the next (90 minutes) he was going to grant this motioin.Also during trial, the defense attorney told the defendant that the judge had recomended that the defendant not testify, that testifying would be as harmful as it would be helpful, These repeated mistatements of fact and lies led the court to believe the attorney over the defendant.

CASE , RULE AND AUTHORITY

Cal. Rules of Prof. Cond. RULE 5-200 (A)(B)
People V. Hamilton (1988) 45 c3d 351,369,247 cr 31;People V. Marsden (1970) 2 c3d 118,123,84 cr 156:In Re Banks (1971) 4 c3d 337 , 93 cr 571;
People V. Minor (1980)104 ca3d 194,200,163 cr 509';Strickland V. Washington(1984 466 US 668,688[104 s.ct.2052]

People V lee (2002) 95 ca4th 772,780,115 cr2d 828[defendant although not required to file proper and formal motion, must expeess some clear indications of desire for substitution attorney "merely grumbling':is insufficient[] grounds for relief defense is entitled to relief on showing that the first appointed attoeney is not providing adequate representation ot that the defendant and counsel have become embroiled in such irreconsilable conflict that ineffectiveness is likely to result, People V Fierro (1991) 1 c4th 173,204 , 3 cr2d 426, 821 p2d 1302.

Thus the cout must inquire into the state of mind of the counsel where necessary to determine whether counsel has adequate explanation, People V. Munoz (1974) 41 ca3d 62,65,66,115 cr 726.

Where in this court where the marsden was heard and before the same judge that the Formal Arraignment of the Superior court, when the state did in fact file and serve the defendantthe charges of murder/rape and those consequences were LWOP/DEATH

SEE EXHIBIT (W)

The records were available to dispute the attorney's denial that this case was never a death penalty case, and the relevance to this is that this attorney was so disassociated with the entire case that he didn't eveb remember that the case was filed for possible death sentence. this attorney even had to get an continuance on the first day of arraignment to verify that his office could handle this case and failed to enter a plea on that first day in the superior court. This attorney also terminated the preliminary hearing after the first witnesses, and Detective Alexander stated that he had a phone call with a state witness (that was out of the country)and that this person had told him the defendant was arrested from Texas for rape in 1982, then there was [no other evidences] that were on the preliminary records, only that the defense would in fact stipulate the the state witnesses were going to testify as per the prosecutors format, but there was no forensics evidence presented at the preliminary hearing, only testimony, which is exactly the evidence that Judge Nakata was questioning about in the speedytrial hearing, that this evidence was not presented on the record during the preliminary hearing, it cannot summarily be produced at a later time ~~with~~ WITHOUT some formal application, or authentication, yet this attorney failed to challenge this or [anything] in this case. Which to my knowledge the defendant thoroughly debated in thetwo seperate marsden hearings that lasted for over 90 minutes combined.

Mickens V. Taylor (2002) 535 US 162, defendants conflict with the defense attorneyt of interests had the burden of proof of establishing that a conflict adversely affected attorney's performanse even where the trial judge failed to inquire intoi potential conflict about the judge knew or reasonably should have,122 s.ct.1241,152 l.ed.2d 292, see 116 harv.l. rev. 242 [mickens] on conflicts of interests in volving multiple defendants, or too many case that would not afford the attorney for the record to effectively represent his client.
The demonstratable reality had the attorney just told the truhh in the marsden hearing, the judge would have considered the fact that he truely didn't see this attorney present one piece of evidence for the record, ands the fact that this attorney di discuss this case , but mostly informally abnd off the record, which prevents the defendant from defending hid substancial rights, and may very well have senn that thios attorney was being dishoinest with the court which is a violatiob to the professional rlue of conduct, may very well have granted the marsden hearing and brought formal disciplinery charges against the attorney for lying throughn his teeth during these marsden hearings tha the court was condicting.

(incorporated by reference with grounds nine through twentyfive)

GROUND TWENTYSIX

Defense counsel Dave Sanders (attorney)public defender committed ineff-
ective assistance of counsel (IAC), through cumulative errors of his
failure to complete his investigations, challenge states false evidence,
or to comply with [ordinary] court room professionalism and behavior
that would satisfy the constitutional requirement for attorney'd that
are appointed to defendants that are indigent, these errors had a cumulative
affect which ammounts to an absolute miscarriage of justice, violating
VI and XIV Amendments of the United States Constitutioin

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FACTS

Defendant in this case was without funds to defend his criminal charges,
and as a result, the state assigned defendant a public defender from
the pool of public defenders from the San Bernardino county office.
Attorney Mr. Canty was first assigned to this case, and the defendant
discussed this case in depth with that attorney, and explained thgat
he was innocent of theses charges, and that the last time the defendant
seen the (victim) Rita Cobb she was alive, and when the meeting ended
she (Rita Cobb) was alive and with another woman that was waiting on
her husband to arrive, and that both women were very alive and unharmed
in any possible way by the defendant. This other womans named was unknown
to the defendant, and this visit was during the weekday, and during
daytime hours, where the sun was still above the horizon. The attorney
Canty had already gone over the discovery by the time we had met in
the county jail, to thoroughly discuss this case. Mr. Canty told me
that there was [no[] evidence that shows I committed this crime, and
that there were several suspects to this case, and that there was several
DNA's that were located at this crime scene, one specifically was a
(reddish hair)with the location of it's find, that it was located on
the body. The public defenders office inadvertantly promoted Mr. Canty
and the office assigned another attorney, Dave Sanders, with whom I
never discussed this case on any understandable level, and was told
by Sanders that he wwas a murder litigator, and knew the entire case
as Canty had related to him.This attorney told me that he was going
to challenge the DNA from this case because it was over a quarter of
a century old, and possibly contaminated, and that there were other
suspects to this case that he wpuld investigate.

This attorney repeatedly told me that he was going to test the evidences, investigate the witnesses, and diligently defend my rights.
After the county district attorney used my case in his re-election campaign, this attorney told me that he tried to make rebuttal comments to the Newspaper, and was not allowed. The defendant on this case was told by the County Sheriff's that worked in the jail about these flyers that the county DA was mailing to the entire county homes, and was not told by his attorney. When the defendant filed a civil suit against the county DA Ramos, for his flyer mailings, this Attorney Dave Sanders told me the county Da only mailed three thousand flyers in total, and when re-questioned by the defendant about how many flyers the county DA mailed, the attorney told me that he talked to someone from the district attorney's office and he was told that there was only 3000 flyers mailed.

When the attorney told me he had an investigator for our case, he said that there were several people that they couldn't locate, and he gave me his phone number (investigator) and told me if there was anything I could thik of to tell the investigator. When I called the investigator, he was never available, and when I told him I needed to see him on his message machine, he never responded. When this investigator did contact me, this contact was done over the jails (Video phone), and I was told by this investigator, that if I had anything to say to him that I needed to tell my attorney to get ahold of him. When I told him that I could help in his locating some of the states witnesses, through my family, he told me that he wasn't going to listen to me, and that again if I needed him, to contact my attorney first. My Oofficial visit rights were terminated by the county jail, and I was not allowed this priveledge to have attorney visits with my trial attorney. This was brought to the attention of the courts, and is on the record, and this was only a few months after this attorney was assigned to this case, and there were [no] official discussions after this termination. All the discussions with this attorney were either conducted in front of the prosecutor in the court room, in front of the inmates in the court room, the prosecutors co-workers, or over the phone on [any]meaningful and intelligible level. There was never any disclosed, private, or confidential environment that the defendant could discuss the case with this attorney, and when he did write any motions, he never disclosed to me [any]of their content, and stated that he didn't have time to discuss the case, that he was in a hurry to make his next meeting, This attorney told me that my whole case had been investigated, and that this case hinged on my testimony at trial.

After prompting by the defendant, this attorney wrote a motion to recuse the entire district attorney's office, but on the day the motion was to be heard he ran up to me and said that he forgot to serve the Attorney General, and that the motion would be denied, which it was, when he returned in the court-room XXXXX xx from the chambers meeting,stating that x were being forced into trial with the same district attorney's office he attempted to recuse. Later he told me that there was (someone) that confessed to killing (someone) in 1985, and that this person confessed in 1988, but he XXx confessed at a party. This attorney was exteemely vague about this confession, and made it out as if there was nothing even investigated on this confession, and never even told me that this person was arrested for the murder of Rita Cobb, or that his DNA was recoverd from this crime scene, or that his confession was extremely accurate to [all] the circumstances about Rita's murder, but that this judge wouldn't even consider allowing this into the trial. This attorney XXXXXX never discussed with me about any of the perameters of testifying, never discusssed the process, or the consequences of testifying during the XXXX trial, and never prepared me to testify for the trial, and kept saying (we'll get around to it). During trial , this attorney had three (three-ringed binders) and told me that this was [all] of the states evidence, which was over ten times as many pages as he had given me, telling me (this 300 pages is all the states evidence). This attorney made [no] opening statement, and throughout the trial, failed to challenge the states witnesses, even when the pages in those binders show their discrepencies, and this attorney failed to challenge these witnesses inaccurate testimonies. I had to keep prompting him to recognize these discrepencies, but he told me to be quite, that I was acting like I was guilty. When the witnesses testified that the)(victim) didn't go home after the drinking party, I became very uncomfortable, this attorney was allowing these witnesses to testify falsely without at least entering an objection. When I(TOLD HIM TO OBJECT) he stated it wouldn't matter, and that the judge would only overule the objection.

When the states expert Detective Robert Alexander was testifying, the defense attorney questioned him about a fingerprint report from this case, and as I turned the next page in this binder before me, there was the fingerprint report the attorney was questioning about, and this detective testified that there was no such fingerprint report to his recollection.

