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SUPERIOR COURT
303 W THIRD ST
S.B.CA. 92415

DISTRICT ATTORNEY
303 W THIRD ST
S.B.CA.92415

This service contained the following documents;

PETITION FOR WRIT OF CORAM NOBIS WITH EXHIBITS ATTACHED
FOR CASE #fvi900518

This service was conducted by an adult over the age of 18 years of age and mailed from a state institution, which will be logged by facility mailroom parties as [LEGAL] mail. This mailing was conducted from ;

SANDIEGO — CITY
92179 — ZIP CODE

This service was conducted on (DATE) 9-7-18

UNDER THE PENALTY OF PERJURY
THE FORGOING IS TRUTHFUL AND ACCORDING TO BELIEF

(NAME) JOHN HENRY YABLONSKY (SIGNED)

My address is 480 ALTA RD, SANDIEGO,CA,92179

John Henry Yablonsky AL0373
18-129
480 Alta rd.
Sandiego,ca,92179

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANBERNARDINO

IN RE JOHN HENRY YABLONSKY;
ON HABEAS CORPUS NO. _____

TO: DDA THOMAS COUNTY DISTRICT ATTORNEY MICHAEL RAMOS

FACTUAL INNOCENCE

BOOK ONE OF FOUR

JOHN HENRY YABLONSKY
IN PRIPRIA PERSONA

FACTUAL INNOCENCE
SECOND AND SUCCESSIVE

MC-275

Name: jOHN hENRY yABLONKKY
Address: 480 alta rd.
sandiego,ca,92179
CDC or ID Number: AL0373

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANBERNARDINO

(Court)

JOHN HENRY YABLONSKY
Petitioner

vs.

DANIEL PARAMO
Respondent

PETITION FOR WRIT OF HABEAS CORPUS

No. _____

(To be supplied by the Clerk of the Court)

INSTRUCTIONS—READ CAREFULLY

- **If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.**
- **If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.**

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the superior court, you only need to file the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal in paper form and you are an attorney, file the original and 4 copies of the petition and, if separately bound, 1 set of any supporting documents (unless the court orders otherwise by local rule or in a specific case). If you are filing this petition in the Court of Appeal electronically and you are an attorney, follow the requirements of the local rules of court for electronically filed documents. If you are filing this petition in the Court of Appeal and you are *not* represented by an attorney, file the original and one set of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies of the petition and, if separately bound, an original and 2 copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court (as amended effective January 1, 2007). Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

Form Approved for Optional Use
Judicial Council of California
MC-275 [Rev. January 1, 2017]

Penal Code, § 1473 at seq.;
Cal. Rules of Court, rule 8.380
www.courts.ca.gov

This petition concerns:

- [X] A conviction
- [X] A sentence
- [ ] Jail or prison conditions
- [ ] Other *(specify)*:
- [ ] Parole
- [ ] Credits
- [ ] Prison discipline

1. Your name: John Henry Yablonsky
2. Where are you incarcerated? R.J.Donovan (CDCR)
3. Why are you in custody? [X] Criminal conviction [ ] Civil commitment

Answer items a through i to the best of your ability.

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").
Murder 1st degree while committed premeditated

b. Penal or other code sections: P.C. §§ 187, 190

c. Name and location of sentencing or committing court: Suepior Court victorville branch

d. Case number: FVI900518

e. Date convicted or committed: February 3, 2012

f. Date sentenced: March 2012

g. Length of sentence: Life witrhout parole

h. When do you expect to be released? granting of petitioner once state admits truth

i. Were you represented by counsel in the trial court? [XX] Yes [ ] No *If yes, state the attorney's name and address:*
Public defenders offic David Sanders
14455 civic dr.
victorville ca, 92392

4. What was the LAST plea you entered? *(Check one)*:

[XXX] Not guilty [ ] Guilty [ ] Nolo contendere [ ] Other:

5. If you pleaded not guilty, what kind of trial did you have?

[ ] Jury [ ] Judge without a jury [ ] Submitted on transcript [ ] Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "The trial court imposed an illegal enhancement." *(If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page 4. For additional grounds, make copies of page 4 and number the additional grounds in order.)*

see attached papers

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts on which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel, you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is, *who* did exactly *what* to violate your rights at what time *(when)* or place *(where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)*

b. Supporting cases, rules, or other authority *(optional)*:

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

7. **Ground 2 or Ground** _____ *(if applicable):*

see attached papers

a. Supporting facts:

b. Supporting cases, rules, or other authority:

8. Did you appeal from the conviction, sentence, or commitment? [X] Yes [ ] No If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Division of Superior Court"):
Court of appeal 4th district div two

b. Result: denied c. Date of decision: 12/3/13

d. Case number or citation of opinion, if known: E055850

e. Issues raised: (1) see page 51 (twelve issues)

(2)

(3)

f. Were you represented by counsel on appeal? [X] Yes [ ] No If yes, state the attorney's name and address, if known:
Richard Levi
Torrance ca.

9. Did you seek review in the California Supreme Court? [XX] Yes [ ] No If yes, give the following information:

a. Result: denied b. Date of decision: 3/17/14

c. Case number or citation of opinion, if known: S215572

d. Issues raised: (1) see page 51-52

(2)

(3)

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:
We discussed issues that he could not address on direct appeal, which is why I entered the court under habeas, when briefing occured on all parts thirteen more grounds developed, the superiro Court would not allow expansion under habeas, they were not expanded in appeal either

11. Administrative review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500.) Explain what administrative review you sought or explain why you did not seek such review:

b. Did you seek the highest level of administrative review available? [ ] Yes [ ] No

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? XX ☐ Yes If yes, continue with number 13. ☐ No If no, skip to number 15.

13 a. (1) Name of court: Superior Court

(2) Nature of proceeding (for example, "habeas corpus petition"): habeas corpus

(3) Issues raised: (a) see page 52

(b)

(4) Result (attach order or explain why unavailable): denied (see exhibit 57)

(5) Date of decision: July 13, 2013

b. (1) Name of court: Ciourt of appeal

(2) Nature of proceeding: habeas

(3) Issues raised: (a) see page 52-

(b)

(4) Result *(attach order or explain why unavailable)*: denied 1/14/14

(5) Date of decision: 1/14/14

c. *For additional prior petitions, applications, or motions, provide the same information on a separate page.*

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:
there was no hearing other than informal breifing

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)
petitioner has sice being convicted filed over fifteen cases within the courts demanding discovery which was finally released 7/23/14 after release developed facts through barrage of litigation to include civil

16. Are you presently represented by counsel? ☐ Yes ☒ No If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? XX ☐ Yes ☐ No If yes, explain:
§ 1983 US district Court (confinement issues

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:
This is the first address to state court under factual innocence

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 9/7/18

(SIGNATURE OF PETITIONER)

John Henry Yablonsky AL0373
480 Alta rd.
Sandiego,ca,92179

FACTUAL INNOCENCE
SECOND AND SUCCESSIVE
HABEAS CORPUS/CORAM NOBIS HYBRID;

CLERK FOR THE COURT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANBERNARDINO

John Henry Yablonsky,
Petitioner,

vs.

Daniel Paramo(warded),
Respondent,

§ CASE NO.#_____

§ FOR TRIAL COURT#fvi900518

§ **PETITION FOR WRIT OF HABEAS CORPUS/**
§ **CORAM NOBIS HYBRID FACTUAL INNOCENCE**
§ **PURSUANT TO P.C.§ 1473** 1475

§ The honorable judge of the Court

HYBRID WRIT OF HABEAS/CORAM FACTUAL INNOCENCE

John Henry Yablonsky
In propiria persona

IS INNOCENCE RELEVANT ?

There are two historically unassailable answers to the question Judge Henry Friendly used as the key point regarding habeas corpus; "Is Innocence Irrelevant ?" The first answersis "yes" innocdnce is indeed irrelevant. As JusticePowell stated- albeit in arguing the history should be contravened inthis instabne-"history reveals no exact tie of the writ of habeas corpus to a constitutionallyclaim relating to innocence or guilt"

Justice Powell might have left out the word "exact" for the history of the Courts efforts over the years to preserve a boundary issue around an already broad remedy is a history of holdings that, what ever else it is, habeas corpus is not a means of curing fact[ually] erroneous convictions. In Justice Holmes words, "what we have to deal with was not the petitioners innocence or guilt but soley the question whether their constitutional rights have been preserved"[sic]

The Supreme Court accordingly has not hesitated to grant habeas,corpus relief when there was little question that the constitutionally wronged petitioner was guilty, or to deny such relief when there was reason to believe the petitioner was innocent but when no constitutional error was found inthe process by which convictions came to pass.

It is in fact arguable that the habeas corpus petitioner apparent guilt should [heighten], not cut off of diminish the scrutiny of the procedures by which he was convicted and sentenced. As used in this country, habeas corpus has been an important meand by which the availability of federal Court review of the constitutionality of state-imposed incarcerations checks "the prevalency of a local spirit" and the dangers to federal law and right inherent in "granting jurisdiction" of national causes

Nothing of course is more likely to arouse a "local spirit" against an individual than his apparent commission of the crime that seriously jeapordizes or destroys the health, well-being, and safety of the community and its citizens. Notwithstanding the justifiable of that reaction, our system of government requires that even as unpopular an individual as this be protected by an "inflexible execution of the national laws" that safegaurd his-ours- liberties.

The second historically correct answer to Judge Friendly question is that "no" innocence is of course not "irrelevant". The fear that an innocent persons liberty or ,worst, his life may be forfieted because unfair proceeedings has long been recognized as one, among others, circumstances that makes issuance of the [writ] most felicitous. Indeed, it would not be surprising to learn someone could learn, that the subset of habesas caseswsin which relief actually is granted included more than it proportionate share in cases inwhich innocent have been coinvicted.

Nor can this second answer be passed off entirely as reflecting a lawless willingness to find constitutional violations in cases involving the apparent innocent, when no violations would be found were the petitioners more obvious [guilt].

The Courts properly ought to take the fact that inncoent person may have been convicted (or that a blameworthy person has been convicted of an offense other than the one for which he is to blame) as one, among others, have indicators that an unconstitutional breakdown inthe process had occured. Accodingly as a matter of [fact, and law], the petitioners possible innocence is clearly "relevant" and counsel for petitioner with a colorable claim of innocence or in whose case the state may have violated a right tiedsto the accurate ascetrtainment of guilt is obliged to make that fact plain to the habeas court.

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EXHIBITS INDEX

EXHIBIT NUMBER	DESCRIPTION
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2	FORMAL LETTER DEMANDING DISCOVERY JUNE 2009
3	LOG OF MAILING 300 PAGES WITH LETTER STATING "THATS
4	MARSDEN ADMISSION WITHOLDING RECIRDS
5	FORMAL DEMAND FOR DISCOVERY SUPERIOR COURT 7/12
6	FORMAL DEMAND APPELLATE COURT 5/14 7/14
7	INTERROGATORY TO TRIAL ATTORNEY CERTIFIED MAILING
8	FORMAL DEMAND DISCOVERY P.C.1054.9
9	STATE BAR ORDER FOR DISCOVERY 6/13/14
10	CDCR LOG OF DELIVERY 1600 PAGES FROM SANDERS
11	RECORD OF FULL DISCLOSURE BY HAL SMITH 1/29/16 (OVER 5000 PAGES)
13	BRUCE NASH TESTIMONY AND STATEMENTS
14	JOHN SULLIVAN STATEMENTS
12	JOSEPH SAUNDERS
15	DAWN DISMORE/RONALD COBBS
16	GREGORY RANDOLPH
17	DNA MATCHING RANDOLPH TO CRIME SCENE /CIGARETTE BUTTS
18	VICAP MATCHING PROFILE
19	FBI PROFILE
20	CYNTHIA HOOPER
21	DORIS JACKSON
22	SHERYLL BRODUS
23	RON CAMPBELL
24	RENE SMITH
25	FRED HALBROOK
26	EVIDENCE FROMTHE CRIME SCENE
27	MERYLL GIBBS
28	DIANNE FLAGG /SILVER PINTO VS BLUE PINTO
29	FINGERPRINT REPORT
30	WARRANT FOR ARREST/SEARCH
31	UNCHARGED ALLEGATIONS TEXAS/LONGBEACH
32	MEDIA COVERAGE
33	CAMPAIGN SMEAR BY COUNTY DISTRICT ATTORNEY
34	COURT GRANTING OF PRO-PER STATUSE

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35.....SUIT AGAINST RAMOS BY YABLONSKY
36.....P.C.1424 RECUSAL DEFENSE
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39.....MOTION TO VACATE OFFICIAL VISIT TERMINATION
40.....VERIFY THAT TWO DIFFERENT TRANSCRIPTS CREATED 11/23/10
41.....DDA THOMAS REALTER TRANSCRIPTS FOR 1/26/11
43.....PLACE EXHIBIT 49/49A ONTO STATE RECOIRD FVI900518
42.....COPY OF ALTERRED ANSWERS INTO EXHIBIT 49A
44.....PLEA TO TESTIFY WITH TRIAL COUNSEL
45.....RECORD OF CLOSING ARGUMENTS STARTING
46.....RECORD THAT JURORS WERE DEADLOCKED "BOGUS ALLEN"
47.....MOTION TO TERMINATE TRIAL COUNSEL
48.....MOTION TO NEW TRIAL PROSECUTORIAL MISCONDUCT
49.....TRIAL COUNSEL INCOMPETANT MOTION WRONG NAME
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52.....APPELLATE COURT DIRECT APPEAL RULING
53.....HABEAS CORPUS SUPERIOR INFORMAL ORDER
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55.....MOTION TO STRIKE STAY AND EXPAND 13 MORE GROUNDS
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57.....DENY HABEAS CORPUS AT SUPERIOR COURT LEVEL
58.....STATE SUPREME COURT FILING
59.....DDA CLOSING ARGUMENTS
60.....JONES TESTIMONY ABOUT WHAT WAS EXAMINED
61.....NEW LAWS PASSED SENATE BILL 1909 P.C.141
61.....NEW LAWS PASSED SENATE BILL 1134 P.C. 1473
62.....Copy of appealet Court regarding misconduct
63.....Copy o fhte 113 page transctript
64.....Copy of the 136 page transcript.
65.....Maliable copy of the states exhibit 49(compact disc)
(This is filed seperatley with special motion)
(If the Court refuses this filing it is available upoin request by the Court)
66 - SANDERS ADMISSION IN ANOTHER COURT
67 - TRIAL CASE SUMMARY

SECOND AND SUCCESSIVE
FACTUAL INNOCENCE

CLERK FOR THE COURT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANBERNARDINO

John Henry Yablonsky, Petitioner,	§	No.#______________
vs.	§	PETITION FOR WRIT HABEAS CORPUS/ ERROR CORAM NOBIS HYBRID FACTUAL INNOCENCE PURSUANT TO P.C.§ 1473,1475
People for the State of California, Respondent/s,	§	THE HONORABLE PRESIDING JUDGE

TO; District Attorney for the County of Sanbernardino Michael Ramos and DDA John Thomas

//////////////////////
NOTICE IS HEREBY GIVEN
//////////////////////

That petitioner John Henry Yablonsky (Petitioner) will move the above mentioned Court under Petition for writ of HABeas/ Coram Nobis regarding case #FVI900518 that originated within your district, and under your jurisdiction or under your authority.

