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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA

9 John Henry Yablonsky,
10 Petitioner,

11 vs.

12 Scott Fraeunheim(warden),
13 Respondant,

EDCV 14-01877-PA(DTB))

SUPERIOR COURT FVI 900518

MOTION TO REQUEST DISCOVERY

PURSUANT TO Cal. Penal Code §1054.9

DDA John Thomas (Prosecutor)

Deputy Public Defender David Sanders

Filed; February 4, 2014

14 Upon the prosecution of a post conviction writ of
15 habeas corpus which a sentence of L.W.O.P. has been imposed, and
16 on a showing that good faith efforts to obtain materials from trial
17 counsel were unsuccessful, the courts shall, excepts as provided
18 in subsection (c), order that the defendant be provided reasonable
19 access to [any] of the materials described in subsection (b).

20 This section, "discovery materials" means material in
21 the possession of the prosecution and law enforcement authorities.

22 The following items of discovery included in the motion
23 are as follows.

24 A) The transcript played to the jury on January 27, 2011 in
25 dept. V-2 that lasted for one hour and fifty five minutes. The 113
26 page version of the interrogation of petitioner Yablonsky and Det.
27 Alexander and Myler on March 8, 2009, and the audio version which
28 was played to the jury over court speakers. States Exhibit 49 and
49A.

Discovery 1

1
2 B) The fingerprint report collected from crime scene case
3 no.1331036-07 result date August 9,1988. The report was requested
4 by petitioner in case no.FVI900518, which was not produced, and
5 the results were withheld and determined by DDA Thomas as hearsay.

6 C) The DNA report collected from the item A15 Case no.H#100-
7 85,DR # 1331036-07 [Watch band keeper]. This item was presented
8 as article left by assailant of murder, and presented as property
9 of petitioner Yablonsky. The states witness testified that DNA
10 could be collected from this item,Criminalist Donald Jones.

11 D) The DNA report collected from item A1 and A5 case no.H#100-
12 85,DR# 1331036-07 [reddish hair with entire root bulb in taot].

13 This itemn was questioned by petitioner in trial case
14 no. FVI900518 of state witness and the answer was withheld and
15 [evaded]. The states witness criminalist Jones testified that this
16 type of item would have DNA located on it.

17 RELEVANCE

18 A) The transcript recording played to the jury had been altered
19 without petitioners knowlege,consent,or authorization. Answers
20 had been altered throughout this transcript, from one answer to
21 another on numerous pages and locations altering the text and
22 meaning of the recording on the following pages ,52 of the 113
23 page vdesion,20,21,29,45,46,51,70,71,91,97,107,110,119 and 120.

24 Detective Alexander swore this transcript to be accurate,
25 and the courts were prompted to instruct the jury for originality
26 of original media.Neither of these facts are true or accurate.
27 In their alteration and transcription, answers were altered from
28 one answer to another, visually on video transcript and

1 dubbed in from another zsection of the recording to appear unaltered
2 to match the videe transcript by audio. i.e [Manufacturing evidence]

3 The relevance of this alteration supports petitioners
4 claimt that this transcript was altered by the state officials
5 and used to prosecute. This item was presented to the jury for
6 their consideration, and used to influence the jury determination
7 of the facts.

8 B) The petitioner had counsel ask detective Alexander (The
9 states lead investigator) about the existance and content
10 of this police report that was collected from this crime scene
11 and was [developed] ,[readable],and [part of the states evidence].

12 This evidence was refuded by state officers, and results
13 witheld from petitioner during trial, while the jury determined
14 facts this [item] could have produced excuppatng factors.

15 The detective swore he did not know if this item was
16 developed.Did not know who's prinys could be found.Did not know
17 who all the names were,if it had been developed.Being this item
18 only had two prints and was located on a murder scene, and one
19 of the prints resulted matching the victim, leading any facts
20 to be determined, that the other belonged to the person who committed
21 this crime. The state presented this false testimony without correction
22 or truth.

23 C) The state preesented a piece of evidence as the property
24 of the perpetrator of the crime, and was located on the immediate
25 victims crime location. The prosecutor told the jury this item
26 was proof of the struggle, and belonged to petitioner, withould
27 ing the DNA report that was generated by this item.States expert
28 analysis testified that DNA could be collected from this item,
but that he was not the one who did this examination.

1
2 The result of this data would determine that this item
3 had DNA, and that this DNA profile would not belong to petitioner.

4 The result of this item that was withheld from the fact
5 finders of that trial would have been influenced, and determined
6 that petitioner was not the suspect to this crime.

7 D) States expert testified about the collections of evidence
8 from the victims torso, by the use of tape-liftings from the victim.

9 The petitioners request for the result of this collections
10 was ignored, and avoided by criminalist Stockwell (detective). By
11 withholding this collection result, withheld from the fact finders
12 that a red hair had been collected from a murder scene of a salt
13 and pepper victim, and blonde defendants. The fact finding persons
14 could without DNA results determine this item did not belong to
15 victim, or the defendant either. States expert testified this kind
16 of item would have [DNA] properties. The fact that the prosecutor
17 made the jury listen to a time frame lapse to indicate the length
18 of the struggle in that crime, which netted a [Red-hair] with
19 its entire root structure intact would have determined that it

20 i. Did not belong to the victim

21 ii.-Did not belong to the defendant on trial

22 "Although current Rule 6(b) contains no requirement that
23 the parties provide reasons for the requested discovery, the revised
24 rule does so.....The Committee believes that the revised rule makes
25 explicit what has been implicit in current practice". Lynott v.
26 Story, 929 F.2d 228, 232-33 (6th Cir. 1991) (to justify discovery, petitioner
27 must make specific allegations, not present here, that petitioner
28 may be entitled to relief if the facts are fully developed through
discovery or other procedures) Bracy v. Gramley, 520 U.S. at 904.

1 The state penal code does make these requirements before
2 such a request, as outlined in Penal Code Section §1054.9.

3
4 Petitioner has requested these materials from the state
5 habeas in Superior Court ,Appellate Court, and State Supreme Court,
6 a;ll denied or ignored.Petitioner by way of the state bar association
7 had moved the trial attorney, who [partially] copmplied, but still
8 withheld these informations that were,material, relevant, and credible
9 regarding to petitioners claims.

10 Petitioner has moved this court unsuccessfully under Rule
11 6 of the Federal Rules of Civil Procedure. Petitioner now begs
12 this courts assistance in redeeminfg these materials that were
13 collected, used, and predsented to state fact finders regarding
14 their decisions pertaining historical facts.

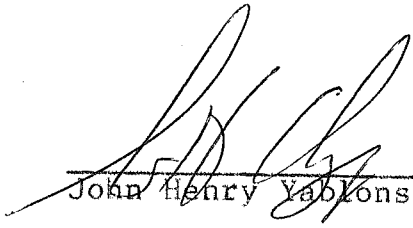
15 These evidences do support the many arguements petitioner
16 has befor the courts regarding this illegal conviction.

17 PRAYER

- 18 1) That this distract court order the complianœ of the release
19 of the requested data to support the petitioners claim.
20 2) In lieu of the states egregious withholding, order the state
21 to to present these items to petitioner regarding case no.FVI900518

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23
24 Date _____

4/13/15
~~4/15/13~~

25 
John Henry Yablonsky