During the trial the prosecutor played the interrogationm, I noticed that the playxed interrogation was very similar to the transcripts that was given to me before the trial was ever conducted, and I brought this tio the attorney's attention, and he stated that he gave the prosecutor authorization to alter it, and I todd him that I didn't authorize that, he stated (too late), at the end of the played interrogation the page counter showed a discreepency of over twenty pages missing, and the played portion did'not play the part where I was refused to terminate the interrogation, didn't play the part where the detectives knew that I owned a Dark blue Pinto, when theyt presented a witnass that testified she seen a silver pinto at the crime scene when the crime was to have been committed, and I told the attorney to object, but he said for what, and I told him that I never owned a silver pintox or ever drove a silver pinto, but he failed to challenge this testimony either.
When the state presented en expert crimianalist, he questioned this person (Jones, or Stockwell) about evidence that was collected from this crime scene, liftings from the body, and vaccuming from the surrounding areas. The witness did not state what was found, but as I read this binder in front of me I could see that there was hair that a crime scene detective had collected from the body, and that one of these hairs had a root bulb attached, and was red in color. When I nudged the attorney and pointed at the pages, he ignored the prompting, and therefore allowed this witness to NEGATE the facts to the jury, that there was INFACT a red hair with the root attached found on the body. AFter the prosecutor closed his presentation, the attorney still had not prepared me to testify for the trial. The attorney told me that the judge had told him that it was of his opinion that I should not testify in this trial, that any testimony I give would hurt my case as much as it would help.

He told me that I had "three days to decide," being that this was on a thursday, and "we would get a chance to defend our case on the following monday," and could decide then whether I wanted to testify or not, but that if I did the prosecutor would present character witnesses. I told him that I will let him know on Monday, and I wrote a note to my father, aking him what he thought, did he see [any] evidence in the trial that I committed any crime, and that I had until Monday to decide whether I was going to testify, and had my attorney gave him this note in the trial courtroom right then. I asked the attorney when he was going to prepare me for testifying, and he told me "right before." When they reconviened

after the recess and the court came back to order, my attorney immediately told the court that the "defense rests." Jury instructions were given to the jury and they began deliberating. I asked my attorney what that was all about, and why he didn't let me testify, and he stated that "I din't need to", I asked him why hadn't he presented the witnesses he stated he was going to call, and why he didn't challenge the states lying witnesses. He told me that there was "no need."

The jury deliberated for the next three and a half days, and returned stating that they were hopelessly deadlocked. The trial attorney was not present, and some one else that I had never met was there to defend me. The prosecutor stated that he wanted the court to allow another closing arguement, but I became livid and told the attorney that he couldnt let that happen, because he wasn't even in the court room when the trial was being conducted, and he told me (HE'LL MAKE THAT DECISION), and the attorney's had a chamber meeting. When they came back into the courtroom, the judge ordered the jury to deliberate for [30 minutes] moer the following day. The jury foreman stated [don't worry your honor we'll get the job done[], and I prompted the attorney to object at what the foreman just said, and he said he didn't hear anything. EVERYONE HEARD IT!

When I called my family that night , they told me that Sanders was in the court hallway outside the courtroom just minutes before the jury came intoi the court room. The following day the jury came out of the deliberation room three seperate times, hopelessly deadlocked, and was forced to return to deliberations. On the fourth time they came out of the deliberation room , they returned with a verdict.

After the trial, I told the attorney that I needed the evidence from this case, [ALL OF THE EVIDENCE] or that I was going to sue him for lying to me. I immediately ~~worte~~ WROTE the judicial review board, appellate court panel, the bar association, and told them that this court, attorney just presented false evidence, false testimony,to convict me for a murder that I Did not do. I was finally given [1,300 more pages of discovery] DIFFERENT which supports every aspect of my arguement, ands the courts hired a trial specialist, that was ordered to write a motion [only on IAC] and "nothing more.") The conflict panel told me that there was nearer to 40,000 pages of discovery to this case, but that they couldn't get any of it to me.The information before this court now is the product of the 1,600 pages that the attorney had finally given me, the motion for nwe trial,

and the information that became available in the appeal brief that was prepared by an appeals specialist, and the arguements that xx that produced further proofs in the appeal, and the defendants habeas in the superior court in San Bernardino. The defendant has requested the trial transcripts on three seperate occaisions, twice from the superior coutt in San Bernardino and once from the State Supreme court, so that [XX all] the arguemants can be litigated at the same time instead of being forced to pieceemeal these violations to the defendants rights, or the actual depth of injury the defendant had susstained from the [HIDDEN] evidences by the trial attorney Dave Sanders and the prosecutor DDA Thomas. THREE REQUESTS ALL DENIED

It isa through the cumulative errors that violate state law, state constitution, federeal statues, and federeal constitution that are brought in this habeas, and this ground only disputes the violations to the defendants rights by the states appointed public defender.

CASE, RULE AUTHORITY

In the above mentioned grounds nine through twenty five, and the cases that support those specific arguements, and the merits that are encompassed in those arguements shall be incorporated by reference along with the following,

Cal. Crim.Law Proc.and Prac. §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 reaches in issues that cannot be raised on direct appeal, see People V Pope (1979) 23 c3d 412,428,152 cr 732, Where defendant in that case was convicted of second degree robbery, and he appealed, where the appealant brought two arguements before the court, one on where the silence of the records on reasons why the public defender did not present a mental defense, and why that arguement would be best disputed in the habeas courts, and that the defendant did not establish IAC on the ground that his attorney failed to interview or subpena two other suspects before the trial.Harbin and Stoker. These witness were subpenaed at the influence by the prosecutor , to support the states witnassing ploice officer about a conversation he had overheard the two witnasses discussing. The subpenas provided one witness, Harbin, who chose to invoke the fifth amendment and not testify, and Stoker was not available to testify. Prosecution questioned as to whether the

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public defenders office had exercised "reasonable Diligence" in seeking [23 cal.3d 420] to procure Stoker's attendance[590 p2d 963] When the court asked if counsel had reached Stoker, counsel responded:"no, your honor, we were unable to. We did attempt to contact him last week, and by phone while he was apparently at work, but those messages were never returned". As in this case before the court now, the defemse attorney stated trhat he attempted to call Amaro and Sun, but obviously had the wrong phone numbers, and instead of verbally requesting an continuance to further interview these witnesses, he announced [TRIAL READINESS]on the day his imperfected motion was denied, because he used the wrong case number and wrote the motion in the fathers name.

In People V. Ibarra (1963) 60 cal.2d 460,464,34 cal.rptr.863,866,386 p.2d 487,XXXX 490, this courtarticulated a strict standard to measure the consyitutional right to "'effective aid in the preperation and trial of the case.'(Powell V State of Alabama,287 US 45,71,53 s.ct.55,77 l.ed. 158.)" In order to obtain relief ,"[I]t must appear that the counsels lack of diligence or competance reduced the trial to a 'farce or sham'. (citations)" (People V Ibarra,supra,60 cal.2d at p.464,34 cal.rptr.at p.866,386 p.2d at p.490.)

In addition , the standard of reasonably competant representation affords a measurable guide for evaluating the quality of trial counsel's decisionmaking. " Defense strategy and tactics which lawyers of ordinary training and skill in the criminal law would not consider competant deny a criminal defendant the effective assistance[590 p.2d 866] of counsel, if someone other actions would have better protected a defendant and was reasonably forseeable as such before trial.(citation)"(Beasley V. United Staes,supra, 492 f.2d at p.696).

Every person that is accused nof a criminal offense is entitled to constitutionally adequater legal assistance(E.g.. In Re Saunders,supra,2 cal.3d at p. 1041,88 cal.rptr.633,472 p.2d 921.) That right id denied if trial counsel makes a critical decision which would not be made by diligent, ordinary prudent lawyers in criminal cases. This is true even if the decision were not made from ignorance of the law or a fact.

Generally the , Sixth Amendment and article I, section 15 require counsel's"diligence and active participation in the full and effective preperatoin of his clients [23 cal.3d 425] case." People V Vest (1974) 43 cal. app.3d 728,736,118 cal.rptr. 84,88.) Criminal attorney's have a"duty to investigate carefully,

all defenses and facts of law that may be available th the defendant...."(In Re Williams,supra,1 cal.3d at p.175,81 cal.rptr.XX at p.789,460 p.2d at p. 989.) This obligation includes confering with the client "withoffut undue delay and as often as necessaryu.... to elicit matters of defense..." Where this attorney during the marsden hearing bragged the defendant should feel lucky that he spent almost six hours on this case, since thatwas far more than thew rest of his clients. Where of the matters brought before the marsden were that this attorney never diecussed this case with the defendeant on [any intelligable] level, nor presented the evidences to the defendeant until [after] the trial was way over with, telling the judge the defendant wanted to help make decisions about his defense, when this attorney repeatedly lied to the defendant in ordere to keep him in the dark, and to prevent him from having to do any investigative work, confer with his client and to stir the pot from which he works [as a county public defender] that has to work out of the same courts in his limited region of San Bernardino County.