PETITION FOR WRIT OF ERROR CORAM NOBIS

The traditional grounds for common law petition for writ of error Coram Nobis are that (1)some facts existed that, without and fault or negligence by the defendant, was not pres ented to the Court at or before the trial and if presented would have prevented the rendition of the judgment;

(2) this newly discovered facts must not go to the merits of the issue tried; and (3) these facts must be one that could not in the exercise of due diligence have been discovered earlier. People v Shipman(1965) 62 C2d 226; See also People v Vasilyan (2009) 174 CA4th 443; People v Cortez(1970) 13 CA3d 317

PETITION FOR HABEAS CORPUS

p.c.§1473(A)(b)(1)(2) Every person unlawfully imprisoned or restrained of his liberty, under[any] pretense whatever, may prosecute a writ of habes corpus to inquire into the cause of such imprisonment. A writ may be prosecuted for, but not limited to (1) False evidence that is substancially material to guilt, including falkse physical evidnece

Petitioner John Henry Yablonsky (petitioner) now petitions this Court for Coram Nobis/HABEAS to [VACATE] the judgment rendered against him by this Court on February 3, 2011 in the Superior Court of california for the county of Sanbernardino, in the branch of Victorville, in department V2 before the honorable judge John Tomberlin on or about February 2012.

Petitioner and named defendants in the above captioned case is alleged that petitioner was arraigned on or about March 11, 2009 pursuant to an information alleging that petitioner violated P.C.§ 187 of the states Penal Laws. Alleging that petitioner did unlawfully murder Mrs Rita Mabel Cobb on or about September 21, 1985. (some twenty five years earlier). This Court pronounced judgment of that conviction and sentenced petitioner to Life Without Parole, then delivered petitioner into the custody of The Department of Corrections & Rehabilitations for the state of California to complete the sentence rendered by this Court.

Petitioner is currently detained by CDCR at R.J. Donovahn locate at 480 Alta rd,. Sandiego, ca,92179 under this judgment. Petitioner sought discovery throughout this period of the sentence between 2009 and 2016 when the records were fin[ally] released in their entierty.

It was not until the complete release of these files that petitioner was able to verify the errors that occured within the conviction he suffers, and had made serveral efforts to seek redress for those errors with little or no results that provided relief. THROUGH THE ALL WRITS ACT CORAM NOBIS AND HABEAS CORPUS

PETITIONER SOUGHT TO DEVELOP FACTS

Upon arrest for this information filed by the DDA prosecutor for California, he made intellkigible, knowing requests to see the entire file supporting the information filed by the state of california. This was recorded by trial counsil Geoffery Canty on March 21, 2009. (see exhibit 1) At this meeting with counsil petitioner asked to see the states entire file regarding the charge he was faced with. Mr.Canty met petitioner at the Courty jail and agreed to release these files, stating that they would contain information about the charge petitioner faced that included;

a) Information regarding a confession by a man to We-Tip
b) That there was a man who committed suidide after he killed his wife in the same manner that Mrs Cobb had been killed
c) Transcripts of the interrogation that occured on March 8, 2009
d) Police investigation reports that had been generated between 1985 and the current date of 2009
e) The DNA forensics reports where petitioners DNA had been matched to the crime scene.
f) Witness statements about Mrs Cobbs whereabouts the nigfht she had been killed
g) Other statements that were collected over the years.
h) Geoffery Canty admitted that the file was volumnous

On or about May 2009 Mr Canty had been replaced as trial counsil with David Sanders and petitioner made direct and formal requests for these files and asked several relevant and related questions of trial counsil Sanders. Asking him for the entire state file, police reports, statements, investigated persons, including

a confession by We-Tip organizations. Petitioner further asked related questioins to counsils work product and investigation results to include;

a) How are the investigations doing ?
b) Was the DNA tainted ?
c) who gathered the evidences and ;
   i) were they properly trained
  ii)certified handlers
 iii)means of transportation
  iv) time the evidneces were in route
d)Possible conviction catagory ?
e)Weakness in the case ?
f) Which judge was assigned to the case ?
g)Sentence alternatives ?
h) What specialists were avaikable for the defense ?
i) Can we disprove the states case ?
j) Convioction catagory ?
k) Can I get access to the entire file
l)Do you have all the discovery ?
M) Does the DDA have trial experience ?
n) can a court order be obtained to transport these records

This formal request wass mailed to Mr. Sanders at his office in Victorville on or about June 2009 before he sent one piece of papers that was aksed for. (see exhibit 2). Mr Sanders then mailed a packet of files that contained 300 pages, and then logged this on June 26, 2009. In the papers he sent there was a letter stating " That this is the states entire file as you asked for, and the only thing I witheld was DNA labratory reports. I witheld them because they would only confuse you. If you have any questions please feel free to contact me at my office. (see exhibit 3). In this packet with 300 pages there was several police reports from various persons, including one transcript of the interrogation that occured on March 8, 2009 at petitioners address. Once petitioner

noticed that the interrogations transcript was innaccurate, he called the trial counsil at his office at (760) 241-xxxx from the county jail phone. This call was recorded by sheriffs under arrest # 090334 1008 by Global Tel phone company on or about June 30, 2009. The purpose of the call was to inform Mr Sanders that the trandscripts were very innaccurate and contained answers that were not given by petitioner. Mr. Sanders stated that this would have opnly been a transcript that [interpreted] the interrogation, but that if the case went to trial that originals would be used.

Upon the first day of trial petitioner discovered that the trial counsel had been deceitful about the states case and amount of evidneces that existed, when he seen a table filled with two and three inch files at the defense table of the Courtroom. Trial counsil also pulled a cart that was also filled with the states files,and when asked Mr. Sanders stated "These are the states files". Petitioner asked why they had not been released and Mr. Sanders answer was vague, unintelligable, stating that he'll get them to me later. During a Marsden hearing, Mr Sanders was confronted about the 300 pages he had released and admitted onthe record that he releadse 300 pages of the states files, which had contained opver 4000 pageds. Sanders also admitted that petitioner had to bego for the files after the trial had ended. (see exhibit 4). Mr Sanders was evasive about his andwers during marsden, but revealed that he had witheld records froma client whow as made to beg for them. (emphasis added)

After the trial returned a verdict of guilt, Mr.Sanders then released another 1300 pages that were different than the first 300 pages, but still witheld states records from a client that

asked for them in person, filed formal demands for them, and still was made to beg for them, and still not getting the entire states file. Petitioner was then made to file formal motions tothe state Court under habeas corpus case #WHCSS1200311 asking for the trial transcripts so that he could intelligably defend his writ of habeaas corpus. (see exhibit 5) The Court and trial counsil ignored the motion , which had also been ignored by DDA Ferguson who was assigned to dispute petitioners habbas corpus.

Petitioner then filed formal demands to the 4thnAppellate Court asking for the states records to defend his arguments. This motion was denied boith times that it was filed. Once on May 19,2014 and again on July 7. 2014. (see exhibit 6) Petitioner also filed a formal demand for answers from the trial counsel asking dozens of questions about the states files and trial counsil decisions pretrial, during trial, and post trial. This formal request was certified mailed to a) State Bar b) David sanders c) U.S. attorney general on January 21, 2014. (see exhibit 7)

Again on July 19, 2014 petitionr also made another formal demand for the states files and asked for them under P.C. § 1054.9 andssent this demand along with an inquiry number assigned by the State Bar # 14-17946.(see exhibit 8) The state bar then sent a notice to trial counsil David sanders stating theat he had 10 days to release the file. This was logged by the bar as #14-17946 and sent on June 3, 2014. Mr.Sanders, knowing that he released 1600 pages of the states files. (300 on June 2009) 1300 on or about January 2011) Mr.Sanders then released another 1600 pages to the file, while still witholding over 1800 pages tothe file that by now had been discovered to have over 5000 pages.

This mailing was logged by CDCR as being delivered on July 22, 2014. (see exhibit 9) After noticing thast these records were still incomplete petitioner contacted post trial counsil Richard Levy and Hal Smith, demanding these records be released in thier entiredty under section 1054.9. Mr Levy the appelate counsil release the entire file he had, since the appeal had been demmed in 2013, releasing a compact disc of the interrogation to family members. Mr. Hal Smith then released the entire file after aseries of letters begging, releasaed the entire file he was given which anmounted to over 5000 pages as well as a compact disc of the interrogation recording that had been copied. (see exhibit 11) Releasing the file on January 29, 2016 .(four years after the trial and three years after the duirect appeal had been exhausted.

There was over 500 letters, motions, demands for these records that were [filled] with material abd irelevant evidneces that would have drastically altered the course of the trial, qand would have convinced the jurros to acquit, who without them were [hopelessly deadlocked] at one point. Furthermore these final releases of the entire file had included evidneces that trial counsel failed at virtually every oppertunity when diligence, knowledge and professionalim were demanded. In fact when these recoprds were finally released, petition was made aware that counsel acts were less than nnegligent and were in fact incompetant to the point they assisted the prosecutor with altering evidneces, and other injurious acts that include a) filing papers in the wrong name b) not following rules of Court c) mistating facts about the case tothe Court d) Failure to investigate [ANYTHING] in this case to [ANY] certain degree that would lead one to believe they were attorney's

STATEMENT OF THE FACTS

In the months prior to Mr Yablonsky moving to the high desert to start a construction company with his father, he had been discharged from the U.S. Army under [honorable manetion]. He had married his highschool sweetheart and they had a son named John Henry Jr.. When they moved tothe desert area they stayed with the father George Yablonsky in the family home for a couple months until he could make other arrangements. About May 1985 Mr.Yablonsky had located a rental just outside town with Mrs Rita Cobb , where she had a back house for rent. After making arrangmeents to rent, petitioenr and his wife Holly with their son moved in.

There was an intercom system in these homes that were opperable by the main house which Mrs Cobb (COBB) had lived, and this fact was unknown by petitioner or his wife. (That Mrs Cobb could turn on her speaker to the back house microphone without the assistance of the back house) It was during these moments that Cobb would listen intothe discussions and arguments between the lovers about [fidelity] of Holly when she visited her grandparent, and temporary seperations would occur as a result of these arguments.

Cobb began to get FRIENDLIER than usual when petitioner paid rents, which led to flirtation between both parties. This began about the months of July or August 1985. During this period petitioner had begun to have more arguments than usual while Holly would retreat to her grandparents during these fights. It was during one of these fights that petitioner had become sexually involved with Cobb after he had dropped his wife off in Downey California to be with her(lover).

Petitioenr located another home just up the street from the highway 18 residence he rented from Cobb, located on Fairlane, which was about a mile from the Cobb residence. After moving away fromthe Cobb residence petitioner continued the sexual relationship with Cobb. During this time petitioner and his father worked alot of jobs outside of the ~~twon~~ town of Lucerne Valley which took them as far away as a hundred miles one way, or lasted for days on end that petitioner and his father would stay in these towns to reduce commute times that added up to two or three hours a day. During these spells Holly would stay at the home on Fairlane with their son and wait for petitioner to return home from these work trips.

During the month of September 1985 Holly had been about 9 months pregnant and was carrying another child that was due on or about September 30, 1985 accoirding to the Apple Valley doctors. Yet it was at this period of time that petitio er and his father had a job located in another town that required them to stay the week days there and return home for the week ends. Because of the lengthy stays out of town Holly and petitioner agreed to take Holly to her grandparents in Downey so that she could be close to medical attention if she went into early labor, or had difficulties while petitioner was out of town. This period was on or about September 12, 1985 when petitioner took Holly to Downey for that week while petitioner was out of town. Petitioner was to retuirn to Downey that coming week end on September 20, 1985 after he had completed that out of town job.

The job ended earlier than expected and petitioner got off work in the middle of the week, and made arrangements to pick his wife up and stay that weekend with in-laws in Downey.

Petitioner got off work on or about September 17, 1985 or September 18, 1985 and drove home to the Fairlane house to clean up and get a change of clothes for that coming week end. After changing and stopping to get gas and snacks for the 1½ to 2 hour drive to Downey at 2 or 3 p.m , petitioner ran into Cobb at the Lucerne Valley Market off of highway 18 and Barstow rd. It was at the market that Cobb confronted petitioner about his destination, and his schedule for that day. Petitioner told her that he was headed to Downey to get his wife and son before it got too late.

Cobb asked petitioenr if he would stop by her house to help her with something. Petitioner knew Cobb was mischivious and was up to something and tried to explain that he was busy. Cobb urged petitioner to please help her fix a drain in her bathroom and that she was having a party that night with some friends. Petitioner agreed to stop by but promised nothing. Upon arrival at the Cobb residence, petitioner noticed that there was another vehicle there besides the Cobb Caddilac. When he approached the door, noticed that it was open and entered without knowcking, nor looking for Cobb or anyone since he did not see them when he entered the house.

Cobb's house runs lengthways East and West while the front door face Northerly. The home was a square shaped house, with a grage on the far right when you entered and had to pass through a kitchemn when you went to the garage , which had a house door and garage door. You also has to pass through a dining area that had two or three seats that sat against a front view of the house sliding glass door or larger window. At this area there wass also a office area where Cobb kept a desk and desk seat that was against a pony wall that seperated the dining area and

the bedrroom entrances. To the front of your entry into the house was a liwingroom that had a fire place and sliding glsass door that led into the back of the home. Next tothe bedroom doors there was another short walk to the bathroom door, which was a full bathroom.

When petitioner got there he did not see anyone inthe front rooms and went straight tothe bathroom locatred next tothe bedrooms and kitchen entrance. When he inspected all the sink and toilet drains noticed that therew was nothing wrong with the plumbing and retuirned tothe livingroom area where he felt he might locate Cobb. When he got into that area, he seen Cobb and another woman engaged into passionate kisdsing while one of the women were pulling the shirt from the otrher. Petitioner did not KNOW this other woman,nor could he remember her name or was not told.