Sometimes the record discloses a number of errors that individually might seem relatively un-substancial, however where the errors take place continuously their cumulative effect may be highly preejudicial and grounds for reversal. This particularly true of misconduct of counsel court or jury, see Delzell V Day (1950) 36 c2d 349,351,223 p.2d 625; Gackster V. Market street Ry.co. (1933) 130 ca316,326,20 p.2d 93; Carlston V. Shenson (1941) 47 ca.2d 61,117 p.2d408:Andrews V. Orange (1982) 130 ca.3d 944,955,959-960,182 cr 176, If the constitutional provision supra § 416 were applied litterally no error could be held reversible by itselkf and without regadd to the circumstances and thw evidence. But this has not been the practice of reviewing courts, some errors are regarded so serious that under any circumstancem, they must be deemed prejudicial, and although it may be inconsistant with the constitutional theory, there is an undeniable practice of placing certain fundamental rights beyond the reach of the"protective mantle" California Constitution Article VI §13.

This case evolved beyond the four corners of the court room and was based on the thoroughness of the investigations, and the evidences that these investigations produced, the witnasses that were interviewed, and the experts that were available to dispute the states evidence and experts, which on their face didnt prover the states case, contrary tothe fact, it was states experts that cleared the defendant in this case,

that test5ified that the defendants DNA was as few as ONE AND A HALF days older than this case, and not quite as many as a full week, while it was the prosecutors contension that this was a murder/rape case, and tha Rita Cobb was killed while in the commission of being raped, except that the experts testified that there was [no sign of rape] and that the defendants DNA][wasat least one and a half days older[] than this murder, and the state presented [no] evidence that the defendant had sex witht the (victim) on one day,then came back one and a a half to five days later to kill Rita Cobb. Then displays to the entire jury panel several timed (there are no other suspects) to this case, he even opined that he expected the defense attorney toi accuse his lead investigator of the crime, except when the prosecutor called the detective to the stand as an expert witness, it was his own expert witness that lied to the jury when he was queationed abouth the existance of a two page fingerpprint report, and this states leading expert investigator lied and said that this report doesn't exist, when in fact it does, and shows the defendants fingerprints weren't even found at this scene andJoseph Saunders were, making Mr. Saunders a prime suspect according to revolutionary investigative practices that fingerprints were found at a crime scene where a murder had taken place, proving the prosecutor ISN'T a liar as long as this report stays hidden. SO HIS INVESTIGATOR LIED TO HIDE.

Wiggins V. Smith (2003) 539 US 510, A capital case, the courts described ther sufficiency of thorough investigations by counsel "[S]trategic choices made after thorough investigations of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complte investigations are reasonabley precisely the extent that reasonable professionalss judgements support the limitations on investigations' " thus", ' counsel has a duty to make reasonable investigations or to make reasomable decisions that makes particular decisions unnecessary. In any effect, case, a particular decision not to investigate must be directl;y assessed for reasonableness in all circumstances, applying a heavy measure of deference to counsel judgements (123 s.ct.2535,156 l.ed.2d 485,Strickland V. Washington) in this case counsel failed to investigate and hence discover powerful mitigating evidence ijn mitigation of death penalty that, if presented, might have persuaded the jury to render a lesser punishment (123 s.ct.2536,156 l.ed.2d 486, ;Yarborough V. Johnson,520 f.3d 329, failed to seek funds to hire DNA expert.:

People V Ledesma(1987) 43 cal.3d 171,729 p.2d 839,233 cal.rptr.404 where the defendant was convicted of first degeee muirder, kidnapping, two counts of robbery,intensional killing of a witness and was sentenced to death, brought habeas corpus along with his appeal,, on 16 seperate grounds of ineffective assistance of counsel,where the record also reflects over 4,300 pages of evidence.

An evidentiarty hearing where Guyton N. Jinkerson, an attorney and a certified criminal law specialist with extensive experience in homicide trials was hired, and gave testimony in many respects similar to Nolan and Palladino, " In homicide cases, whether a lawyer is retained or he's court appointed, in all likelihood, he is going to be involved in enough efforts through preliminary examination, that the number of hours if he's XXXXXXXXXXX diligently representing the client for a thousand dollars,he's working at about a dollar an hour. Jinkerson stated that reasonably competant counsel would have reatained an investigator and conducted a full and independant investigation into the facts of the case, and would "not [have relied] on the documents that are suppiled byt law enforcement."Adding that there are funds for such investigations readily available through Penal Code §987.9

" The right to the effective assistance of counsel is... the right of the accused to require the prosecutions case to survivethe crucible of meaningful adversarial testing. when a true adversarial criminal trial has been conducted-even if defense counsel may have made demonstratrable error- the kind of testing envisioned by the Sixth Amendment has occured. But if the process loses it's character as a confrontation between adversaries, the constitutional guarantee is violated....[I]f counsel entirely fails to subject the prosecutions czase to meaningful adversarial testing, then there has been a denial of Sixth Amendment rights that make that the adversarial prosess itself is [sic] presumptively prejudicial." (United States V. Cronic (1984) 466 US 648,656-659[80 l.ed.2d 657,666-668,104 s.ct.1338].)JUDGEMENT WAS GRANTED,GORDIN,J. GRANTING THE PETITION FOR WRIT OF HABEAS CORPUS AND VACATING THE CONVICTION, LUCAS,J. AND PANELLI,J. CONCURRED.,:SEE EQ.People V Cunningham (2001)25 c4th 926,108 cr2d 291 (when trial counsel reasons for various acts and ommissions are not discernable on the record, IAC claims cannot be sustained on direct appeal but should be brought on HABEAS CORPUS; In Re Edwards,(2009) 173 ca4th 387,413,92 cr3d 725)(public defender with an"excessive caseload" that undermines ability to adequately represent client's should move to withdraw,

from a number of cases so adequatew representation can be provided).
It is unethical for an attorney to set a case for trial at a time that the attorney knopws he or she will not be ready for trial , Buis+Pc § 6068 (D) adequate preperations is ethically required bt Cal. Rules of Prof Cond. 3-110(A)

In RE Marquez (1992) 1 c4th 584,596 3 cr2d 727, inadequate investigations
In Re Edwards(2009) 173 ca4th 387, 407,92 cr3d 725, Failure to investigate
People V Ledesma (1987) 43 c3d 171,233 cr 404,failure to supress evidence,IAC
People V. Ledeesma,supra,Failure to object ot inadmisible evidence

* Failure to object to DDaA Thomas mistatement duting inlimine was prejudicial
* Failure to object to perjury of Det. Alexander was prejudicial
* Failure to object to perjury by Bruce Nash was prejudicial
* Failure to object to perjury by John Sullivan was prejudicial
* Failure to object to perjury by Daryll Kramer was prejudicial
* Failure for the attorney to not be present at all stagesof the trial was prejudicial
* Failure of counsel to disclose all the evidence to the defendant was prejudicial
* Failure to test the defendants DNA from this case was prejudicial
* Failure to test the DNA from a desk blotter was prejudicial
* Failure to test the watch-pin for DNA was prejudicial
* Failure to test the red hair with the roots attached that was recovered FROM on the body for DNA was prejudicial
* Failure to investigate Lori Amaro State witness was prejudicial
* Failure to investigate SunKye, states witness was prejudicial
* Failing to perfect the recusal motion was prejudicial
* Failing to perfect the motion to continue and announcing trial readiness when the investigations were incompleted was prejudicial
* Failing to subpena any of the defense witnesses was prejudicial
* When the defense attorney mistated facts during the marsden hearing his intensional attempt to evaded the courts authority for his failure was prejudicial

If not by the singular act of this attorney's failures, then by the cumulative combined acts of this attorney's acts and decisions, and failures he failed his fudiciary duty to his client , the defendant, and his actions or lack of actions amounts to the equivelance of and absolute miscarriage of justice, and therby violating the defendants constitutional guarantee to effective, maeningful and adequate representation in the trial of John Henry Yabllonsky for case number # FVI 900518, and effectiverly convicted his own client through his failures to meet his constitutional requirement

GROUND TWENTYSEVEN

Defense attorney Dave Sanders(attorney), and DDAJohn Thomas(prosecutor), and Detective Robert Alexander(officer) committed conspiracy to alter evidence in the trial of JohnHenry Yablonsky, violating Due Process laws in the IV,VI, and XIV Amendments of the United States Constitution.

FACTS

during the beginning phases of the attorney's appointment to defend the defendant, he gave the defendant a transcript from the defendants interrogation, and this transcript was [very] inaccurate as detailed by the defendant in ground two of this petition. This transcript was given to the courts as accurate and authentic, and was used by the attorney, the prosecutor, and the officer(who was prosecutions lead investigator) to further alter, destroy,erase, remove, change,hide and corruptly defraud the defendant of substancial rights that are lined out in the Penal, Statues, and State and Federal Constitutions. These three co-conspirators as a uniformed unit, decided to change the transcript recordings that were (subpenaed by the Superior court) along with the search warrant that was issued by The Honorable Judge Nakata, for the interrogation of John Henry Yablonsky about the murder of Rita Mabel Cobb.

The attorney was forwarned immediately by the defendant that this recording transcript was [very inaccurate], and this same transcript was then again altered before authentication was ever conducted ojn the first transcrpit, to prepare a [new] trial version recording for terial purposes. The first transcription still showed the detectives knew the defendant owned a dark blue pinto, and that the defendant was questioned in front of his wife Melody Wittenberg, but the first transcript was missing that the defendant offered a non-custodial destination, attempted to terminate the interrogation several times, was forced to the Signalhill Police station, and that there were other suspects to this crime, and the attempts were refused,denied, and the defendant was forced throughout the entire two and a half hour interrogation in two seperate locations. This altered transcript was then used to influence the attorney into erasing more of the interrogation, and the influence was knowingly and intelligently agreed to by all parties of this state team,attorney,prosecutor,officer. The altered version that was not verified

or authenticated by either party before it was presented onto the trial transcripts and presented before the jury in this trial. The final draft of theis evidence tampering erased impeaching evidences, and hid further violations to the defendants IV Amendment rights, whil;e hiding the truth from the jury, and was formatted to make the defendant appear guilty because questions about carnal involvement between the defendant and Rita Cobb were being decietfully answered by the defendant throughoput the interrogation.The persons stated for the record that they [agreed] to alter this evidence, and did so as if no crimes had been committed, and done so on the record. WITHOUT DEFENDANT'S APPROVAL OR AUTHORIZATION

CASE, RULE AND AUTHORITY

PENAL CODE § 132 offering forged,altered or antedated book,document or record

PENAL CODE § 134 Preparing false documentary evidence

PENAL CODE § 135 Destroying or concealing documentary evidence

PENAL CODE § XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

PENAL CODE § XXX 182(a)(1)(2)(5), if two or more persons conspire(1) to commit any crime,(2) falsely an maliciously to indict another to be charged or arrested for any crime, (5) to commit any act injurious to the public health,to public morals, or to pervert or obstruct justice, or the due administration of laws are guilty of conspiracy to commit a felony and is prosecutablre in the superior court.

EVIDENCE CODE § XXXX 1401 (a) Authentication of a writting is required before it may be introduced and received in evidence.

EVIDENCE CODE § 1401 (b) Authentication of a writting is required before secondary evidence of it's content may be received in evidence, subdivision (b) of section 1401 requires that a writting be authenticated even when it is not offered in evidence but is sought to be proved by a copy or b7y testimony as to it's content under the circumstances permitted by section 1500-1510(the best evidence rule,Forman V. Goldberg,42 cal.app.2d 308,316-317,108 p.2d 983,988(1941)under section 1501,therefore, if a person offers in evidence a copy of a writting, he must make a sufficient preliminary showing of the authenticity of both the [copy] and the [original] (i.e.,the writting sought to be proved by the copy)

EVIDENCE CODE § 1402 Authentication of altered writtings, The party pruducing a writting as genuine which has been altered, or appears to have been altered,after it's execution,in a part material to the question iXXXX

in dispute, must account for the alteration or appearance thereof. He may show that the alteration was made by another, without his concurrence, or was made with the consent of the parties affected by it, or otherwise properly or innocently made or that the alteration did not change the meaning or the language of the instrument, if he does that, he may give the writting in evidence, but not otherwise.

In this case the defendant already told the attorney that the transcipt was very inaccurate when the copy was given to him over a year before the trial was ever conducted, and as counsel for the defendant, it was his obligatioon to verify it's authenticity, and to reply to the defendant his findings since I was incarcerated, and his duty to challenge the fraudulant evidence in the defense of his client,not to try to cover up the states crime.When this attorney opined to give his approval to the prosecutor to further alter this evidence, without the defendants approval or authorization, it was not in his authority to decide for his client, as to whether to perform a crime that would injure his clients substancial rights. These recordings were never authenticated by the state or by th e defense attorney. Had the authentication been conducted. the state would have had to discard the interrogation transscripts, or reveal that the defendant was in fact interrogated out side his IV Amendment rights, was under arrest throughout the entire interrogation, revealed impeaching evidence against a states witness, and was interrogated in the control of three policing agancies (Longbeach Police) (Signal hill Police) and (San Bernardino sheriff's) a combination of overtwenty officers, and that the interrogation was partly conducted in the [locked] police station in signal hill. None of these facts were shown to the jury, even when they questioneed as to whether the defendant was questioned under miranda (which they specifically obviously had knowledge of it's need or they would not had asked"was he read his rights").Which is discussed later in this petition. These officers were all government employees, and worked for the same county, and all three had different positions within this county, and all three were knowledged on the laws of california and all three combined their interests and efforts that violated the defendants rights

SEE EXHIBIT (C)

GROUND TWENTY EIGHT

Defebdant JohnHenry Yablonsky was interrogated outside of the Mirandea requiēements of the IV Amendment of the United States Constitution

FACTS

On March 8, 2009, the defendant waas approached by two vehicles at his residence, while two officers from one of the cars walked up to the defendant while the defendant was in his driveway, and the other vehicle parked in the front of the defendants home.The two persons identified themselves as detective from the sheriff's department in San Bernardino,Alexander and Myler. They asked the defendant if he would be willing to help them and ask a few questions regarding [something] their trying to clear up. the defendant agreed and invited these detective in his house, while the officer that parked in front of the house stood gaurd of the homes front access. After these detectives entered the house they identified them selves as Homicide Detectives from the SanBernardino sheriff's department, and they were investigating a murder of a person thaty the defendant had known, and began questioning the defendant. The question were incriminating in nature and evolved in the relastionship betweent the defendant and rita Cobb, What do you know/? where were you? how did you know her ? what was her relationship with me ? and then about my sexual involvement with Rita. At the time these questions were being asked, the defendant had introduced them to his wife that was watching from the livingroom and trying toi findout what was going on. The defendant had not been mirandized in[any] sense, and felt no obligation to exposing the truth about the sexual relationship, which was conducted outside of his first marriage, and was confronted in front of his current wife and mother in=law. The defendant told the detectived that he was going outside to smoke and the detectives followed the defendant to the driveway stating that they knew the questions were becoming embarrassing and uncomfortable. When they were outside in the drivewqay, the defendant offered to continue the interrogation at the Spires Cafe around the corner when the detectives offered to go someplace more comfortable, but the detective Alexander stated that"it had to be more comfortable than that", the defendant asked "where then", detective "how about the police station"

defendabt, "more comfortable for whom", the detective, "we need to finsh this at the police station, wee'll give you a ride" defendant " no, i;ll drive myself" detective "we'll bring you right back' come on we'll drive you" defemdant "I'll have my wife drive me then" detective we'll follow, we're new here, do yopu know where the signal hill police station is"

XXXXX Up to this point the defendant attempted to terminate the interrogation and even thoughX X the detectives kept sating that I was free to leave, I was at my home, and would not stop their questions, even after the defendant told them that he'' ll gewt back to them when he thinks of anything. The defendant was followdd by several police cars marked and unmarked to the police station, and the interrogation was continued in an interrogation room that was being recorded by a video camera on the East wall over the desk. The questions were directly related to my involvement with Rita Cobb and about our sexual involvement. Since the defendant denied involvement at his home he didn't feel he could tell the truth at this point, because the detectives would infer that he was guilty of something because he had already lied once about his sexual relationship, There was stioll no mirandea warning and the defendant was told that he could leave at any time he wanted, yet whe the defendant tried to leave the doors were locked and monitored by police officers that worked in the station, and did not feel free to leave. The interrogation was over two hours long, and several arguements ensued over certain matters, and the defendant was placed under arrest for the murder of Rita Mabel Cobb.

XXXXXXXXXXXXXXXXXXXXXXXXX
CASE, RULE AND AUTHORITY

In Re Miranda V. Arizona, Supreme court held that custodial interrogations haver potential to undermine the fifth amendment priveledge against self incrimination by exposing suspect to psychological or physical coersion,384 US 436,449-50,455 (1966) the fifth anmendment provides impertinant part that "[NO]" person shall be compelled in any criminal case to be witness againsty himself"XXXXX Malloy V. Hogan,387 US 1, (1964) protections apply to communications and testimonial, Illinois V, Perkins,496 US 292,297(1990),Custodial interrogations inadmissible at trial, absent valid waiver of rights; U.S. V Jacobs, 431 f3d 99 ,105 (3rd.cir.2005)

U.S. V. Jackson, 544 f3d 351,360(1st.cir.2008);U.S. v. Ollie,442 f3d 1135,1138-40(8th.cir.2006); U.S. V. Craighead, 539 f3d 1073,1087 (9th.cir.2008) In custody despite being told he could leave beaause defendant was escorted to a storage building for interview(see also) Sprotsy V Buchler,79m f3d 635,640-43(7th.cir.1996) custody though the defendant was at home because he was gaurded by uniformed officers and questioned for several hours.

Malloy V Hogan,387 US 1 (1964) Wher the petititone r was arrested and ordered to tedtify to the accounts of a previous accounts of gambling and other criminal activity in the county, for which he refused and was held in contempt until which time he was willing to testify. Petitioner writ was denied by the superior court and affirmed bt the Connectiocut Supreme court of errors. Certiorari was granted in the federal supreme court,373 US 948.Holding the fourteenth amendment guaranteed the petitioiner the protection of the fifth amendment's priveledge against self incrimination, and that under the application federal standard, the Connecticut Supreme Court of errors that the priveledge was not properly invoked[378 US 1,4] the extent to which the fourteenth amendment prevents state invasion of rights enumerated in the first eight amendments has been considered in numerous cases in this Court since the Amendment's adoption in 1868. B& Q, R.Co. V. Chicago,166 US 226, which held that the Due Process Clauses requires tyhe states to pay just compensation for private property taken for use,,.

The court has not hesitated to re-examine past decisions according to the Fuorteenth Amendment,Palko V. Connecticut, 302 US 319, decided in XXXX 1037, suggested that the rights secured by the Fourth Amendment were not protected against state action,citing,302 US at 324, the statement of the court in 1914 in Weeks V. United States,232 US 383,398, that " the Fourhh Amendment is not directly to indic=vidual misconduct of [state] officials."In 1961, However, the [378 US 1,6] Court held that in the light of later decisions, 5 it was taken as settled that"... the Due Process Clause of the Fourteenth....."Mapp V. Ohio,367 US 643,655.