Both these women who were involved in sexual acts waved petitionr into the group. Petitioner without hesitatioin agreed and engaged into this sexual congress with the two women that started at the livingroom couch, and moved throughout the front of the house. Dining room and even into the kitchen. The acts were voluntary and consentual by all parties that were adults. Thesew acts included activity between the dining table seats and desk top and and chair. These sexual acts lasted for a breif time before Cobb and the other woman stated that her husband was on his way and that they wanted petitioner to meet him. Without discussion petitioner stated that he would not be interested in meeting this [other] man while he was sexually involved with his wife,and decided to dress and leave.

This behavior was on or about September 17, 1985 or Septewmber 18, 1985 around three or four inthe afternoon . When petitioner left, both women were still involved in the sexual activity and very much alive. (RT317)(RT490) This was confirmned

by the DNA located inside the cavity of Mrs Cobb when she was located on September 23, 1985 where her son found her located in her bedroom non responsive. Petitioner was not charged for any crime until almost twenty five years later. Because of that last time he was sexually involved with Mrs Cobb the mid week prior to her death. (On or about September 18, 1985)(RT317 Criminalist Donald Jones) (RT490 Dr.Saukel the pathologist).

Mrs Cobb was located murdered on September 23, 1985 by her son. Because this case originated almost twenty five years before this case had been filed against petitioner the Courts were made to use statements by surviving witnesses that were few, and police reports throughout the years since the time of the initial investigations. On September 20, 1985 after Mrs Cobb had gotten off of work she was visited by an unexpected visitor, whom she had known but never disclosed where she lived, "for what ever reasons". That on September 20, 1985 Mr Joseph Saunder , after learning what type of car to look for, drove the valley seeking mrs Cobbs residence. (CT78)(exhibit 12) He told police on September 23, 1985 that affer he located her vehicle that he parked his vehicle on the highway and walkd up to her house "uninvited". (The highway at this location in relations tothe distance fromthe highway tothe front porch of Mrs Cobb house was determined to be over 100 yards and up hill to the home)

Mr Saunders then told officers that he spoke to Mrs Cobb who met him at her front porch, and that she offered him some water. He offered that Mrs Cobb had told him that it was nice to live near friends and that she identified a vehicle driving by as her neighbor named PINKIE. (Francesca Drake/Sullivan)

Saunders stated that while he was there she had two phone conversations, one lasted a minute, while the second was from her friend pinkie, and that conversation lasted five minutes.(CT78) Saunders then gave another interview on September 24, 1985 giving similar statements, but then offered after he creed violently, that Mrs Cobbb had offered him to attend a party at the mini springs ranch with John Sullivan, and Francesca Drake(pinkie) He agreed to meet her there. He further elaborated that he did arrive at the party but ~~that~~ Mrs Cobb was acting somewhat [nervously]. She then made statements to him that she would not object to having a platonic relationship with him. (CT110,111) Saunders then went on to add that Mrs Cobb had invited him back to her place after the party if he wanted to stop by. Saunders admitted that he did not go to Mrs Cobb home after the party,and that he went home by himself, and that they never spoke about sex.

It was determined that Mr Saunders had committed suicide a few months later, while detectives felt that Saunders had some involvement with Mrs Cobbs death. Officers located leggers and a diary belonging to Saunders about his relatioship with Cobb. (CT140)

When Mrs Cobb had been located by her son Daryll Kramer and his wife Marta on September 23, 1985, they found her around 11:30 a.m.. Daryll offered that he went to her house because she had called him and left a message on his answering machine that Friday before saying " That she needed help, because someone had frightened her pretty badly". Daryll did not say when that call came and the message left, only that it was Friday. (CT4) After calling the police several officers arrived at the Cobb residence.

Sheriffs personell determined that Mrs Cobb had been found with four pieces of jewelry on, to include her watch. Laying next to her was a yellow watchband pin, slightly underneathher head. (CT13) There were smears of blood on the bedroom door jamb and pony walls leading into the bedroom. (CT9-10). Officers also noted that there was two specific ty pes of tire prints located inthe dirt driveway in front of the Cobb house. Detective Tuttle interviewed Mr Kramer who stated that the only reason for the visit was the she had called him asking for help that Friday before,and that he could not get ahold of her by phone. Telling officers that he lived inPhelan, about 25 miles away. Kramer then offered to the officer that his mother had a "jeckel and Hyde" personality when she drank, and that she drank often. In fact officers were told that the last time Kramer seen his mother was about six weeks before the crime occured,and at that time she was very intoxicated. (CT61)

Mr. Kramer was reinterviewed later by detective Knapp where he stated that his mothr liked to frequent the bars and this list included bars as far away as Apple Valley. (20 miles away) Kramer reittered the Jeckel hyde personality, telling the detective his mothers favorite drink was Bourbon. Kramer then offered that his mothers last known boyfriend was Fred Berdard.(CT77). Years later Kramer was again reinterviewed by detective Myler, where he told the officer his mother drank alot, and when she was drunk would become mean and nasty. Again Kramer states that his mother frequented alot of bars and was known to flirt with alot of men, including men younger than she was. He also offered that she had been sexually involved with John Sullivan, but did not know of anyone else.(CT80-82)

In a later interview with Kramer he offered that he had eventually married his sister Marta , but that she was only his step sister. (CT138) Marta Kramer offered statements to detective Knapp, that the last time she seen Cobb was about six weeks prior tohher death, and that Cobb had frequented the bars and was a heavy drinker. (CT74-76). The detectives then interviewed Don Stow, a man who lived directly across the highway fromnthe Cobb residence. Mr Stow offered that he knew Cobb to be a heavy drinker and believed her to be an alcoholic, that would become a "ball buster" when she drank. He offered that he knew her to date alot of different men. He also recalled that he heard cries from the residence while Cobb dated a man named Frank Strump, who often fought like cats and dogs all hours of the night. (CT63). Later detective Woods reinterviewed Mr Stow who added that he rememberes seeing a truck that was the flat bed type on September 19th or 20th 1985 (just three or four days ago) before her body was discoverad onthe 23rd. He also offered seeing mrs Cobb bringing other men to her home, and at one point seen her so drunk that she litterally fell from her car that was parked in her dirt driveway.(CT114)

The neighbor John Sullivan (resident of the mini spring ranch) was interviewed by detective Tuttle when he stated that he remembers the last time he seen Cobb was at his house, Friday evening, September 20, 1985. He stated that when she arrived he seen her already drinking a bottle of bourbon and after she finished that they drank more liquor, to include some white ligthening. He then stated that he had fallen asleep around 10:30 p.m. which was corroberated by his wife Francesca Drake/Sullivan.(CT65)(CT266) ~~The detectives interviewed Mrs Drake/Sullivan (FRANCESCA) who stated~~

That same detective interviewed Mrs Sullivan (FRANCESCA) who stated that she remembers Cobb leaving the party arounbd 11:30 p.m., and that Cobb liked to visit the bars. She also offered that in her opinion was that Cobb was a lonely woman who drank alot and could become [caustic] after drinking, suggesting that Cobb liked men and would go to alot of bars to find them, adding that Cobb was not particular about age eithger. (CT66)(exhibit 14)

There was two other people at the Sullivan drinking party Bruce Nash and Cynthia Hooper. . Bruce Nash (NASH) offered that he seen Cobb at the party that Friday before she had been found in her home murdered. Nash offered that he was at the party around 1900 hours and left the party around about 2145. He then stated that when he was ready to leave, he and Cynthia noticed that Cobb was more drunk than usual and decided to offer her a ride home, while the other followed in her car. Nash stated that Cobb's answers was to refuse [redacted] the offer. Stating to Nash that "she was not going to go home, but was going to a bar called the Zodiac Lounge instead"(CT110) Nash was again reinterviewed several years later by detective Myler(CT270-272) and in this interview Nash' statement were mirror to what he stated 25 years before, that Cobb was a fun lady to hang out with and the last time he sseen her was at the minispring ranch party. He then offered that he remmbers seeing them drinking white lightening and that he hung out until about 9 or 10 p.m.. He reitterated the offer to drive Cobb home but clarifies that she refused his offer to drive her home, telling him " That she was not going home,and was probably going to go to a barrcalled the Zodiac Lounge"(CT271)(exhibit 13). He offered that Cobb had dated about six different men that he

could recall. Berdand, Bruce Lee, Art Bishop, and John Sullivan. Bruce added he had also done home repairs for Cobb over the years. (CT272)(see exhibit 13)

Officers spoke to a bar tender named Dawn Dismore who stated that she recalled Mrs Cobb and that the last time she seen her she was pretty drunk.(CT107) She also offered that she did not recall seeing Mrs Cobb the night she had been killed, admitting that she was the bartender for Friday and Saturday nights. (exhibit 15) Officers while at the same bar spoke to a man named Ronald Kobbs who stated that he was the local propane man and was servicing the Cobb residence. He then stated that the last time he was at the Cobb residence, he arrives at the home and seen Mrs Cobb being acousted by someone in a beard while in her driveway. He stated that he witneseed someone being very aggressive with her and calling her bad names while yanking at her shirt. He stated that he did not discover who it was until they stopped,and that was when he leantned that attacker to be her very own son Daryll Kramer. (CT 107)(exhibit 15) THAT IT WAS ABOUT 6 WEEKS BEFORE MURDER WHEN HE SEEN HER SON BEATING HIS CUSTOMER COBB.

Interesting, though was there was man named Gregory Randolph who actually called the sheriffs stationg saying he heard they were looking for his help to solve the crime. Officers invited him to their office. (CT66) (exhibit 16) As bizzare as the call was Mr Randolph(RANDOLPH) offered that he knew Cobb and that the last time he seen her was about two weeks before she had been killed.

Mr Randolph was not [illegible] spoke to for some time until a report was made tothe WE-Tip organization which was told, that Mr Randolph was at a party brqagging about how he had killed Mrs Cobb. (CT 110) (exhibit 16) The report was made on August 6,1988)

The report was transfered to homicide detective Palacios who followed up with an interview on Agust 9, 1988 at the suspects trailer. When Detective Palacios (PALACIOS) arrived Mr Randolph had been drinking and introduced himself. When officers revealed that they were investigasting the murder of Rita Cobb, officers asked himto sit down, but instead Randolph started to pace back and forth, then took out a full bottle of jose quervo. Randolph then seemed to become angry but then calmed down. After a few questions Randolph got acquainted with the matter and revealed that he knew Cobb and had been introduced to her by his girlfriend whom Cobb had sold or loaned a venetian blind or screen to. Another party then arrived, and while officers summed upthe character behavior of Randolph decided to get a warrant to return. When officers tried to leave, Randolph summoned them back saying that he wants to talk to them,. Officers stated that they will be back.(CT 219)

Palacios then began a barrage of urgent requests to see the states evidnbeces for this case be processed immediatley. (CT 221-235). Randolph was arrested asa result of an affidavit filed by Detective palacio who got a warrant for the arrest of Gregory Randolph for the murder of Rita Cobb. The arrest occured on on August 10, 1988 where Randolph was reintrerviewed after arrest by officers Palacios, Detective Bruce Mc Phail, of the sheriff department.

SEE PAGE FIVE OF INTERROGATION RANDOLPH(EXHIBIT 16)

Q- Aside from this arrest have you ever been arrested before ?

A- Well, yea, but I dont think it really counts. This does cOonfirm that Randolph had in fact been arrested for the murdrr of Rita Mabel Cobb obn August 10, 1988.

As of August 10, 1988 none of the evidneces from the crime scene had been processed, which explains the "URGENT" request by Palacois regarding all the evidneces the sheriffs had in their possession. Because there was no actual physical proof other than the confession report, officers released Mr Randolph but then assigned a name for him to protect the integrity og the case, and future investigations. It was also then determined that because Randolph was a county coroner working for the county of sanbernardino, sheriffs, assigned a name of (William Backhoff) which is placed on all paperwork.

Because this case attached to other cases as seriel, officer assigned the code name and then released Mr Backhoff until investigations had been completed. Unfortunatley on June 1, 1999 evidneces has still not been completed for this case which would allow officers to formally charge Randolph/Backhoff, when Mr., Gregory Randolph committed suicide. Possibly because the forensics of the cause was due to become revealed which would have allowed formal charges/(CT 357)(DR#9900714-17- DR#1331490-07 - DR#1331036907) (HeleneBrooks case and Rita Cobb case)

It was later determined by officer whos searched the suicide scene that Randolph/Backhoff had trophies at his trailer whenthey searched the home /crime scene. (CT 446-447)"...raised suspicions by English about his possible involvement in this murder because Randolph was rumourddto have [several] photographs of elderly homicide victims at his residence. (TROPHIES)(emphasis added)(see exhibit 16) (It was then determined that Mr Backhoff/Randolph had over two dozen trophies indside his trailer)(emphasis) (CT753, 751, 978) The DNA that was collected from Mr Randolph was [redacted] MATCHED to three of the cigarette butts thsat were located inside

at the Cobb residenme from a dining room table that had and ashtray with eight cigarette butts in it. (see exhibit 17).

Officerrs then spoke to another bar tender from the Y cafe who stated that he knew Cobb well and that she was his drinking buddy. He offered that he had been sexually involved with Cobb, along with at least three other bartenders from that same bar that he knew of. (CT106). Officers also spoke to Cobb's employer fromthe Silver lakes country club, who offered that Cobb was a friendly person who liked to golf, and that she had also been involved sexually with at least three of her co-workers. (CT124) Officers spoke to Bud Turner who stated that he thinks he seen Cobb in the store on September 21, 1985. (CT115) One of the officers noticed that Fred Berdard had been wearing a gold colored watch whan they interviewed him. (CT108)

Sheriffs took notice that Cobb had an address book locatreds on her dining table next to the phone, and that this book had at least nineteen names of men that had not been interviewed by ~~of~~ officers, who then surmised that she was also probably sexually involved with them too. (CT165-217)

On December 2, 2002 detective Espinoza prepared a compiled list of cases that they believed to be serial,which included (Helen Brooks DR# 1331490-07)(Rita Cobb DR# 1331036-07)(Deeble Majorie Elaine DR#860764)(Rhonda Belcher DR#080074946617)(Malinda Gibbs DR# 88-59459)(Brigita Kreismanis DR 89-1223392)(see exhibit 18) All of which were believed to be homicides commited by the same perp over a period of time because of criminalistic similarities determined by states criminalist. It was later determined that a person had been convicted of killing one of these five and sentenced to death (Robert Mark Edwards/CII #A06751443)

Because of the long string of murders that were similar inm many was sheriffs contacted U.S. Department of Justice the Federal Bureau of Investigations, pleading for help. On April 30, 1987 the FBI got involved with the murders and after considerable review of all the evidences from all the cases, created an in debth profile which included two very specific murdered women. Helen Brooks and Rita Cobb. (see exhibit 19)

The criminalist from the FBI found that there was more than enough similarities and comparisons between the two murders that they had determined these to have been killed by the very same person. They found that there were character violences that matched sufficiently that was over and above the forensics evidnece that linked Brooks and Cobb as being committed by the same person.(PP1)

The victimology of the two cases determined that both women to be vulnerable, and both had striking similarities of backgrounds. Both white, women and five feet tall between 123 and 134 pounds and also between the ages of 55 and 63.. Each had chiuldren who lived elsewhare, and both killed withina few months of each other in verry mirrored ways. Both strangled, both bound with an object and lived as littel as 12 miles apart. Both women were sexually active with several men and had free with men personalities. Both had no preferance about ages and were known to be involved with men from afges of 20 years on up. Both had habits of picking men up and taking tham back home and very sexually aggressive. Both were argumentative with men and had a habit of making them temporary room mates, before kicking them out for one reason or anotrher.(PP2) These womens reputations and life styles adswell as behaviors increased their their potential

to vulnerability and both characterized as having moderate to high risk of becoming victims to violence..