We hold today that the Fifth Amendment's exception from compulsory self-incrimination is also protected by the Fourteenth Amendment against abridgement by the states,Mapp held that the Fifth Amendment priveledge against self-incrimination implimented the Fouth Amendment in such cases, and that the two guarantees of personal security conjoined in the Fourteenth Amendment to make the exclusionary rule obligatoryy upon the states. " We find that , as to the Federal Government, the Fourth and the Fifhth,

Amendment's as running into each other, as to the States,hte freedom from unconscionable invasmons of privacy and the freedom from convictions based upon coersed confessions do enjoy an 'a intimate relation' in their perpetuating of principles of humanity and civil liberties[secured] ... only after years of struggle,Bram V United States,168US 532,XXXXX 543-544...The philosophy of each Amendment and of each freedom is Complimentary to, and although not dependeant on, that of the other on it's sphere of influence-the very least that together they assure in either sphere is that no harm is to to come to any man and a conviction be the result of that unconstitutional evidence."367 Us ,at 656Q-657.

The langauge in these two Amendments and to the spirit of their purposes and existances, that states coersions could only apply after, and only after the acknowledgement and intelligable waiver of the afore mentioned rights.If these principals did not apply, then why would the state inthis case choose to eraser these violations, and why would they perpetuate an assumption that judt because the defendant denied having sex with the (vict9im) that that makes him the most likely killer. The fact the defendant was in fact questioned within feet of his current wife about sex outside the circumfrances of the marriage vows, would explain XX exactly why this lie was told, and had the same question been asked in front of [any] married man about sex outside the marriage vows, certainly XXXX 99.9 percent of the mebn asked would have answered in the same fashion XXXX [denial],and the results would have been the same of every American Citizen [an expectation of constitutional safegaurds] from government infringement upon them rights.

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GROUND TWENTY NINE

Defendant John Henry Yablonsky (defendant) was convioted with standards that fell far below the [Reasonable Doubt] Standards that are outlined in the United States Constitution, violating V and Xiv Amendments of the United States Constitution.

FACTS

In the case of the People of the States of California versus John Henry Yablonsky, case # FVI900518, the people failed to meet their burden of proof in the conviction of the defendant. The entire case according to the Peosecutor DDA John Thomas (prosecutor), was that the defendant killed Rita Cobb during the commission of rape or attempted rape. This case was based on evidence that was collected from the victim, and on another piece of evidence that was collected from another area than the direct crime location, under a quilt and another area of the room. The state presented evidence that the DNA that was located on the inner walls of the vagina, and[nowhere]else on the body as the incriminating evidence that proves the defendant killed the (victim), while in the commission of rape or attempted rape. This DNA was testified by states expert crimonalist Jones, that stated that the DNA that was coblected fronm the body had been there for at least one ands a half full days before the murder ever took place and was quite possibly as many as five days, but definately less than a full seven day week. This same expert also testified that there was [NO] signs of rape or attempted rape. The state prosecutor did not object to the states expert testimony, nor did he challenge the experts comclusion. During cross-examination the defense inquired as to how the DNA could have been inside the body for so long and the expert stated that the [Hardiness] of the sperm cells would allow the existance of these evidences and would be gauged by the defendants sperm count. On XXx re-direct the expert began telling the prosecutor about the [reason] for his conclusion to this testimony, and that the basis for his findings was that the tails were missing from every sperm unit, but the prosecutor ended his experts testimony before the states expert could fully explain thefactual conclusion of his findings. The state presented an interrogation recording that had been altered and changed in a manner that would make the defendant appear to be,

worried or unreliable, and certainly nervous during the interrogation. The states recording was conducted in violation of the defendant IV AMendment rights, where there was no miranda warning, even after the defendant attempted to terminate the interrogation or offered non-custodial destination to finish this interrogation. The basis fir the playing of this recording the was done in audio and audio/visual, that was transcribed by the states lead detective and investigator Detective Robert Alexander (investigator) was to show the jury that the defendant had denied having [any]sexual relations with the (victim) throughout their relationship.In full the states evidence was that the defendant lied to the detectives outside his miranda rights about the sexual encounter with Rita Cobb, and had proof that he hadhad sex with her a day and a half before she was killed. The state did not present any evidence that the defendant killed the (victim) nor did they present any evidence that the defendant was ever in the house, any witnesses that seen the defendant enter the house, or witnesses that the defendant bragged, confessed, or any other means other than he hadhad sex with Rita Cobb as late as the Monday befroe she was killed, and as early as thursday before she was killed. The states position and evidence in the record shows that Rita Cobb Was killed on the Friday or Saturday after this sexual encounter had taken place. The state presented a [watchpin] as proof of a struggle, and withheld proof that a [red hair with the root bulb] attached was recovered from the victims torso, but was part of the evidence that the state gave the defense attorney, which would XXX be the result of a struggle. Both of these evidences carried DNA, and the results of that DNA analasis would have proven to belong to someone else other than the defendant. The state presented witnesses that seen the (victim) as late as Friday nite at 2230 hours, as she left a late nite drinking party, one stated the truth as they had stated in 1985, that she said she was going to a bar after the party. The state presented two other witnesses that admitted they were [coached] and both stated differently than they did in 1985, one that lied to the jury and said the (victim) said she was going home after the party, and rejected his offer of giving her a ride. The other stated that he witnessed the other guy giving her a ride home while the other guys girlfriend followed in their pinto.The state presented no other evidence that the defendant committed any crimes to Rita Cobb. The states County District Attorney

did mail reminders to the entire county'd pool of jurors, and promised a closure to ther victims family in the trial of JOHN HENRY YABLONSKY, that was being held later that year (as if he were offering free hotdogs at the 4th of july party next month) and the result was the same, everyone either admitted they were prejudiced or they lied saying they weren't just to sit in on this trial.The state witheld evidence that was crucial to the defense,

* DNA profile of evidence from Gregory Randolph, that was recovered from this crime scene, and his full arrest report and investigation
* The DNA profile that they collected from the watch-pin that was collected from this crime scene that did [not] belong to the defendant
* The DNA profile that was collected from the murder weapon, that proves that the defendant never touched the weapon and someone else did
* The DNA that was collected from the other hairs that were recovered from the body, that shows the defendant was not the last person that was with the (victim).
* The full investigations of Robert Mark Edwards that was arrested for one of the five murders that was concured by FBI profilers and criminalist that state they were committed by the same person.
* The full disclosure to the mureder case of Helen Brooks, and how the state knows that the defendant didn't commit that crime.

CASE , RULE AND AUTHORITY

The Clause of Due Process that are inter-twined in the United States Constitutions Amendments,that [no] person shall suffer through improper convictions, unless and until all standards of "beyond reasonable doubt" are met. People V Patterson (1989)209 cal.app.3d 610,614; Clark V. Arizona,548 US 735,766 (2006)(restating the presumptions of innocense until the government proves beyond reasonable doubt each andevery element of the offense); it is in the Winship courts that reasonable doubt standarde had birthed on the states need to meet every statndard of the conviction for them through prosecution to meet constitutional standards; Winship,397 US 538,364(1970) X 5th Amendment United States Constitution.

PENAL CODE § 1096, A defendant in a criminal action is presumed to be innocent until the contrary, and in case of a reasonable doubt whether his/her guilt is satisfactorily shown, he/she is entitled to an acquittal, but the effect of this presumptionis only to place upon the state the burden of proof of provingf him/her guilty beyond reasonable doubt. Reasonable doubt is defined as follows:" it is not

a mere possible doubt; because everything relating to human affairs is open to some possible or imaginary doubt. It is that state of the case, which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction of the truth of the charge."
EVIDENC CODE § 520 , The party claiming that a person is guilty of crime or wrongdoing has the burden of proof on that issue.
EVIDENCE CODE § 607, When a presumption affecting the burden of proof operateds in a criminal action to establish presumptively any fact that is essential to the defendant's guilt, the presumption operates only if the facts that giver rise to the presumption have been found or otherwise established beyond reasonable doubt and, in such case, the defendant need only raise a reasonable doubt as to the existance of the presumed fact.

Where Nw here the state presented that a struggle that was so severe to have to have knocked a pair of glasses off of the night stand next to the bed, and also the watchpin that was found on the bed sheet next to the (victims) body, and presented this as if it were the property of the defendant, but witheld the fact that the DNA report that was generated from that [watchpin] was witheld, or there was no other evidences that show that the defendant was at the crime scene when the murder was being committed, and the fact that the DNA that was collected from that watchpin doesn't belong to the dedendant, The state then presented a murder weapon that was used to kill the (victim), but witheld the DNA report that was generated from the forensice report of the DNA that was collected from the weapon, and the results of that report would have shown that the DNA that was collected from the waapon didn't belong to the defendant either. The state then presented a photograph of tire prints that were collected from the (victims) front drive way that was dirt, and a witness that testified that she seen a [silver pinto] at the crime scene, but destroyed evidence that the state knew that the defendantXXXXXX owned a [dark- blue] pinto, and the recording that was altered, destroyed would have impeached this states witness, or at the very least undermine her testimony, that if she seen a [silver pinto] whgen the crime being committed that tha person who commited this crime drove that silver pinto, and since the defendant didn't own a [silver pinto]] he's not the one who killed RitaCobb. With all of this combined with the states expert,

there was [no] proof that the defendant raped the victim and that the DNA that was located from this case was at least one and a half to five days older than this murder presents enough reasonable doubt to make this convictiob=n fall within the scope of the "(BEYOND REASON__ XXXX ABLE DOUBT STATNDARDS)" Winship,397 US 538 (1970);

The state then presented the recored interrogation the defendant repeatedly denied having sex with Rita Cobb, as fact that sin ce the defendant lied about sex then he must be guilty of the murder as well, as stated in the Supreme Court, more than a hundred years ago, even an innocent man may lie under such circumstances; Hickory V United Staes (1896)160 US 408,412 (" an innocent man, when placed by circumstances in a condition of suspicion and danger [may] resort to deception in hopes of avoiding the force of such proofs"). This was the only evidence the state presented the defendant was gullty, that he lied to the detectives during the illegal interrogation about sexual relations with the (victim) while he was questioned in front of his current wife, twenty five after the crime hd allegedly taken place. United States V Johnson (2d cir. 1995) 513 f.2d 819.824 (" falsehoods told by the defendant in the hopes of extricating himself from suspicious circumstances are insufficient proof on which to conduct, where other evidence is weak and the evidence before the court is as hospitable to an interpretation consistant with the defendants innocense as it is to the governments theory of guilt"),

And since the pathologist concluded the defendants Sexual result was as much as 1½ days before the (victim) was killed (RT 471:4-11;(2)490:25-491:16) Thus concluding that the DNA was not the factor in the murder of RIta Cobb, and the DNA was in fact the product of a previous encounter betweenthe defendant and Rita Cobb, and that someone had killed her as few as 1½ days after their sexual encounter and as many as 5 days after theri encounter (RT (2) 490:25-491:1).

CAL.CRIM. LAW XXX 4TH EDITION § 624 Doctrine of reasonable doubt

The presumption of innocense, and the burden of proving the defendant guilty beyond reasonable doubt are fundamental to anglo-american system of law. They are stated in P.C. § 1096as follows,a nd stated previously inthis ground obove,People V Nguyen (1995)40 ca4th 28,36 46 cr2d640, (prosecutors arguement that reasonable doubt standard is used in daily life to decide questions such as whether to change lanes or to marry was impropern but not prejudicial)

While in this case the prosecutor in the states openind statement said to the jury, " the state burden of proof id that the state must prove the case beyond a reasonable doubt, but that that standard is far reached and that the jury shouldn't expect him to meet that burden, and instead allow him to at least prseent a lesser burden in the state case':"

People V. Carpenter (1979) 15 c4th 312,372,63 cr2d 1,935m XXX p.2d 708,[prosecution was clean shaven and defendant began growing beard after the crime,requiring the defendant to shave before the presentation of evidence did not violate the presumption].

In sum the stae presented evidence that the defendant had had sex witht XX Rita Cobb up to 5 days before she was killed, and that there was evidence of a struggle when she was killed, a weapon was used, and the assailant drove a silver pinto that was seen at her home on Friday nite or Saturday.

There was no evidence that the defendant committed any crimes to Rita Cobb, Or that the last sexual encounter between John Yablonsky and Rita Cobb was conducted in her home. The state did peesent evidence the victim was found in a sexual position, (on her back) but the photographs show that the body had layen on her side when she was killed by the blood settlement in the photographs with the settlement on the (victims) right side, and the only way for this settlement to be there was that the body had layen that way right after she was killed and had stayed in that position for some time, up to an hour after the heart had stopped pumping the blood, and did not dispute himself that the body had in fact been killed and left on the side.

This entire states case was based on the altered transcripts that were played to the jury that had gotten memo reminders from the county district attorney that there was a trial coming up, and that he promised the family closure in the trial of John Henry Yablonsky that was going to happen in just a few months, since his mailing started in April of 2010 and lasted up to the end of May 2010, while the trial was scheduled to start on June 15, 2010. While that trial was cancelled, and rescheduled to begin in January Of 2011,and the prosecutor decided to lie to the court, get his investiogator to lie to the court, then tto gat three more witnesses to lie to the court to hide the fact that thestate knew the defendant was innocent of these charges.

SEE EXHIBIT (X)

GROUND THIRTY

Trial court committed prejudicial error by failing to allow the defendant to invoke his Sixth Amendment right to repeesent himself, violating the VI and XIV Amendments of the United States Constitution.

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FACTS

After the trial was conducted for case # FVI900518, The defendant wrote several motions, that disputed the states prosecution of the trial, which included the County District Attorney, DDA John Thomas, and the Defense Counsel Dave Sanders. These motions were served upon the entire list od government officials,, including the appellate courts, and the Judicial Review board and the State Bar association on numerous prejudicial errers that were suffered to the defendant throughout this entire case, including jury tampering, perjury, evidence tampering, prosecutorial miosconduct, judicial misconduct and Ineffective Assistance of Counsel. Next the defendant wrote a formal marsden motion and served all appropriate parties, court, district attorney and the attorney general. Since the defendant felt that it was of no consequence that the trial attorney that was assigned out of the public defenders whom the defendant did not need, require, nor care their assistance, the defendant did not serve them this motion of marsden, and felt that the dispute should be argued in front of the courts in a formal marsden hearing. The result of that hearing was that5 the state wouild hire a conflict panelist that would write a motion for new trial. After several attempts to locate an impartial attorney, Hal Smith was hired to write this motion. The Courts insisted that this motion only relate the facts that evolve around the Effectiveness of trial counsel public defender Dave Sanders, and nothing further, that the court would not entertaine [anything else]. After over one year of research and investigations, and review of the records, Smith wrote a motion based on Ineffective Assistance of Counsel, through several issues that amount to ineffectiveness, and incompetance. The deiscussion between defendant and the attorney Hal Smith agreed that the court was far too prejudice to even consider this motion that, Had documentary proof, and merit that would support the granting of this motion for (IAC). The defendant researched the options that were available to him through the Constitution

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and the application of the California Rules of Court, as well as the . California Constitution. When this motion hearing was conducted, the court opined to have read and considered the motion on the merits, and considered the oral arguements the attorney's brought foward. The court ruled against the motion, denying the request and insisted that the defendant be sentenced. The defendant ahead of time wrote a motion for writ af Mandate, and when the court denioed the motion for new trial based on ineffective assistance of counsel, the defe ndant invoked his Sixth Amendment right, through the UNited States Constitution, to represent himself for the purpose of submitting the writ of mandate to the higher court of appeals, on the grounds of judicial mis-application of law (wrongfully denying the motion) that was prepared by a competent attorney that the courts had approved, and had reviewed the entire casede and all the evidence before the court on the record. The court abused it's discretion and denied the defendant the right to represent himself, and subsequently sentenced him for a murder that he was innocent of to L.W.O.P.

CASE, RULE AND AUTHORITY

People V Hamilton(1988) 45 c3d 351,369,247 cr 31, However a trial court must grabt a post verdict request for self-representation as a matter of right when the request is made in a reasonable time before sentrencing, such a request is[not]subject to the courts discretion because [not] made during trial. People V Miller (2007) 153 ca4th 1015,1023,62 cr3d 900. :US V. Geisen, 612 f3d 471 (6th cir. 2010); Brown V. Ruane,650 f3d 62 (1st.cir.2011). As in Geisen the defendant claims an insufficiency of evidence to support the states conviction, and in the evidence that was brought foward in Smith's motion for new trial, supports the staes abuse of discretion in the exclusion of [exculpatory evidence] that was rejected by the trial counsels incompetance, (RED-HAIR WITH THE ENTIURE ROOT BULB ATTACHED) and the (DNA AND ARREST OF GREGORY RANDOLPH) and through the prosecutors office, as well as the court's blind eye to the County District Attorney's Campaign stunt that violated substancial rights in the defendant's Constitution, as the District Attorney Michael A. Ramos Mailed flyer declaring his [opinion] that the defendant was guilty to the [entire] county residences and buisnesses.

This abuse of authority was apparrent when the court denied the defendants motion, which suppoots the defendant decision to pre-prepare the writ of mandate, so that an impartial judge could review the merits of the defendsants motion for new trial, and rule accordingly.

"[T]he Constitution guarantees criminal defendants," 'a meaningful oppertunity to present a complete defense.'" Crane V Kentucky,476 US 683,690,106 s.ct.2142,90 l.ed.2d 636(internakl quotation marks ommitteed and citation ommitted). although this guarantee includes the right tǿ "present relevant evidence", that evidence is subject to"reasonable reestrictions" and must " bow to accommodate other legitimate interests in the criminal trial process."

Waiver of Counsel and Pro-se representation, in Faretta V, California, the supreme court held that an accused has the Sixth Amendment right to conduct his/her own defense in criminal cases, 422 US 806,821(1975);see e.g. US V jones,452 f3d 223,228 (3d cir.2006)(right to connsel cannot force counsel on unwilling defemndant); US V. Virgil,444 f3d 447,453 (5th cir.20060(same);Jones V. Jamrog,414 f3d 585, 592 (6th cir. 2005) (same).

There is no federal constitutional right to self representation on direct appeal from a criminal convictionn,Martinez,528 US at 163. Moreover some litigants have options afforded them through state appellate rules that allow them to make pro-se filings as indigent litigants. See id.at164. CAL.CRIM.LAW PROC.AND PRACT.§ 42.X 4

Courts of appeal have jurisdiction over mandate and prohibition petitions in felony cases after arraignment on the information,Cal. Const.art VI, §23; PENAL CODE §XXXX & §859c, Cal. Const.art §§ 10-11 CAL.CRIM.LAW PROC.AND PRACT. §42.5, A writ issues when an inferior court or agency acted without or in excess of it's jurisdiction(prohibition) or has failed to act as prescribed by law (mandate) CCP1084,1985 , some cases suggest that a writ is not available to compell a court or agency to perform a "discretionary" act, see e.q.Pepole V. Superior coutt(maldonado)(2006)173 ca4th 353,360,40 cr3d 365.see eq. Rhyne V. Municipal court (1980) 113 ca3d 807,819,170 cr 312 (mandate may issue to compell performance of "duty not to abuse discretion."