The examiners reports indicate by the Behavioral Science Investigative reports determined the type of person who would have commited this type of crime. Each victim was the cause of litigature strangulation, one to the neck,the other to her hands with her panty hose. Both were found with semen within their proximaty, one inside the victim, while the other was on the bed sheets. Even thoughthe DNA samples did not match there was coinsiderably enough evidneces linking these as being committed by the same person. (emphasisa dded) (PP3) The crime scenanalysis did indicate that both scenes were attacked inthe evening hours and in their own homes. No signs of forced entry nor was any evidneces located that suggest a struggle occured with eoither assailant. This led them to believe the suspects were acquainted to the victims and were possibly allowed tyo enter the homes freeely. . There were no weapons brought tot the scenes, while each scene contained instruments that were the victims pwerso onal items from their homes. Both victims were left nude and lying on their backs across their beds with legs spread apart which displayed a fashion, while articles of clothing or pillow covered the faces of the victims. It was determiend that this was a message about [his] opinion of both the victims themselves as women. (PP4)

On January 13, 2010 CynthiasHopper was interviewed by investigator Hernandez fromthe public defenders office. In this interview she recalled her knowledge from an event that occured 25 years earlier. (see exhibit 20) She told investigator that she seen Cobb at the party for John Sullivan, saying that she wassnt sure if someone took Cobb home or that they checked on her. ((1)(PP1)

to make sure she arrived safely. She didnt know who that may have been. She did offer that it was odd theat Cobb was found by her son, because he had been estranged with Cobb. (possibly due tothe fighting) Adding that it was odd that he showed up and found his mother after being estranged for so long a time. Cynthia offered her opinion abvout Cobb lifestyle that "she was loose" and seemed to be the type who would go home with men she had only met ina bar. Lastly she offered that she did not see anything strange outside the Cobb residence fromwhat she could recall.

Doris Jackson was interviewed on April 9, 2009 and offered that she thought she could recall seeing Mrs Cobb who asked to drive to Canada with her. Doris offered that she beleived Cobb to be a private person, but admitted that she did not drink, suggesting she did not follow Cobb into the bars Cobb had been known to frequesnt where "a different" life style was displayed. (see exhibit 21)

Sheryll Brodus was also interviewed . This minterview was over the phone. Brodus offered that the bar whwere she worked may have been the last stop by Cobb the niught she had been killed before going home. (PP2)(exhibit 22) She offeredd that it was possibly Friday or Saturday night that she was there. (September 20, 21, 1985). Brodus stated that Cobb usually arrived at the bar alone, but never seen her with a man when she came in. Brodus could not offer anything about Cobb lifestyle. Brodusswas interviewed anotyher time and offered that she beleived her friend Ron Campbell had suspected anneighbor of Cobbs foir the crime to have coimmitted the homicide. Another person interviewed Brodus about a man named Mr Hull that came up inthe investigations, telling the investigator that Hull had dated Mrs Cobb at one time and could be a suspect.

On January 13th, 2010 Mr.Ron Campbell (Campbell) had been interviewed(see exhibit 23) He offered that HALL having a bad temper when they entered the bar. (Glen Hall) Suggesting that Hall had found out Yablonsky was having sex with Cobb, and that Hall would have wanted to harm Cobb over that matter. Campbell remembers seeing Cobb at the Moose Lodge a few days before she was found killed. (September 23, 1985 back a few day September 20, 1985)(PP2) Campbell offered that Cobb had liked men, adding that Cobb was single and attractive. Telling the investigator she appeared to be a happy drunk..

On September 26, 1985 Rene Smith was interviewed and she offered that she remembers meeting a man at the Zodiac Lounge on Sunday night (September 22, 1985) who stated that he was meeting an older lady. She offeered that his name was something like Gaylord but that he was an entertainer at the Mooose lodge. Rene Smith did statedthat Cobb was not there when this conversation with Gaylord occured. (see exhibit 24)

On September 26, 1985 Mr Fred Halbrook was interviewed , who offered that he remmbers hearing that Cobb had been seen in the bar called the Zodiac Lounge, with a man and that the (couple) had been in a pretty good fight. Stating that this was Friday night. (septemvber 20, 1985)(EXHIBIT 25)

Doris Jackson was reinterviewed by detective Alexander on April 9, 2009 and offered that she remembers rumours that the night Cobb had been killed she was seen in the Moose Lodge and the "Y" cafe, but could not validate these rumours as fact.(see exhibit,21)

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On August 16, 1986 detectives reinterviewed Kramer who offered more statements regarding a Mel Gibbs or Meryl Gibb that had killed his wife inthe same manner as Cobb had been killed then committed suicide. There was nothing to confirm Gobbs involvement with the Cobb murder other than him killing his wife in the same manner as cobb had been killed then his apparent suicide. (see exhibit 27).

Detective also interviewed Dianne Flagg who gave testimony regarding her knowledge about there being a sivler vehicle that was a ford Pinto in fromt of the Cobb residence the day of the murder. This was then confirmed to have not been the same Pinot as the petitioners because petitioiner hada Blue Pinto, not silver. (see exhibit 28). Detective also collected a fingerprint from a glass that matched Joseph Saunders and filed this report on August 9, 1988 after the alleged confession made by Gregopry Randolph as explained earlier inthis petition. (see exhibit 29) This report was not responded to correctly by detective under cross examination about its existanc eor content. Later discussed in this pettition.

Nearly twenty five years later detective Robert Alexander filed a false affidavit report to gain access to, an arrest warrant for the arrest of John Henry Yablonsky. Injecting misleading information intothe affidavit which was unsupported to qualify as probable cause, because the detective knew at the time the DNA that was located matching petitioner was the result of a sexual encounter that occured more then one and a half days before the murder ever occured,while there were witnesses that stated they seen Cobb alive a day after the alleged sex occured.. (see exhibit 30) The arrest warrant came with a search warrant that had to be perfected by another agency because it was in another district. Long Beach Ca.

Mr Yablonsky was arrested onMarch 8, 2009 four days after the warrant was idsued by Judge Nakata. Upon the arrest Yablonsky was interrogated outside Miranda for four hours in two locations. One at his residence in front of his wife and children., and the second inside a locked police stations where yablonsky's request to terminatre were rejected and he was ~~forced to~~ not ALLOW TO LEAVE the police station.

As a result of the interrogation , information collected was used to further investoigations with Minda Mitchell, Holly Mitchell/Yablonsky, and collections ofr police reports from previous allegations that were uncharged against petitiopner. (see exhibit 31)./ There was one allegations that Yablonsky raped someone in Texas which was rejected by the prosecutor in 1982. It was the result of an deposition where the [hooker] stated to the prosecutor that she was forced into filing the cahrge in an effort to extort monies froma soldiers family. Once the truth had been revealed charges were rejected. The other allegation was the result of a scorned fiance who filed the charge when petitioner decided to move from the address. This party confessed over the phone and in person that she did file the false charges to get even. A permanent rerstraining order was issued to Yablonsky and his children as a result to the false charged to protect from further frustrations by the alleging party who signed waiver in exchange for not being charged for filing a false charge. YABLONSKY REFUSED TO HAVE HER CHARGED FOR FALSE REPORT.

Prior tothe trial occuring the media had a frenzy with this case that had been 25 years old. While the prosecutor boasted about [solving a crime] 25 years after the fact. These news article stated (DNA matched crime) (Justice, detectives credits original investoigastive work)(1985 murder finally in court)(team finds justice after 25 years)

(team finds justice years after crimes)(Justice after 24 years):"COLD CASE SOLVED". (see exhibit 32)

The public defenders aggreed to place the case onto the trial calender to begin within 60 days, placing the case on April 2, 2010 after the publid defender stated to the petitioner that he had completed all the investigations. Once the case was placed into the Courts dockets to begin trial on or abvout June 2010, the county district attorney Michael Ramos used the case for his re-election campaign. Flooding the entire county with poster sized flyers that had photos of the petitioner with statements that ")A-ease is never cold to the family of a murdrer victim. **THATS WHY I HAVE WORKED WITH THE SHERIFFS DEPARTMENT TO START A COLD CASE UNIT USING DNA EVIDNECE, WE HAVE FILED OVER NINETEEN MURDER CHARGES COLD CASES. TWENTY FIVE YEARS AFTER THE CRIME RITSA COBB'S FAMILY WILL HAVE CLOSURE"** (See exhibit 33) There were three different styles of flyers and all wewre the size of posters. Some had photos of the petitioner as big as 8½ X 12 inches while other had photos about 3 X 5 inches. All posters had this same statements that they had filed 19 murder charges. All these flyers also carried the notation " **JOHN HENRY YABLONSKY CHARGED WITH EH MURSDER INTHE 1985 SLAYING OF LUCERNE VALLEY MOTHER RITA M. COBB- ON TRIAL LATER THIS YEAR BY MICHAEL RAMOS' COLD CASE TEAM.** He then after crafting thes flyers into the three seperate designs, he coordinated the mailings into evry home of reguistered voters inthe entire county between the months of May 18, 2010 through May 25 , 2010, knowing that these mailers would enbter every home. he mailed one of each design into every mailbox slot. Three withina one week time span.

Upon discovery of the egregous act, petitioenr filed a motion tothe Court asking to be rgabnted pro per statuseso that he could sue gopvernmenbt parties. This was granted on June 9, 2010 by the trial Court. (see exhibit 34) Mr Yablonsky then filed a lawsuit against Michael ramos in his personal capacity for the use of his case, asking for change of venue, and five million dollars for prejudicing the entire venire of jurors. (see exhibit 35)

Defense counsel INSTEAD filed a P.C. 1424 m,otion to recuse the entuire prosecutors office, knowing that this was the incorrect vehicle for defense. Mr Sabnders (Sanders) filed this motion with the court but "refused" to serve the attorney general according tothe rules of Court. (see exhibit 36) The heaaring was held on October 8, 2010 while the lawsuit was still active, and the Court denied to grant the recusal motion, based on need to investigate. Only defense counsel had already told the client that the invstigations had been completed, to get him to agree to place the caase on calender. (see exhibit 37)(EXHIBIT 67)

Petitioner contacted trial attorney telling him there was two witnesed that could give alibi testimony regarding petitioners location at the time this crime occured. He filed two applications for subpena setting dates on the calender for January 10, 2011 and prtovided two subpena duces tectum. (see exhibit 38) It was later determiend that these motions nor subpenas were ever filed or served. It was about this time that the county jail had suspended petitioner official visitation priviledges as well as any official persons that would include notary, prosess servers, or religeous parties from visiting petitioner while he was detained as pretrial inmate. Petitioner filed a motion to the Court to lift this restrict ion which was denied. (see exhibit 39)

These terminations also included access to any phone priviledges after 6 a.m. monday through Friday,which prevented any contact with trial counsel before the trial occured. Sabotaging all and any pretrial developments between petitioner and trial counsel. This termination lasted fromSeptember 2010 through March 2011 after petitioner had been appointed post trial counsel to challenge trial counsel conduct.

AS A RESULT FOR SUIT FILED agaisnt Michael Ramos, his Cold Case team chose to create transcripts fo of the interrogation, creating tweo seperate and different version. They created one 113 page version, and then created another 136 pages version. Both washing the custodial markers fromthe transcrips. It was determined that tese were created in retalliation for the lawsuit, while the "team" then changed petitioners answers from one to another to place evidnece into the possession of petitioner regarding an element of the croime. (see exhibit 40) These transcripts were created on november 23, 2010 by detective Robert Alexander. They wewre then altered again by the DDA thomas as the prosecutor after the trial had already been going for more than three weeks. DDA Thomas then argued to take this (material) home so that he could alter it him [self]½ so that he could take out everything that needs to be taken out. (see exhibit 41) The prosecutor then created an audio/visual version so that he could show the jurors over a projector the text and sound to the "transcribed" version. It was in this version that the prosecutor then placed the altered answers textly to have "sound" that matched the text. This was then played tothe jury on January 27, 2011 after the prosecutor and detective Alexander swore it to an accurate copy of the ofiginal. Deeming this as (exhibit 49A-113)

When they created this "new" transcript they altered answers given by petitioner into saying something very different. At one hour seven minutes into the ionterrogation poetitioner was asked a few questions regarding his access tothe victims house and her access into his house. (At page 44:22-23)

(Q- Greg Myler) (A- John Yablonsky)

Q- Ok, did you guys also have a key to Rita's house ?

A- Um,yea

PETITIONERS ANSWER WAS NO!
THIS IS VERIFIED BY EXHIBIT 49 #FVI900518
ONE HOUR SEVEN MINUTES FIFTEEN SECOND INTO EXHIBIT 49

(At page 44:27- 45:3)

Q- Did she havea key to your apartment ?

A- no.

PETITIONERS ANSWER WAS CHANGED FROM (YES SHE DID)!!
THIS IS VERIFIED BY EXHIBIT 49 #FVI900518
ONE HOUR SEVEN MINUTES FIFTEEN SECOND INTO EXHIBIT 49

This was used ina manner to place evidnece into the possession of petitioner after detectives needed to create proof petitioner was culpable. See page 44-45

Q- Did dhe have a pass key to your apartment ?

A- No.