X Here this attorney Smith, proof read every page of the record, and every page of the evidence that was prosecutiobns submittal as (all exculpatory) evidences available, and it was in the records that Smith located the trial attorney's failure to investigate, and that the attorney also failed the investigations byu thoroughly ,

not reviewing all the evidences that were given to the trial attorney which contaINED DNA from several locations that were not the defendants, and that the trial attorney failed to test these evidences to prove other suspects. Smith also presented before the courts the fact that the trial attorney had not conducted [reasonable]inteârviews with the states prime witnesses and that the trial attorney did in fact declared trial readiness without thoroughly investigating the [all] reasonable and ordinary investigations, then submitted numerous documentary evidences to support his claims, and supported the defendants claim (that trial attorney did not provide effective representation) to the defendant before the trial and failed to, prepare for this trial as an ordinary and competant attorney would have done. when it was the courts restraint for this motion to be limited to [only] IAC, and the court approved the attorney that was hired for the motion, yet refused tio accept this attorney's declarartion that Dave Sanders did in fact provide Ineffectiv Assistanc of Counsel, and that his representation fell below regular and ordinary criminal trial attorney's duties, the court revealed it's prejudicial posititon by denying this motion, and further denied the defendants substancial rights by denying the defendant his right to address the higher court in pro-se to seek mandate review. People V, hamilton(1988) 45b ca3d 351,369,247 cr 31, however, a trial court must grant a post verdict request for self fepresentation as a matter of right when the request is made in a reasonable time before sentencing; such a request is not subject toc the courts discretion because it was not made "during trial" People V Miller(2007) 153 ca4th 1015,1023, 62 ca3d 900.

It is therefore that the trial court abused it's discretion in the debial of FERETTA, FOR THE DEFENDANT T SEEK APPELLATE REVIEW.

GROUND THIRTY ONE

Trial court committed prejudicial error when the court denied the defense counsel to confront the states witness, and challenge the perjured testimonies by two of the states witnesses, violating VI and XIV Amendments of the United States Constitution.

FACTS

During trial states prosecutor presented two witnesses that testified as to their last recollection of the (victim) Rita Cobb as she left the late nite Sullivan drinking party, Bruce Nash and John Sullivan.

During cross-examination with Bruce Nash, the defense attorney asked,

(Defense attorney Dave Sanders)
Q. And when you offered her a ride home, she said she didn't want a ride home;is that correct ?

(Bruce Nash, states witness)
A. That's correct
Q. Did she indicate to you that she was going to go somewhere else other than home ? ? (W)
(DDA Thomas) Objection calls for hearsay
(The witness) She said ---- (the court stopped this witnesses statement)
(Sanders) May we approach, your honor ? XXX (S)
(court) sure (C)
(S) It does call for hearsay your honor, however, it's relevant, and I would ask the XXXXX it be allowed to come in because---
(C) Why is it relevant ?
(S) Because the answer is she said to him,"I'm going to a bar".
(C) Keep your voice down.
(S) I'm going to a bar.
(C) Just because she said she was going to a bar does that mean she's going to a bar ? We don't know. (RT 586:8-28,RT 586:1)
(S) But it is relevant.It's some evidence. Doesn't have to be 100%
(C) keep your voice down talking quietly. I don't see it as relevamt,I don't see it as an exception to the hearsay rule, Do you ?
(S) well as I said in chambers, when you have a case that's 25 years old, you need to cut some slack to the rulks of evidence.
(C) not if you don't have an indicia of reliability. You don't let XXXX XX evidence in that's unreliable. You can't talk while i'm talking There's no evidence that it's reliable, first of all.It's Hearsay. Hearsay is objectionable unless there's some other indicia of reliability,you don't know that shwe went to the bar.
(S) I don't, but I don't think you have to have corroberation to get in hearsay.
(C) The rule is you don't get it in, hearsay.
(S) yes
(C) so look for an exception, lookm for something that is strong indicia of rekiability. I don't see it. I don't see it as relevant.
(S) Okay.Thank you
~~(C) You don't have any XXXXX other basis for determining that she went to a bar. In fact, the evidence would be that she was [illegible]~~

(C) You don't have any other basis for determining that she went to
X a bar.In fact, the evidence would be that she was not seen in[a]
X bar that night, and that there were people that would testify that-
- that what she said was not what happened
(S) There were a couple of pepple that said they thought they remembered
her in[the]bar.(RT 586:2-28,RT 587:1-4)

The record does not reflect [any] witnesses that presented [any] evidence, statements or otherwise that the (victim) was seen headed home, going home or otherwise. There were no witnesses that testified she did not go to a bar, as the judge had stated and there was no evidence that there was [EVER] any such witnesses that could state she [didn't] say she was headed to the bar. contrarily, the only other person's that were directly there when the (victim) and the girlfriend of Bruce Nash, Cynthia and The records will reflect that Cynthia did not testify. For the judge to take the positiuon of the state, and dispute the admission of evidence, and certainly there was not in existance that there was [any] proof that the (victim) either didn't tell the witness Bruce Nash she was headed to a bar, or that she had not gone to a bar that nite. The relevance of this witnesses statement would be that on two seperate occaisions he made exact and [like] comment to the detectives twenty-five years apart from each other, and the fact that the states expert investigator conducted the second interview that reflects that this witness stated that the (victim) said she was headed to the bar after she left the drinking party. (exhibits H, H2)(exhibitX M) (exhibit E)

CASE RULE AND AUTHORITY

Ca.EV.Code § 1201 Multiple hearsay, a statement within the scope of an exception to the hearsay rule is not inadmissible on the ground that thee evidence of such statement is hearsay evidence if such evidence hearsay consists of one or more statements each of which meets the requirements of an exception to the hearsay rule. The fact that this witness stated [twice] to two seperate detectives from the same Sheriff's department and twenty-five years apart from one another would indicat the reliability on that standard that the judge relied on, that the statement had indicia of reliability, since both statements were made under non-influencial standards and this was in fact the [only] witness that testified as to the last known destination as she had directly told him in persom and was not the third party to that conversation, but was directly the first party that Rita Cobb

had spoken with as she refuse his offer of a ride home, and the state accepted the fact that she had refused his offer of a ride, but refuses that she told Bruce Nash personally that she didn't want the ride home because she was gping to go to a bar instaad. How can the court accept the first half of one conversation, and not the second half of that very same conversation, and expect the defense to dispute a seperate basis of indicia of reliability, when the court on the first hand accepts the first half as indicia of reliability and not the second half of the exact same conversation. There were no [breaks] between the two halves, and the conversation was [always] considered as the (ONLY ONE).

Cal.Rules of Prof. Cond. RULE 5-220 Suppression of evidence, a member shall not supress any evidence that the defendant, the member or the member's client has tXXX a legal obligation to reveal or to produce.

Confrontation Clause, the Sixth Amendment's confrontationn clause provides in pertinant that "[I]n all criminal prosecutions, the accused shall enjoy the right...to be confronted with the witnesses against him." United States Constitution Amendment VI, this right extends to state prosecution through the Due Process of the Fourteenth Amendment. See Pointer V. Tex.,380 US 400,403 (1965), the right to cross examine adverse witnesses , and the right to be present at any stage of the trial that would enable the defendant to effectively cross-examine adverse witnesses. US V. Comito,177 f3d 1166,1173 (9th.cir.1999) Confrontation clause violated by admissions of hearsay testimony in parole revocations proceedings. By guaranteeing these rights rights, the confrontationn clause serves to "ensure the reliability of the evidence against the defendant by subjecting it to rigorous testing" in an adversarial proceeding, Craig, 497 US at 845; see also Ky V. Stincer,482 US 730,737(1987)(confrontation right designed to promote truth-finding function of trial); see e.g. US V. Watson,76 f3d 4,9(1st.cir.1996)(confr5ontation clause right protected by giving the defendant "full oppertunity and fair oppertunity to [probe[ ]".)

When this judge stated that there was evidence that the (victim) did not go to [A BAR], the basis of the question was not whether she XXX went, and was only as to what she told Bruce Nash on the 23rd of Spptember, around 10 p.m. when he told her he'd like to give her a ride home,that he and cynthia felt she was too intoxicated and ,

felt it wasn't safe for her to drive home safely, so he and Cynthia offers to drive her home. The had not been one piece of evidence nor testimony by [anybody] that indicated this conversation [never] existed nor that the (victim) said anything different than what the defense was attempting to [probe] for truth, about what the (victim) last known words were to [Bruce Nash] on or about September 23rd 1985 as she was leaving the Sullivan drinking party at 10 or 10:30 p.m.

The state would rather rely on the sole statement by a [bartender[] foom one of the two or three bars in that town, that she didn't see her come [in] the bar. This bartender didn't say whether she herself wasn't a bit intoxicated, stood by the door everysecond of the nite, or that the bar was empty and fully lit with lights to reveal every patrom that entered the establishment, or that everyone in the bar said they hadn't seen her either. She didn't say that Rita never entered the parkinglot and was in an altercation, or that she met up with someone and decide going to the liquor store instead was a better idea. She certainly didn't say that Rita didn't go to the bar right across the street called the Y-Cafe either. It would have been around eleven P.M. on a Friday nite that Rita had shown up, and the Bars regular practice was to conduct buisness of serving alcohol while the bar was [usually] full of people on Friday nites, and it was accustomed that the lights were dimmed to create a casual atmosphere, but provided lighting over the pool tables, and directly over the bar area.

How did this judge know what was going to be said by the rest of the witnesses ?Or that he [knew] that there was not going to be anyy testimony that contradicts the statement by Bruce Nash ?

XXXX XXXXXXX Holley V. Yarborough,568 f3d 1001,1098(9th.cir.2009)(limits on cross-examination of alleged victim inreasonable.)

In fact this judge ruled out the confession of Gregory Randolph as hearsay stating that there was no proof that his statement that he "picked the (victim) Rita Cobb up at the Zodiac bar on September 23rd 1985 and took her home and killed heer. The fact that his DNA was recovered fromn this crime scene was probative on the content that he was in fact at this crime scene, and certainly that his confession was identiocal to the witness statement that the defendants counsel was attempting to illicit from the state witness. There was no indication that these two people had ever discussed the Last Known destination of Rita Cobb, only that two seperate people recall the exact same content as the other [That Rita Cobb was going to the bar after the party]

Certainly when the defense counsel stated that there were other people that would state they seen the (victim) at the bar, that this judges authority had influenced the attorney,indicating that he didn't care who he presented as a witness, that he would not allow anyone to testify that Rita Cobb was in facts seen at the Zodiac bar on the last nite she was XX seen alive, in an attempt to hide the confession of a county deputy coroner that had confessed to this crime, and had been provided a code name"William Backoff" when in truth his true name was Gregory Randolph, and he had committed suicide after the crime was committed and before the DNA profiles had been worked up to prove that he had in fact been at this crime scene, and that his home was searched after his suicide which produced [Dozens []of photographs of murdered women.

The record would reflect that this judge knew about the evidences that would show that Yablonsky had not committed this crime but insisted on playing the role of placing the prosecutors hat on after he took the judges hat off, then switch the hat to rule on the prosecutors arguement he himself had just conducted.

As the record will reflect the state also prevented the testimony the Victim said she was headed to the bar after she left the Sullivans drinking while the witness John Sullivan told the jury that he witnessed Brüce Nash and his girkfriend give Rita Cobb a ride home as she left the party, when this witnessses statement in 1985 was that she left after he had already fallen asleep, and thatn he was told that Bruce and Cynthia had offered a ride but that she refused the ride and instead said she was headed to the bar in town. The XXXX judge allowed this statemnent as XXXX Indicia of reliability, even as the prosecutor kept disputing this witnesses statement, akking his to read the police report that was prepared when he spoke to Detective Alexander in 2009, but read it to yourself!!!Knowing that there had already been twentyfive years that had passed between the statements by Sullivan, and still this witness argued that he witnessed the (victim) getting a ride home by Bruce Nash, and was followed by Cynthia in their Pinto.

The judge allowed this illicitation of perjuy but would not allow the defendant to question for truth !Certainly statements made 3 days after the crime was committed would be more likely accurate, than to accept statements made over 9,000 days after the crime was committed.

(see exhibit E) (exhibit H-H2) (exhibit I-I2)(exhibit K2)(exhibit M)

110K655(5) Remarks and conduct as to arguement and conduct of course
C.A. 9 (CAL) 2008
U.S. V. Sumeru,449 Fed.Appx. 617,(Trial courts excessive biased intervention in criminal trial prejudiced defendant's warranting New Trial, where court persistantly interupted defendant's presentation of their evidence sua-sponte, it allowed government to admit evidence without the same scrutiny degrees and intervention, influencing the termination of defendant's cross-examination of the states prosecution witnesses without valid reason .
U.S. V. Chico,343 Fed.Appx. 197: Tritchler V. County of Lake,358 f3d 1150,1155 (9th.cir.2004).
Ca.Evidence Code § 1235 Confrontation, California V. Green (1970)399 US 149; People V. Chaven,26 c3d 334, State confrontation clause does not forbid use of witness' prior out of court statement where witness is subject to cross examinatio at trial. Correa V. Superior Court(2002) 27 c4th 444,463,117 cr2d 27,40 p3d 739, Testimonial statements, Crawford V. Washington (2004)541 US 360
Here the fact that the court accepted the first half of certain testimonies by states witnesses as credible and not subject to the hearsy standards that this court must either explain how the second half is inadmissible without crouding and therefore voiding the first half the states witness HAD just testified to,and either void the entire testimony of that witness or allow the invisible barrier that seperates the two halves to be subject to collateral attack, either during the trial itself or in the Habeas court. Where here in this petition the arguement is that the court was prejudicial in disallowing the defendants attorney to probe for the truth or credibility, where here the court itself supported the witnesses credibility by allowing the first half of the testimonies that supported the states intent, while disallowing the probing needed to verify the witness was discredible, or allowing the defendants attorney to present documentary evidence to refresh the perjuring witnesses statements, or to impeach their entiere testimonies. The interuptions were prejudicial and therefore interfered with the defendants right to thoroughly cross-examine the states witnesses. This is supported by the states Ca. Evid. Code § 1202 Credibility of hearsay declarant,... This case law and uniform rule permitting a hearsay declarant to be impeached by inconsistant statements in all cases,whether or not the declarant has been given an opportunity to explain or deny the inconsistancies.

ADD ON ↑ 1

GROUND THIRTY TWO

While the defendant was awaiting trial, the county jail had terminated the dedendants official visit rights, where the defendant was not allowed confidential visitation or communications with his attorney before the trial and while the pre-trial investigations were being conducted, violating the VI Amendment of the United States Constitution.

FACTS

BEFORE THE TRIAL , the defendant was housed in the San Bernardino county jail (West Valley Detention) as a pre-trial detainee. The defendant had substancial interests in the civil courts against the County Jail And Sheriff's Department, and the County District Attorney. and was still preparing for the criminal case in the state court. The Facility commander had interfered with the defnedants visitation right to discuss hid case with his criminal attorney. and terminated [all] official visits to the defendant by his attorney or any other attorney.

This inteferance interrupted the defendants right to confer with his attorney in any meaningful manner, throughout the entire pre-trial phase of the criminal case. The defendant told his attorney, and the attorney said that the facility commander had told him thayt John Yablonsky"s official visits were indeterminately terminated. This termination was the reprecussions of a law suit that was filed by John Yablonsky,

*Against W.V.D.F. for cruel and unusual treatment (forcing the inmates to share an electric shaver without any access to any disinfectants)

*Against the County District Attorney (for using the defendants case in his re-election campaign)

and the only way to conduct this case was through process servers, notary services, aned official investigators. It was when the county district attorney was served his compl;aint copy and the Facility commander was served his complaint copy that the visitation rights were wrongfully terminated,and the result was that [all] official visits were terminated.

CASE, RULE AND AUTHORITY

PENAL CODE §2601 (b) RETENTION RIGHTS OF INMATES. To correspond, confid- entially, with any member of the state bar or holder of public office, provided that the prison authorities may open to inspect incoming mail to search for contraband

CASE, RULE AND AUTHORITY

PENAL CODE §2601(b)
In Re Poe (1966) 65 cal.2d 25,32 fn 5[cal.rptr.896];People V torres (XXXX1990) 218 cal.app.3d 700 [267 cal.rptr.213] 15 ccr§ 3178X (that an inmate has the right to have confidential correspondences with his attorney, this is to include official visits with his attorney in a confidentiXal environment

39 Geo.L.J. Ann.Rev. Crim.Proc.(2010)
Government intrusion into attorney client relationship. Once a defendent right to counsel has attached, government intrusion to the attorney-client relationship violates the Sixth Amendment if the defendant can show a realistic possibility thab he/she was prejudiced by that intrusion. When this termination became apparrant to the defendant, the defendant told the attorney, who in turn told the courts and still this cancellation stayed in effect and did not allow [any] confidential environment to discuss this case on any [meaningful] with the defendant. The defendant was forced to discuss his case in the open court=room, or in the holding cells at the court house in the front of [every=one] defiling the purpose of confidentiality in every possible way. This termination took in effect two years before the trial ever began, and was throughout the entiere pretrial investigations, wheree the defendant was afforded [no] realistic oppertunity to help his attorney nor to discuss any facet of the case, thia would include the defenses need to prepare the defendant XXX for the trial, for testifying or any other aspect of the case. The Attorne7y was refued all access to the defendant before the trial, in order tio squelch the defendants interests inlitigating with the Sheriff's for forcing the electric shavers without [any] dis-infectants. As a direct result of this termination, there was no discussion of the case and there was no communication between the defendant and the attorney throughout the entire case, pre-trial or anything else for that matter. This interuption was deliberate and intensional on the authority of the State prosecutor who was notified of this in the courtroom by the defebndant several time before the trial was ever conducted, and during the most crucial point in the investigations.

CONCLUSION

In the matter of the petitioner John Henry Yablonsky, and this petition for Writ of Habeas Corpus, that the afore mentioned thirty-two (32) grounds and the evidence that supports each claim, Petitioner prays this court to grant an "ORDER TO SHOW CAUSE", and order an evidentiary hearing that will bring forth the petitioner to orally dispute the state postion as to the severity of injury that each claim has.

The petition is truthful abd accurate to the petitioners knowledge, and this Writ of Habeas Corpus ~~was~~ WAS NOT written with malice or deceitful intent.

In the matter of the Thirty-two grounds before this court., the petitioner asks this court to consider the evidence that was submitted to support this claim, and allow the petitioner to proceed in propria-persona on this matter. In the arguements before this court, the discovery to support the petitioners claims and the points and authorities, petitioner humbly comes before this court, and prays this court to ~~grant~~ GRANT this petition on the merits before them, and any other relief the court finds appropriate.

RESPECTFULLY SUBMITTED;

John Henry Yablonsky Pro-Se