PETITIONERS ANSWER WAS CHANGED FROM (YES)!!
THIS IS VERIFIED BY EXHIBIT 49#FVI900518
ONE HOUR SEVEN MINUTES TWENTY SECONDS INTO EXHIBIT 49

THIS WAS SUPPORTED TO ESTABLISH THE RELATIONSHIP WHEN MR. Myler asked petitioner "Ok, she wasnt like that it was strictly business ? she didnt allow anybody in her house ?"(pp.44:24-25)

By doing this they established that petitioner was not to have any

tpe of permission to enter the home of Cobb,and that having a key months after he moved out had a plan to return to comit a crime. This was used to create an element to (premeditated) for first dgree murder,.

This was then placed on the records on January 27, 2011 for case #FVI 900518 , only the prosecutor did not place states exhibit he created on January 26, 2010 into the states recoirds,he switched them from the transcript he had created on November 23, 2010 by detective Alexander (his lead investigator)(see exhibit 43) The trial continued through deliberations after closing arguments started after petitioners right to testify was taken from him by his lying trial counsel who not only knew petitioner wanted to testify, but prevented him from doing so. (see exhibit 44) Petitioner told the attorney he needed to testify because the jurors had been lied to up to that point about his relatioship with Mrs Cobb.

Trial counsel lied and stated that he'd get that chance, while the Court also gave petitioner heads up about trhe "key words" that the trial counsel would use, which would act as a barrier tothe end of the defense oppertunity. Trial counsel used different wording and the Court accpeted the different words as the "barrier" and petitioner did not feell that he could interrupt the Court after the Court had already before the trial ever statrted told petitioenr that if he interrupted the trial in "any manner" he would be taken fromthe courtroom. At this point the oppertunity had been taken and closding arguments occured. (see exhibit 45)

After three weeks of the state presenting a "carnival act" to the jurors about how someone lost their life and the states theory that because petitioner lied to the detectives whoiel being questioned

in front of his wife and children aboiut his sexual relationship woitha murdered woman, was proof that petitioner killed Rita Mabel Cobb on September 21, 1985 twenty five years before he was interrogated. In fact the state did not predent one piece of evidnece, direct or inferable that petitioner had committed any crimes other than infidelity (a moral crime) abnd the defense counselor not challenging the states liars, or fake evidneces, the defense counsel offered nothing than a warm seat to resemble he was even at the trial. The jury deadlocked hopelessly on February 2, 2011. Admitting that they were solid in their positions, and were not abhe to reach a verdict. The jury was then threatened into a verdict while the count was four to not guilty and eight to guilt. (seee xhibit 46)

After reaching a verdict without further closing arguments, one more testimony they "understaod the Courts threat" came back witha guilt on February 3, 2011. But when they got into the hallways of the Court they told the media that they could not decide because they needed more evidnece. (emphasis added) Upon being convicted for a crime that petitioner had not commiitted, assisted in committing, aided and abedded, or had any knowledge of who coimmitted the crime. petitioner filed several motions, first terminating his trial counsil from his appointment. (see exhibit 47)

In this motion that was filed on February 25, 2011 he charged the trial attorney of a) not investigating b) that he would represent petitioner diligently c) that he bagged the case by allowing the case to assist the prosecutor in his re-election campaign d) that he bagged a motion for dismissal and chose to not hear the motion e) failed to relay evidnecwes to his client that had to beg for them,and only got 300 of the 5000 pages before the trial.

f) would not investiogate certain witnesses that would have given alibi testimony g) could not recall if the case had been deatha penalty possible that wa filed in the Superior Court h) kept lying to his client i) provided less than the sixth amendment required. (SEE EXHIBIT 48)

Petitioner then filed motions to the Court regarding new trial merits,which had been filed on March 24, 2011. Giving the Court time to records the "termination" motion regarding appointed counsel. In these new trial motions petitioners charged the state with several crimes that included the use of false evidneces, and several other misconducts that violated petitioners right to a fair trial. In fact it wass not discovered until June 2014 that the damn trial counsel could not even spell petitioners name correctly as he filed a motion for continuance under "George Yablonsky" instead of John Yablonsky regarding his need to get a continuance for further investigastions about two key states witnesses. Lori Amaro and Kye Son Delgado. Or he could not remmeber who his client was ???? (See EXHIBIT 49)

THIS FORFIETED INVESTIGATION PRACTICES BECAUSE THE MOTION WAS DENIED

Further more petitioner discoivered that the trial counsel did not have anything investoigated fromthe case at all(see exhibit 50) trial attorney contacted an agency regardsing testing of thew DNA fromthe case,and when these parties stated that there wasa mandatory review of the protocal,as well as other investigative procedures, trial counsel buried this request along with the rest of the records which would have support post trial challenges.

Furthermore, after these incompetant acts had been discovered by petitioner, motions and charged had been filed against the trail attorney David sanders withinthe States Supreme Court under case # S227210. (see exhibit 51) This was also recorded with the state bar as number #m 15-29186

It was then determined that Sanders had a history of non compliance to state bar and professiuonal ethics. That he had had his license suspended for failures on January 27,1997 just a few years before he managed to forfiet every right petitioner had under the United States Constitution to challenge the states case to any degree, much less every degree.

THESE ARE THE FACTS SURROUNDING THE CASE!!!

There were several pieced of evidence collected fromthe crime scene that were material and relevant as to who committed the crime,why, and how. The witnesses as described above have enough information to show that the state had no idea who committed this crime. There is no scientific evidences, physical evidneces or any type of emperiacle evidences that this crime was committred by petitioner John Henry Yablonsky other than his lies tothe detective about his sexual involvement with Rita Cobb. Taking into consideration that he was a) interrogated while under warrant b) without MIRANDA c) in frontyof his entire family that included children that were monors,and his mother inlaw d) not allowed to terminate the interrogation.....and the answers of the recordings were altered to make it appear as if Yablonsky had keys to the Cobb home after he moved away. The prosecutors argument to this entire case was as follows. (RT)(Regular transcripts)(DDA John Thomas)(RT32;12-22)

> The peoples position is that My Yablonsky's interview hewas given at least four oppertunities to say he had sex with the victim, and the detectives were very clear, we dont care if you had sex with the victim, If you had sex with the victim, we need to know, and he repeatedly denied havibng sex(emphasis added

EVIDENCES COLLECTED AT THE SCENE
(SEE EXHIBIT 26)

Although there were over 80 photos taken petitioner will address a few of them as indicators of critical importance to this argument. Petitioner discusses them here;

Photos three through seven

These are photos regarding tire tracks that had been locvated in the driveway dirt in front of the victim s home. These specific photos focus on tracks that were witha wheel base of about 40 inches,and were suggested to belong to a smaller vehicle. Police suspected them to match that os a Ford Pinto.. It was later determined that petitioner had a Pinto, but that it was bluesIt wass then determined that the day of the crime that there was a pinto seen a6t the scene, but that it was a silver Pinto, witnessed by Dianne flagg whow as a car entheusiast, and recalls it being siver, not blue. (EXHIBIT 28)

Phots twenty three

This phot os of the dining room table that had an ashtray on it that had eight cigarette butts in it. These were processed for forensics matching and was determined that at ;least three of these butts belinged to Gregory Randolph, one had belionged to Cobb, while one matched Daryll Kramer,and yet another matched Joseph Dsaunders.
(see exhibit 17)

Photo forty six

This wasa photo of the victimns ring on the night stanbd beside the bed. Indicating this was not robbery

and that there was not sufficient struggle during the murder itself which would have knocked the ring off the dresser that sat right nwext tothe victims bed where she had been killed.

Photo fifty two and three

This photo is of the watchband pin located underneath the victims head while she lay atop a bedsheet that was empty except for the victim and this [pin]. This photo and the pin were used in trial toi show that there was evidnece of a struggle, and while experts testimnpny did not match the DNA from this item to petitioner Yablonsky, the prosecutor mistated facts saying that it was matched to yablonsky. It was determined that this pin was not the property of Cobb, and because it was located underneath a dead person, who was wearing their watch, belonged tothe actual killer . The DNA on this item will not beloing to petitioner. (EXHIBIT 26)

Phot fifty six

This photo was of the murder weapon that was located wrapped around the victims neck. It was determined that this wasa metal hanger or similar type metal. This item was determined by the states experts to be DNA qualifioed materials and the DNA from this item was not matched to petitioner.

Photo fifty seven

This photo was of the victims upper right shoulder area where the levidity was located that shows that the victim had been killed while she wws on her right side. This is imporatant because the victim was located lying on her back,and because the levidity shows that she was not killed while lying on her back, indicates the scene had been distumbed and she had been rolled onto her back at one point.

Photos fifty nine and sixty

These photos would have shown the blood smears that were located on the viuctims bedroom. DOORJAMB. It was determined that these blood stain were matched tothe victims blood. Only these stains had fingerprints located inside them. Exsperets stated that a hand print would have touch DNA in them. Because the fingerprints that were partials into the blood suggests that the perp-etraitor was not wearing gloves and would have left touch DNA into this blood. That DNA was not matched to petitioner. [redacted].

Photos sixty one and two

These blood stains are similar tothe stains located onthe victims bedroom door jamb and was matched to her. These stains did not leave any typeds of identifiable markings as to what plkaced them there other than [smnears]. This would al;so possibly have touch DNA on them and the DNA was nopt matched to petitioner

Photodsseventy one, two, three and eoight

These are photos of the wire wrapped around the victims neck. Experts stated that hard metals as a wire could carry DNA possibilitiews. Petitioners DNA was not located onthese wire/s that were used by the kiiller

DNA POSSIBLE EVIDNECES LOCATED AT SCENE
THESE ARE TAGGED AS #B22559, B68345, B68345,B67999,

Tag # B22559 (1) Felt pad and bedsheet

The felt pad was located underneath the victims bed spread, and underneath the victims locatiuon. Petitioners

DNA was located on this item, while none of petitioners DNA was ,llocated on any of the attaching materials, bedspread, sheets, blanketsa that would have been caused by btranbsferance. This item was a desk blotter that was originally 24 inches by 30 inches, which had been cut down toi 3 inch by fuive inch piece. The remander of this evidnece was destroyed and thrown away. It was petitioners DNA that would have been left at the scene the last time he seen Cobb alive where there was another woman there,but because the evidnece was destroyed there is nothing to dispute this by. The other item waas the bed sheet that had been collected from beneath the victims body. This item did have the victims DNA on it, while petitioners DNA was not located on this item , due tothe facts that the past time petitioner was with Cobb was in the front room and at the desk location. Further petitioner had bever beeing with Cobb sexually in her bedroom that would have left DNA in there.

Tag#B68345 Item # A13 Blue Pillow

This itmm was located underneath the victims head while she lay atop her matress and sheets. This item was to have the DNA whichj blonged to Cobb. Petitioners DNA will not be located on this item. Experts testified that there is a possibility of DNA tranbsferance. Had Cobb been killed in the manner the state alleged there would be the DNA belonging to the actual killer on this item. The DNA from the pillow will not match petitioner.

Tag#B67999 severas items that arre DNA magnificent

Item #B4D standard pubic hair that was tape lifted fromthe victims beneatha coforter these are DNA qualifioed and the DNA on these itwems will not match petitioners DNA.

Item # A5 is a red hair with the entire roots attached and was lifted fromther victoims body. Experts testifed that this typoe opf evidence would be DNA magnificent and the DNA located on this item was not matched to petitioner.

Item # A1 is a red hair with the entire roots attached and was lifted fromthe victims body. Experts testified that this type of evidnece would be DNA magnificent and that the DNA located on this item was not matched to petitioner.

Item #A18 is the desk blotter that was located and had petitioenrs DNA on it. This item was originally 24 inches by 30 inches in sixze. Sheriffs damaged this evidnece and cut it toi 3 inched by five inches and then discarded the rest . This would have at least three DNA's on it accoring to petitioner, but states sheriffs damaged that evuidnece to prevent testing

Item #B3 this is the metal wire that was located onthe victimand was determined to be the murder weapon. The DNA on this item was not matched to petitioner while experts stated that DNA would be located on this item. Because petitioners DNA was not located onthe murder weapon would indicate that he was not the person who killed Cobb.

Items #B1) Loose hairs from the victims torso. Experts testified that this typewof eviddne would be DNA magnificent. petitioenrs DNA was not matched to these hairs

Item #A20 Cigarette butts that were collected fromthe dining table ashtray. It was later determoined that at least three of these matched Gregory Randolph as well as one matching Joseph Saunders whop admitted to police that he had been at the residence the day before the murder. There was alos at least two others that matched Daryll Kramer whopw as the one who found his mother. There was only eight butts located in this tray, and at least three of the belonged to people tht werre at the residence the day of and a few days after the murder occured.None of the matched petitioners,DNA

Item #A17 These were the shorts that had been located inside the victims mouth that had been used as a gag to assist in the crime. It would be presumed that this was placed there by the actual killer. Experts testified that this type of evidnece would carry tranf-erance possibilities. And since the shorts were stuffed into the mounth and were not placed there by the victim would suggest any DNA on this not matching the victim would belong tothe astauil killer. Petitioners DNA will not be on these articles.

Item #A15 the watchband pin. This item was found under the victims head on her right side, indicating that it wass left there by a right handed person who wore their watch ontheir left hand as they sat atop the ictim and strangled her. The prosecutor used this as a element to the charge showing that this pin had been ripped from the xxxxx watch of the killer as she fought for her lifwe. The experts testified that this hard metal would be DNA qualifoied and that petitioners DNA was not matched to the DNA from this evidnece

Item #2 The murder weapon. Experts testified that this typoe of metal would be able to produce DNA from whom ever touched it. This was determind to be the weapon

Item B-4a. This was a vaginal collection from inside the victims cavity. This collection did produce sperm that had been matched to petitioner. These examinations were then determind by two states experts Dr. Saukel who tyestified that this DNA was the result of an encounter that occured as much as one and a half days before Mrs Rita Coibb had been killed. Further more these experts also offered by Criminalist Donald Jones that the DNA colected from indaide the victim had been the result of a sexual encounter that occured as much as "several days" before the murder occured. ("several days passed and then she died, i'm faitly cettain oif that . (see exhibit 51)
AFTER 25 YEARS THIS EVIDENCE COULD HAVE BEEN CONTAMINATED

Petitioners DNA was [not] located onthe a) bedspread, b) sheets c) outter legs d) vulvula e) clitoris, f) inner thighs, outter thoighs g) buttox h) belly i) or anywhere tyhat would even imply recent sex or current sex at the time of death. It is also virtually impossible to leave sperm inside the vagina cavity without leaving traces on the vulva, labia, clitrorus. Petitioners DNA was not located on the a) weapon b) hand prints inthe victims blood c) on the fingerprint located ona cup in the kitchen d) door knobs to the bedroom of the house. In fact the only other DNA collected that matched petitioner was located ona desk blotter that was located under neath a bedspread AND DNA WAS NOT TRANSFER TO BED! Neither of these touched articles that the desk blotter was up against had any of petitioners DNA on them either. In fact the desk blotter would havd had at elast two other DNA's on it one being the victim,and the other being the woman that was there at the ;last envcounter. ONLY THIS EVIDENCE WAS DAMAGED BY SHERIFF.

POST TRIAL FILINGS

Direct appeal 4th appellate Court of appeal #E055850

Appealte counsil argued twelve viable grounds of error that was defended by attorney general. The court of appeal affirmed the conviction with the following information on December 3, 2013 (see exhibit 52)

Sate of Cailfornia State Supreme direct review#S215572

Appellate counsil filed eleven grounds fopr direct review. One ofthe grounds at the appellate level was granterd regarding restitution for parole. This was denied on March 17, 2014(see exhibit NOT HERE)

State Habeas corpus Superior Court #WHCSS1200311

Petitioner argued with the state regarding twelve grapuinds that had occured during pre and during trial. petitioner tried to expand the record with thirteen grounds that had become apparent during direct appeal briefing and habeas briefing. This request was denied,and the habeas was denied with Court opinion . (see exhibit.57.) Denied obn July 12, 2013

States appeal Habesas corpus Court of appeals #E060202

Petitioner increased the habeas arguemtns fromthe twelve he argued and added the thirteen ground along withthe all habeas arguments to thirty two ground. The Court summarily deniued this on January 14, 2014 (seee exhibit NOT HERE)

State Supeeme Court Habeas corpus # S218253

Petitioner argued with this Court the thirty two arguments along withthe twelve direct appeal ground adding to forty two grounds. This was summarily denied by the Court on July 16, 2014 (see exhibit 58)

United States District Court # EDCV14-01877-PA(DTB)

Petitioner argued fonty two grounds of error and the Court granted formal arguments. After this case #FVI900518 had been made aware of the facts inthe case and after trial counsil finally released the records, petitioner tried to develop these facts inthe Court without any success. The Court deemed it to be "too late". After briefing and several volley's of legal arguments that Court denied this habeas as well as certifiecate of appealability on March 1, 2016. When facts had become available to prove petitioners arguments as well as the fraud committed byt the state team petitioner moved the Court for FRCO Rule 60 (b)(3) fraud motiopn that was denied for timeliness and lack of proof. The Court would not accpet compact discs as evidnece from an "inmate"!!!!!! (see exhibit PUB.ORNION) This case was published and injected false evidneces intothe states records. it is located under John Henry Yablonsky vs. Montgomery EDCV 14-01877-PA(DTB)

Californai States Supreme Court # S007210

Petitioenr after being made aware of the new facts surrounding the case that had been witheld by trial counsel petitioner moved the Court for an evidnetiary heaing under Cullin v Pinholster due tothe facst being made available on July 22, 2014 (see exhibit 5)

United States Court of Apppeals for the ninth circuit #16-8771

Petitioner moved the Court of appeals for a certificate of appealability which the Copurt denied on or about March 23, 2016 is when petitioner filed these motions froma hospital bed after having a stroke on October 8, 2015. (SEE EXHIBIT NOT HERE)

United States Supreme Court # 16-87712

Petitioner filed with the Supreme Court of the United States for Certioraria under seven gounds of federal error by the state Courts. This was filed on April 3, 2017. . This was denied by the Court on June 26, 2017 (see exhibit NOT HERE)

Unbited States Supreme Court#16-8771 Rehearing

Petitioenr filed a petiton for rehearing on July 18, 2017 which was distributed on August 3, 2017 regardj g the gross constitutional violations that occured by the Supreme Court inthe initial deniual The rehgaring was denied on August 25, 2017.

California Superior Court #CIVDS1506664

Once petitioner had determiend that the state partied had committed serveral illegal acts that caused injury upon petitioner before, during, and after the trial which he sufferes groos miscarriages of justice, syed every party who participated inthe scheme. Suing them for gross neglignece, professioanl negligence, false light, malpractice and other injuries where these actors of the state deliberatly violated rules, laws, rights in an effort to cause permanent injury upon plaintiff. These parties then admit the allegations while hiding behind statutes which would allow these misconducted to survive so long as the conviction stands ((THE HECK RULE) It is in these pleadings that virtually all parties have admitted directly, or failed to dispute the charges filed against then relying on HECK or some facet of immunity because they are gover-nement practicioners of the [law].
THIS CASE IS STILL ACTIVELY BEING BREIFED

STATEMENT OF THE CASE

Mr Yablonsky (Yablonsky)(Petitioner) was charged in 2009 for a crime that occured in 1985 on September 21, 1985. The alleged victim in this case was last seen at her friends house ata party that was held at the mini springs ranch owned by

John Sullivan and Francesca Drake which amounted to a drinking party (RT104). There were four other personas at this party, John Sullivan, Francesca Drake, Cynthia Hooper, Bruce Nash. All partiers admitted that Cobb arrived drinking a bottle of bourbon (RT407-425) around 7:30 p.m.. One of the friends there Bruce Nash(NASH) who thought that while at the party noticed that Cobb had been more drunk that usual and decided to offer her a ride home,while his gorlfriend Cynthia Hooper(Hooper) followed in their car. Nash stated to sheriffs at that time and over the years that Cobb had rejected that offerm and told Nash and Hopper that she was not going home,and was instead going to go to a bar in town called the Zodiac Lounge. (RT412) Nash and Hoopper left the partry around 9;30 p.m. leaving Cobb at the poarty with Francesca Drake (Drake) and John Sullivan (Sullivan).(exhibit,13)

One of the partiers Drake stated that Cobb had left the party around 11:30 p.m. that Friday 20, 1985 night after her boyfrined Sullivan had fallen asleep(exhibit 14. She added that Cobb liked men, and liked to go to the bars in town, adding that Cobb was a lonely woman. (RT 398)400, 410) Witneses had seen Cobb at the local bars, but their statements were not alloweed in trial.(exhibits 21, 22, 23, 24, 25,) The victims son Daryll Kramer(Kramer) stated that he got a meassage from his mother that called Friday afternoon(September 20, 1985) and left a message that somebody had scared her pretty bad. (RT113) Kramer then stated that he arrived at the residence on September 23, 1985 after he contacted her job and discovered that she had not gone to work. (RT109) That when he got theere he discovered her laying atop her bed, lifeless. (RT118,177, 182). Kramer then ran from the house screaming that "she had finally done it, killed herself" (RT119)

While thinking how and why she killed herself Kramer noticed a ring onthe nightstand next tothe bed. (RT 126)(120). Kramer and his now wife, then sister called the police. (RT188) Deputy McCoy arrived on September 23, 1985 at 1400 hours (RT213) and made diagrams of the residence and scene, thewn took photographs. (RT 221) It was later determiend that McCoy had sketched the scene identifying a six pack of beer onthe dining table after herarrived, but was missing when he went to take photos of the scene. (Somone took evidnece fromthe scene) before it could be processed. The deputy then determined that Mrs Rita Mabel Cobb (Cobb) was ina mopderate dtate of decomposition (RT 232, 233) He also found some clothing onthe floor (RT 234) and seen a watchband pin lying underneath the corner of the victims head as she lay atop a clear sheet. (RT 237). The deputy then took notice that Cobb had been wearing her watch and that it was [un]broken. (RT240) Making a determination that the house had not been ransacked (RT 238) and that there was no signs of forcible entry. (RT242)

That same day criminalist from the shefiff department arrived named Donald Jones. (Jones) While Jones was at the scene he collected evidencew (RT254) including the watchband pin near the victims head (RT255,258) He then took notice of the bllood smears onthe bedroom ddor jamb and collected those samples.*() (RT264, 293) while he also coollected samples from inside the victims vagina cavity(RT260,262) noticing that there were shorts oiver the victims mouth lying over her face. (RT 439) Jones determined that Cobb had been killed by strangulation because of a litigature located around her neck. The DNA collect collected from insie the cavity was processed and later matched to Mr Yablonsky (Yablonsky)(Petitioner). Mr Jones was examined about the DNA matching petitioner and gave the following testimony.

(see exhibit 51)(Sanders trial attorney =Q)(A= Jones)

Q- You said that you found large amounts of sperm cells ?

A- Relatively large amounts compared to other sexual cases that I worked, yes sir.

Q-All rightm, But you have no knowledge of the person--that--the sperm count of the person that made that deposit ?

A-Absolutely. Thats correct.

Q- So it could have been-- you cant tell the time based on just looking at what you [redacted] looked at ?

A- No, sir.

Okay, inother worlds, fromthe information that you had,the sexual experience of the victim could have been at the time of death, hours before the time pof death, after death ?

A- Thats probably true. I would say it probably wasnt days before in terms of she had intercourse, several days passed and then she died.

Q-Right.

A- Im fairly certain of that

Q- Okay

A- If you take those [days] and shrink it down into hours and so forth, I cant tell you

(RT317)(emphasis added)

(THERE WAS NO RE-DIRECT TO THIS CROSS EXAMINATION)!!!!

Another state expert testified for the case named Dr. Saukel (Saukel) the states pathologist who examined the body and evidnecewx to the case. He determined that Cobb had been dead for two days by the time Kramer had found her. (RT 440) and located lavidity onthe victims upper right shoulder area and rib cage(RT443).

The doctoir offered that therew was [NO PHYSICAL, OR SCU SCIENTIFIC] evuidence that Mrs Cobb had been raped. (RT468) He then stated that he located a wire wrapped around the victims neck. (RT464, 465) The pathologist then offered his opinuion of the DNA that had been collected from inside the cavity matched to petitioner. Stating that this sperkm had been found without its tails. That sperm [starts] to lose the tails after a day or two, and in this case all the tails had broken off. (RT490-91) When questions by the prosecutor under direct examination the following occured. (Dr. Saukel = A)

DDA Thomas= Q)

Q- And as far as the sex was concerned, based on your training and experience and based on what you [illegible] termed asa moderate amount of sperm, can you say that this [illegible] occured a "week prior" to death ?

A-It would have to be shorter than that.

Q- How short ?

A-It could have been up to a day , day and a half.

Q- Within a day and a half ?

A- Yes

(RT490) (emphasis added)(EXHIBIT 51)

Earlier the criminalist Jones had offered that DNA can be carried onto objects that are touched,and that they called this trans=fe ferance. He then went into an explaination that [this] evidnece collecte collected from this crime scnee had been comtaminated becuse of the [transferance] that occured when they placed several items into the same bags for storage and processing. (RT 300-320)

According th Kramer his mother was "despondent and lonely" (RT119:23-120:2)(RT153:23-28) In fact her own son after thinking she had committed suicide was the result of her breaking up wioth her then boyfriend Fred Berdard. (RT149, 152) It was determiend the message she lefdt for Kramer was that there was an urgency inher message message(RT142:6-28) Saying that she was woorried about something or someone. (RT 107:24-108:6)

It was also determind that Cobb after drinking a bottle of bourbon by herself that she drank soem white lightening that Sullivan have offered while she was at the party(RT426,427,432,433) No testifying witnesses saw her after the poarty alive. Her own son had not seen her for about six weeks before she had been killed (RT107,141,142) and it was determined that his last visit with his mother was very violent. (see exhibit 15) Where Ronald Kobbs had interrrupted her being violently acousted by her own son.....six weeks before she had been killed. When Kramer arrived at the residence all the draped wwere closed, which he found unusual.(RT113) Inside the home there was afoul odod (RT113,169 whre Kramer found her sprawled across the bed. (RT118) When paramedics arrived at the home of Cobb they instructeed Kramer and his wife to stay out of the home. (RT187) which Krameed admitted that he ignored that instruction,(RT188) Dianne Flagg testified at trial and reported that she seen a Pinto at the residence on that FRiday, and that it was silver. (RT206-07)(see exhibit 28) She also offered that she seen a hitchhiker about that same time. Deputy Mas coroner Marshal Franey was summoned to testify ansd stated he seen a white cloth inthe victims mouth covering her face. (RT439) and that based on the state of decomposition of the body that she had been

been dead for about two days or longer (RT440) The coroner offered that the discoloration by the victims knee was possibly the result of lavidity or by a hand. (RT 443) He said the witre coat hanger around the victims neck was wrapped tuight and twisted into a knott tothe side of the victims side of her neck(RT 444). The autopsy was conducted by Dr.Saukel who as eoplained earlier in this petition offered damning evidnece tothe states case clearing petitioners DNA fromthe time of the crime by at least one and a half days fromthe time she had been killed. (RT490)(e see exhibit 51) Saukel offered that the hyoid bone inthe victims neck was broken. (RT 475,477) The Dr explained tothe jury about the process of a person dyuing from strangulation by closding the airway.(RT482-83)

Sheriffs criminalist Monica Siewertsen gave testimony saying that the DNA collected fromthe victims vaginal cavity had been matched to petitioner (RT328,340,341) and that she had entered these DNA colections into the nations CODIS data bank. The interrogation recordin collected by Myerl and Alexander was played tothe jury (RT508-510) (CT477-590) and determined these recording to be then states exhibit 49 (compact disc) and 49A a 113 page transcript thatwbas created on November 23, 2010. During the "interrogation petitionr admitted that he never partied with Cobb (CT504 and also denied "hooking up" with her (CT517)(RT522)(RT520, 521, 522) Criminalist Susan Anderson did a DNA analysis and processed this into, the data base as well tocreate a profile, which was matched to petitioners DNA(RT360-361) (RT362,365, 367, 370)

There was no defense offered by petitioners trial counsel nor did petitioner testify. (RT 523)

(SEE EXHIBIT 52)(APPELLATE COURT RULING)

DIRECT APPEAL ARGUMENTS

I.....The trial Court committed prejudicial error by not instructing the jury regarding a murder inthe course of a rape

II.....The trial court abused its discretion regarding a similar case under third party culpability issue regarding helen Brooks

III.....The trial Court improperly excluded ewidences of the victims promiscuity and dating practices

IV.....The trial Court improplery excluded hearsay evidnece of thrid party culpabuility and of Cobb inviting men to her home

V.....The trial Court abused its discretion regardinbg third party hearsay regarding the last words of Rita Cobb as she told Bruce Nash about her last destination after the party

VI.....Errouneous admissions of evidnece of two prior rape incidents that were never charged committed prejudicial error.

VII.....The Court gave an erroneous instruction regarding deadlocked jury to continue de,iberating even after the Court found out that they were solid intheir majority

VIII.....The Court erroneously interrogated the jury foreman out of the presence of trial counsel and conducted this interr-ogation before incompetant counsel stand in.

IX.....Trial Court committed prejudicial error by denying new trial motion applying an incorrect standard

X.....Trial Court erroneously denied recusal motion where county DA used petitioners case ina campaign smear before trial

XI.....Ineffective assistance of counel for failing to file change of venue motion in light of the media coverage

SUPERIOR COURT HABEAS CORPUS
(SEE EXHIBITS 53-57)
ARGUMENTS BEFORE SUPERIOR COURT

Grounds

I.....County district attorney prejudice entire jury panel with his re-election campaign smears using petitioners case

II.....That the petitionrd interrogation recording was altered before showing it to the jury

III....Ineffective assistance of counsel for failure to investigate DNA evidnece

IV.....Prosecutor committed misconduct by submitting false testimony with three witnesses (Bruce Nash)John Sullivan)(Robert Alexander)

V.....The officers violated petitioners rights under the fourth amendment when they interrogated him

VI.....There was insufficient evidnece presented at trial to sustain a conviction beyond reasonable doubt

VII....Trial Counsel conspired with prosecutor to altere evidnece before they presented it before the jury

VIII...Trial counsel was ineffectoive for failing to investigate two critical witnesses Lori Amaro, Kye Sun

IX.....Trial counsel was ineffective for failing to object to perjury by states witneses

X.....Trial Court expressed prejudicial error denying motion for new trial violating rights to represtent i himself.

XI.....That trial court commited prejudicail error for failing to grant marsden heaing to replace trial counsel after the trial already occured

XII....That trial court committed prejudicial error for not allowing him to be present at all critical stages of the trial proceedings.

Petitiionr launched this heabeas corpus before his direct appeal had been filed charging parties with several acts of misconduct that injured plaintiff in the constitutional capacity. This was filed on or about June 2012 after pertitioner had been sent to prison for a crime he did not commit.

SUPERIOR COURT HABEAS

On August 20,2012 Superior Court honorable Judge Kyl;e Brodie oreded informal briefing on five of the twelve grounds filed by petitioner. Upon briefing it was determoined that there was an issue with fac5ts regarding the case,and what was now being said. (see exhibit 5)(see exhibit 6) Informal briefing was then grossly mistating facst by DDA Ferguson fromthe appellate division of the county district attorney's office. It was then that petitioner filed with the superior court an objection regarding prejudice by the DDA Ferguson who was affiliated with a entity petitioner had charged with criminal and professional misconduct. The briefing proceeded after the objection which was nto recognized by teh Court. DDA Ferguson then mistated g facst facts that were not part of the record, and made mistatements about law reagarding thresholds petitioner was to meet regardfing appointed counsel. (see exhibit 53)

On April 12, 2013 the Superior Court ordered breifing regarding the stay of the habeas until the duirect appeal had been resolved. (see exhibit 54) Pwetitioenr filed a brief regarding these acts by state entitried sreasserting the facts that Ferguson had grossly mistated. Moving the Courts to stay the hearing, and alloowed him to expand the record for thirteen more grounds that had bev cmme developed through briefing stages. (see exhibit 56) That motion was denied on June 12, 2013. The Court then denied the petitin that next month prejudicially claoiming lack of jurisdiction for the majority of the grounds before the Court as described herein;

SUPERIOR COURT HABEAS
DENIED JULY 12, 2013(SEE EXHIBIT 57)

I.....This Court lacks jurisdiction to consider the claim

II.....There is nothing to suggest anything was altered by the prosecution,and that petitioner was faced with a heavy burden to plead sufficient grounds, and that copnclusoryu allegations unsupported by facts stated with particularity do not warrant habesa

III.....Petitionr has not shown that counsel was ineffective, or that the result of his trial would have been reasonable likely to have changed had counsel undertaken the efforts now demanded by petitioner

IV.....This court lacks jurisdiction to consider the misconduct claim

V.....This Court lacks jurisdiction to consider this claim

VI.....Petitiuoners allegation that there was not sufficient proof to reach a verdict is not cognizable through habeas pr

VII.....Collusory allegations about trial counsel conspiring to alter evidnece do not warrant habeas relief

VIII....Petitionrs claim that counsel was ineffective regarding investigations of witnesses fails because petitioner has not shown what further investigations would have changed the outcome of the trial.

IX.....Conclusoiry allegations are not suffiecient particulary to warran t habeas **Judges are not like pigs, hunting though truffles burinbed in briefs**

X.....This Court lacks jurisdiction to consider this claim.

XI.....This Court lacks jurisdiction to consider this claim.

XII..... This Court lacks jurisdiction to consider this claim

STATE COURT OF APPEALS HABEAS DENIED SUMMARY 1/14/14
(NOT ATTACHED HERE)

STATE SUPREME COURT HABEAS DENIED 7/16/14
(NOT ATTACHED HERE)

NEW LAWS AFFECTING REVIEW BY STATE COURT

Senate bill 1909

This bill p½aased and directly affects P.C.§ 141 and C.R.P.C rules that affect misconduct by counsel, trial or other wise. This bill was pasaed and signed into legislature by governor taking effect in 2017. The premise of this bills originate under [lopez] falsifying evidnece and changing the gravity o fthis tyope of misconduct regarding counsel, specifially focusing on prosecutorial miscomduct;

EXISTING LAW MAKES IT A MISDEMEANOR FOR A PERSON OR A FELONY FOR A PEACE OFFICER, TO KNOWINGLY WILLFULLY, INTENTIONALLY, AND WRONGFULLY ALTER, MODIFY, PLANT, MANUFACTURE, CONCEAL, OR MOVE ANY PHYSICAL MATTER, DIGITAL MATTER, OR VIDEO IMAGE WITH SPECIFIC INTENT THAT THE ACTION WILL RESULT INA PERSON BEING CHARGED WITHA CRIME.

THIS B@LL MADE IT A FELONY PUNISHABLE BY IMPROSONMENT FOR 16 MONTH OR 2 OR 3 YEARS FOR A PROSECUTING ATTORNEY TO INTENTIONALLY AND IN BAD FAITH ALTERM, MODIFY, OR WITHOLD ANY PHYSICAL MATTER, DIGITAL IMAGE, VIDEP RECORDIONG, OR RELEVANT EXCULPATORY MATERIAL INFORMATION, KNOWING THAT IT IS RELEVANT AND MATERIAL TO THE OPUTCOME OF THE CASE, WITH SPECIFIC INTENT THAT THE PHYSICAL; MATTER, DIGITAL IMAGE, VIDE@ RECORDING, OR RELVANT EXCULPATORY MATERIAL INFORMATION WILL BE CONCEALED OR DESTROYED OR FRAUDULENTLY REPRESENTED AS THE ORIGINAL EVIDNECE UPON A TRIAL, PROCEEDING, OR INQUIRY

(see exhibit 61)

Senate bill 1134

This bill passed which directly affects P.C.§ 1473, 1485.5, 1485.55 relating to habeas corpus. This b@ll was paassed into law by the governoir in 2017 regarding the use of false evidneces ina prosecution then the threshold of review have been altered making it easier to if dentify and detect deception bu counsel which will be affected by newly discovered facts

EXISTING LAW REQUIRES EVERY PERSON WHO IS UNLAWFULLY IMPRISONED OR RESTRAINED OF HIS LIBERTY TO PROSECUTE A WRIT OF HABEAS CORPUS TO INQWUIRE INTO THE CAUSE OF THE INCARCERATION OR RESTRAINT. EXISTING LAWS ALLOW A WRIT OF HABESAS CORPUS TO BE PROSECUTED FOR BUT NOT LIMITED TO FALSE EVIDNECE THAT IS SUBSTANCIALLY MATERIAL OR PROBATIVE TO THE ISSUE OF GUILT OR PUNISHMENT THAT WAS INTERODUCED AT TRIAL AND FALSE PHYSICA;L EVIDNECE WHICH WAS W MATERIAL FACTOR DIRECTLY RELATED TO THE PLEA OF GULT OF A PERSON

tHIS LAW WILL NOW ALLOW ADDITIONAL WRIT OF HABEAS CORPUS TO BE PROSECUTED ONTHE BASIS OF NEWLY DISCOIVERED EVIDNECE THAT IS CREDIBLE, MATERIAL, PRESENTED WITHOUTR SUBSTANCIAL DELAY,. AND OF SUCH DECISIVE FORCE AND VALUE THAT IT WOULD ,HAVE MORE THAN LIKJLEY THAN NOT CHANGED THE OUTCOME OF THE TRIAL (EMPHASIS ADDED)

(see exhibit 6ℓ)

SWORN DECLARATION

UNDER PENALTY OF PERJURY

I John Henry Yablonsky an adult over the age of eighteen years of age swear the folloing as true and according to information and belief as the truth, made under the peanlty of perjury, and if called to testify will affirm the same in [any[court of "LAW."

I John Henry Yablonsky met Rita Mabel Cobb when she had offered to rent her back home to me and my wife then Holly Marie Yablonsky and our son John Jr. I met her as aresult of an add she had placed ontothe market information board in Lucerne Valley Market located in Lucerne Valley Califoirnia on or about May of 1985. As a result of the diuscussion and agreement she decided to rent to me and my family. After we had moved in and got to know oine another, became frends, sharing short conversations when seeing one another. or paying the rent.

The rental wsas a back house to her main houser located ona 5 acre parcel outside of twon located in Lucerne Valley off of highway #18. The rental was a small studio type that was sufficient for one small family. This rental had an intercom system that had been placed there before the Yablonsky family moved in. The intercom system was manually operated and had a master control fromthe main house that could navigate the fumnctions without any assistance by the otehr party in the back house. (speak)(listen)

After a short period of time the Yablonsky family experienced fidelity issues with Holly which was learndd afterwards had been listened to by the mmainhouse regarding the accusations and arguments between the young lovers and family. This was idewntifed bythe new manner which Rita Cobb would ask about how things were going when John paid rents, or would mysteriously appear onthe porch as John would leave the home to cool off. Where Rita conversations began to get more= affectionate and touchie feelie.

After aboht a moth from moving in John had gotten into a big argument with his wife about her cheating with another man whom she had also gone to school with. John knew this person, but up till then had suspicions that were unconfiremed about Hollys infidelity and this other man. This other man lived in Downey California, suspiciouly near Holly's grandparent or conveniently. But during these arguments Holly would demand to go to her grandparents for a weekend.

Holly had been pregnant around this time of our lives, which only added to the argument momentums tyhe young lovers and family were having. It had been discovered and confirmed that Holly had been cheating still with this man, while she wasa pregnant when Holly had returned from Downey, picked another fight and demanded to return back to Downey one week end.

Durinhg these fightsa Holly would accude petitioner of cheating, possibly to cover up the guilt she had from her cheating. Accusing petitioner of having sex with about half the women in Lucerne Valley, and even her own cousin as well as Rita Cobb. She made these allegations because petitioners job took him away fromthe house everyday oif the year and for as many as fourteen hours a day while petitioner and his father ran a construc-ion business that took them as far out of town as Needles California, Barstow, and even Sanbernardino.

It had been this one weekend after Holly had just returned froma weekend in Downey, alleging to cool off from an argument, that she upon getting back home, picked another fight,and demanded to return back to Downey. This was when petitioner whopup to this point had remained faithful to his wife and family, after returning Holly to Downey chose to cheat on his wife. It began with the cashier in town, a woman that petitioner had only been friends with up till then, but her name was on this laundry accusatuion luist.

It may have been noticed by Rita that petitioner was too having the affairs, and chose to advance her flirtations to more than mere. It was that same weekend that petitioner had gotten involved with Rita for the first time. This began a sexual relationship between petitioenr and Rita that was not constant, but more the coincidental. This affair lasted a month before petitioner had located another home up the street fromth4 the Cobb home. It was necessary because Holly was going to have another baby withing a month or so, and the Yablonsky family needed more than a studio house to live.

After petitioenr and his wife moved out petitioenr had remained in contact with Rita, even helping her with home repairs and [redacted] twice assisting her with a aggrivated person named David Leftwhich who had been at the Cobb home causing troubles. Rita had been on her front porch the first time waiving for help as Mr.Leftwhich was what appeared to be a tantrum on Cobb front porch. Petitioner escorted this balligerant and drunk man fromthe property and to town. It occured another time after that with Mr.Leftwhich.

Petitioner had had sex with Cobb aboyht three more times after moving out, whenever he had coincidently seen her in town., and at one time in Apple Valley driving along the highway. But the sex was only that ,sex! It was not an emotional connection, and was merely a sexual acquaintance that was mature, respectful, and mutually consensual by both parties.

The last time petitioner had had sex, it was dutring one of the weeks that Holly had been in Downey, only this trip for her was to protect her extreme pregnancy where she was at this time nine months pregnant. Because they lived out of town ona deserted road off fairlane and Holly was incapable of driving herself, the Yablonsky chose to have her stay at her grsandparents the week she was due to give birth, but petitioner also had a committment out of twon to work.

It was the logical decision to have Holly stay with her grandmother, wherr if she ahd an issue with late noight labor, there was someone to help. It was arranged that wehn petitioner completed the job that he would retrieve Holly and return back to the Fairlane home. This was the weekend prior to Mrs Cobb being killed. September 15, 1985. Petitioner agreed that the duration of the oput of twon job might last for that next week, and contfibuted totthe decision to take Holly to Downety at this time.

The job ended earlier than expected and petitioner got off work to collect his wife and son from Downey on or about September 18, 1985 or September 19, 1985 got off woirk inthe middle of the day,and drove to the Fairlane house to clean up and gather a change of cloths for that weekend .Petitioner had decided to stay the remainder of the weekend with the Mullin family in Downey where they could get more time with Holly side of the ffamily.

After cleaning up, petitioner stopped at the Lucerne Valley Market top get condements and drinks for the long drive to Downey, which usually took up to 3 hours one way, depending on traffic. While at the market, Mrs Cobb presanted hereself as having troubles with her bathroom and asked if petitioenr could help her. Rita stated that she was having a aprty that weekend and the bathroom was not working correctly. Petitioenr even though expressed that he was in a hurry, agreed to stop and help Rita before his drive to Doweny. This was about 2-3 p.m (possibly) but definately around noon.

When petitioenr got tothe Cobb home, he seen there wass also another truck there, petitioner drove a Toyota truck. When petitioner got to the front door of the Cobb house it was wide open and without knocking

entered the Cobb home,walking straight tothe bathroom area. Petitioner did not notice anyone when he walked in and went straight tothe bathroom. When he got there disciovered that there was nothing wrong with the sink, toilet, or even the tub and felt he had been conned. When petitioner exited the bathroom was when he noticed that there was two women at the livingroom area engaged into a deep kiss. Rita Cobb and another woman unknown to petitioner. One of the women were pulling the blouse of the other off. One of them summoned petuitioner waving.

Without question or thought, petitioner joined the women which turned into a trio of sex that was located inthe livingroom area on the couch, which moved tothe dining area and office location where there were chairs and a desk top sanwhiching petitioner, and many other acts. This activity was between adults and all partied consented. The behavior lasted an unknown amount of time, but at no point had this activity moved to the bedroom. It was primarily located at the desk and dining table location.

Petitioner may have been told the other womand name but annot recallit even though her looks have been etchedinto his mind even over the years to follow. She was short, blonde and heavy cheasted, and very energetic. During this triopthe one woman stated that she wass married and that he husband was going to arrive shortly. Rita added that petitioner would get along with him . Almost immediatley petitioenr stopped the sex acts and determined that if he had to meet this other man it was not going to be while he was digging into the mans wife, nor did petitioenr want to meet him, especially during this type of sexual activity.

Petyitioner excused himself to clean up and got dressed, now worrying whether he was goiung to be ~~~ pick~ up Holly. Losing track of time. After getting dressed petitioenr thanked the women who were still involed inexual congress at the desk area when petitioner walked out of the Cobb residence. When petitioner left the house, both women were very alive and physically involved.

Petitioner then drove to Downey, wondering if his wife would find out, and after arriving to Downeyt spent the remainder of that weekedd with the Mullin and Mitchell family before retruning back to Lucrene. Petitioner did not find out about Cobb being killed until the following week when his father had told him that Rita had been killed that weekend. Petitioner only flelt that she must have gotten into something with the many troubles with men, and even possibly the man who was arriving after petitioner left.

Petitioenr did not touch Rita Cobb in any type of aggressive manner, never hit her, slapped her,and had nothing to do with her being killed. Petitioenr did not know who killed Rita Cobb, nor had he participated inthat act to any degree, and has no other information regarding that matter other than what is in this petition.

Petitioner recalls this relationship and set of circumsaances after 30 years fromthe last knowledge about Rita Cobb,and his relatioship with her. In fact this is the same recollection petitioner gacve to his attorney,when he finally got to speak to one after being arrested. This conversationwas logged by Geoffery Canty,and the science in this case supports this to every degree. That petitioner John Henry Yablonsky did not commit, perpetraitror cause murder to Rita Cobb or anyone elkse for that matter,and is absolutely innocent of the crime he had been prosecuted for.

SWORN UNDER PENALTY OF PERJURY

SEPTEMBER 7 2018

John Henry yablonsky
480 Alta rd.
sandiego,ca,92179

VERIFICATION

I John Henry Yablonsky an adult over the age of 18 years of age swear as true and accuraste and according to belief that the contents of this pleading is accurate and according to knowledge of the facts and according to belief as true that the entire contents of the habeas/coram filed here is the product of my ownewriting and is the truth as I know it to be. If called to testify will state the same in any court of law. I swear this under the lawsd of califoirnia under the penalty of perjury.

SEPTEMBER 7 2018

John Henry Yablonsky

STATUTES THAT APPLY BUT NOT LIMITED TO

p.c.§ 1473(a)(b)(1)(2)(c)

Every person un;lawfully imprisoned or restrained of his liberty, under any pretense what ever, may prosecute a writ of habesas corpus, to inqwuire into the cause of such imprisonment or restrain (b)A writ of habess corpus may be prosecuted for, but not limited to the following reasons;

(1)False evidence that is substancially material or probative on the issue of guilt or punishment was intetroduced against a person at any hearing or [trial] relating to his incarceration;or

(2)False physical evidnece, believed by a person to be factual probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilt, which was a material factor directly related to the plea of guilt by a person

Subsection (c) Any allegation that the prosecutor knew or should have known of the false natuire of the evidnece referred to in bubdivision (b) is material to the prosecution of a writ of habeas corpus brought pursduant to (b)

P.C.§ 1265(a)

After the certification of judgment has been remitted to the court below, the appellate Court has no further jurisdiction of the appeal or of the proseedding thereon, and all orders necessary to carry the judgment into effect shall be made by the Court to which the certificate is remitted.

However, if a judgment has been affirmed on appeal no motion shall be made or proceeding inthe nature of a petition for writ of wrr coram nobis shall be brought to procure the vacation of that judgment except inthe Court that affirmed the judgment on appeal. When a judgment is affirmed by the Coutt of appeal and a hearing is not granted by the Supreme Court the application for writ shal;l be made to the Court of appea;l.

IV Amendment U.S. Constitution§ 1

The right of the people top be secure in their persons, houses papersm abnd effectsm ahgainst unreasonable search and seizures shall not be violated, and no warrantys shall issue but upon probable cause, ~~bexsearchedxx~~ supported by oath or affirmation, and particularity describdg the place to be searched and the person or things to be seized.

V Amendment U.S. Constitution§ 1)

No Persons shall be held to answer for a capital orimotherw wise infamous crime, unless on the presentment or indictment of a grand jury, except in cases arising inthe land o or naval forces, or inthe malitia when in actual service in time for war or public danger, not shall any person be subject for the same offense to be twice put into jeapordy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, not be deprived of life, libertu, or property, without the due process of law, nor shall private aprty be taken for public use wi without just compensation

VI Amendment U.S. Constitution § 1

In all criminal ~~proeeeding~~ prosecutions, the accused shall enjoy the right to a speedy triand publuic trial, by an impartial jury of the state and disctrict wherein the crime shall have been committed, which distrcit shall have been been previously ascertained by law, and to be informed of the nature and cause of the accusation, top be confronted with witnesses against him, tom have compulsory process for obtauineng witnesses inhis favor, and to have the assistance of counsel for his defense.

XIV Amendment U.S. Constitution § 1

All persons botrn or naturalized inthe United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the priviledges or immunities of citrizens of the Unite States ;nor shall any state deprive any person of life liberty, or propertrty without due process of law, nor deny to any person within its jurisdiction the equal protections of the laws

P.C. § 134

Every person guiulty of preparing amny false or ante-dated book, record, instrument in writing, or other matter or thihg with the intent to produce it or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding or inquiry,whatever, authorized by law is guilty of a felony

P.C. § 135

Every person who, knowing that any book, paper, record, instrument in writing or other matter or thing is about to be produced in eveidence upon any trial, inquiry or investigation whatever, authorized by law willfully destroys or conceals the samem , with the intent thereby to prevent it from being produced, is guilty of a misdemenanor

P.C.§ 141

Except as provided in subsection (b) any person who knowingly, willfully,and intentionally alters, modifies, plants , places, manufactures, conceals, or moves any physical matter with specifi intent that the action will result ina person being charged with a crime or with specific intent that the physical matter will be wrongfully produced as genuine or true upobn any trial, proceeding, or inquiry what eve is guilty of a felony

P.C. 1473

APPLICATION OF HABEAS CORPUS (SEE PAGE 2)

STANDARD OF REVIEW

A STATE COURT CANNOT REFUSE TO CONSIDER "FEDERAL QUESTIONS" OF LAW REGARDING COLLATERAL ATTACK

A state Court cannot refuse to consider "federal questions" of law regarding collateral attacks in state Courts of federal issues. *In Re Pancho(1969)70 Cal. 2d 105 and an independant action as habeas corpus to secure discharge from imprisonment. *France v. Superior Court (1927) 201 CAL 122; In Re Application of Jancinto (1935) 8 Cal.App.2d 275; In Re Application of Conner(1940) 16 Cal.2d 701, cert den, Conner v California (1941)313 US 542. Habeas corpus and not coram nobis is the correct vehicle to collaterally attack a judgment of conviction which had been obtained in violation to fundamental constitutional rightsPeople v Sorenson(1952 CAL APP) 111 Cal.App.2d 404; In Re Winchester(1960)53 Cal.2d 528, cert den, (1960) 363 US 852

In order the justify relief in habeas corpus on grounds of counsel was inadequate, it must appear that the trial was reduced to sham and farce through the attorney's lack of knowledge or competance, diligence or knowledge of the law, In Re Beaty (1966) 64 Cal.2d 760; California Constitution Article I$ 13; In Re Perez (1966) 65 Cal.2d 224; In Re Wimbs (1966) 65 Cal.2d 490 and the adequacy of a waiver of counsel by defendant can only be challenged by petitioner for habeas corpus after the final judgment. Where a loss or impairment of a crucial defense has result[ed](emphasis added) In Re Bell (1967 CAL.APP.3 dist) 247 Cal.App.2d 655; overuled on other grounds In Re Smiley (1967) 66 Cal.2d 606

A writ of habeass corpus may be granted on the basis of new evidnece that undermines the prosecutions case* In Re Branch (1969) 70 Cal.2d 200. If any representative of the "state" connected with the prosecutor either gives perjured testimlny or knows the prosecution witness have perjured themselve habeas corpus will issue. It is immaterial if the prosecution did not know himself or did not know. In Re Imbler, (1963) 60 Cal.2d 554; cert den. Imbler v California (1964) 379 US 908, even regarding testimony about a fingerprint (CITATION)(CITATIOB) especially about the contents of a altered transcript or recording (CITATION)(CITATION)(CITSTION) In Re Lessard (1965) 62 Cal.2d 497; People v Williams (1965) 238 Cal.App.2d 585 and that the prosecution knowingly offered the perjured testimony; In Re Bunker (1967) 252 Cal.App.2d 297; Bunker v California (1968) 390 US 964.

Newly discovered evidnece was determined and theorized by People v C. Maeely 62 Cal.4th 944 (2016) 1) That the evidnece, and not merely it materiality be newly discovered.

2) That the new evidnece be not cumulative merely 3)That it be of such as toi rendor a different result probably on the retrial of the case cvauses 4) That the party could not with reasonable dili gence have discovered and produced it at the trial and;
5)That these facts be shown by the best evidnece of which the case admits. People v. Bangeneaur(CAL 1871) 40 CAL 615; People v Skoff (1933)131 Cal.App. 235. This may be viewed for abuse of discretion regarding request for new trial People v McGarry(1995)42 Cal.2d 429

The prmissible grounds for a new trial is derived fromthe trial court constitutional duty to insure an accused gets a fair trial in allowing due process, a duty which may not be abridged by statutePeople v Davis(CAl.App.1st)(1973) 31 Cal.app.3d 106

Where a prosecutor mistates facts where it is clear the mistatement was in bad faith in an effort to influence the jury People v Searcey(CAL 1898)121 CAL 1, and could not be purged by an abonition or instruction,where evidnece though sufficent does not under unerringly point to defendants guilt , such misconduct which may be turned of the scale against the defendant in a closely balanced case is the result of a miscarriage of justicePeople v Kirkes== (CAL1952)39 Cal.2d 719(citation)(citastion) The term of misconduct when apoplied to an act of an attorney's dishonersty or attempt to persuade the Court by use of deceptive or reprehensible methodsPeople v Baker (CAL.APP.2d Dist 1962) 207 Cal.App.2d 717.

Habeas corpus can be used to advance contentions of denial to a right to counsel, at least where no other remdy was avaiable People v Adamson(CAL1952)39 Cal.2d 41 and that the defendant wass deprived of a right to counsel under the meaning of the VI US Constitution. In Re Spencer.

The judge that pronounced against the accused in absence of counsel was vulnerable to attack by habeas corpus*In Re Levi (CAL1949) 34 Cal.2d 320. And that the result of trial counsels inadequacies, failures, incompetances reduced the trial to a farce and sham In Re Beaty(CAL1966) 64 Cal.2d 760; In Re Van Brunt(CAL. APP.3d Dist 1966) 242 Cal.app.2d 96.

Under Brady the prosecution is responsible for disclosure of "evidnece that is both favorable to the accused and material to, the guilt or punishment "United States v Bagley(1985) 473 US 667 Failure to turn over such evidnece violates due process. *Weary v Gain 136 S.Ct. 1002(2016) The prosecutor duty to disclose material evidnece favorable to defendant "is applicable even though there has been no request by the accused, and....encompasses [impeachmaant] evidneces as well as exculpatory evidnece. *Strickler v Greene 527 US 263(1999). Under Napue convictions obtained through the use of false testimony also violated due process [360 US 269], a violation occurs whether proseutor solicited the false statements or merely allows false testimony to go uncorrected. Id. The constitutional prohibition applies even when the testimony is only irrelevanty toi a witnesses credibility Id. and where the testimony misrepresents the [truth]" Miller v Pate 386 US 1(1967)("prosecutor deliberatley mirsrepresents of the truth" by presenting testimony that shorts with a large reddish brown hair stains test positive for blood, while elaving out that the stains were made by paint") (citation)People v Martinez36, Cal.3d 816(1984) The right to competant counsel (qouting) People v Pope(1979) 23 Cal.3d 412 if the evidnece is material then a motion for new trial should ,have been granted if it determined either[36 Cal.3d 816)]

1) The evidnece was not or could not have been discovered earlier by the defendants diligent efforts

2) If it was reasonably discovered, the failure to discover or present it was an oversight by defendant.

Therefore the Court should have considered the merits of [caselaw] because there was no doubt the prosecutor used false evidnece, false testimony by witnesses that were less than reliable, therefor prejudicial to due process rights afforded under 5, 6, and 14 amendment U.S. Constitution . McQuiggins v Perkins, 569 US 383, 133 S.Ct 1924(2013);Carmona v Ryan, 2018 U.S. Dist. Lexis 49559 ("To invoke this exception to statue of limitiations a petitioner must show that it is more than likely than not that no reasonable jurist would have convicted him in light of the new evidnece") Id. at 1935(Quoting) Schulp v Delvo, 513 US 298(1995)'Schulster v Johnson2016 US dist. LEXIS 18594(2016) In McQuiggins the Superior Court held that "actual innocence" if proved, serves as a gateway through which petituioner may pass whether i8n impediment is a procedural bar...or... experation of the statute of limitiations is limited. McQuiggins 135 S.Ct. 1928 " [A] petitioner does not meet the threshold requirment unless he pursuades the Court that , in light of the newly discovered evidnece, no juror, [acting reasonably] would have voted to find him guilty beyond reasonabel doubt"id.(Quoting) Schulp v Delvo, 513 US 298(1995)

Motrion to vacate judgment in [COMMON LAW] remedy used to ATTACH substancial error when time for new trial and appeal have passed and may be broughty as write of error coram nobis People v Griggs (1967)67 Cal.2d 314;*People v Kraus(1975) 47 Cal. 568 (Extraordinary writ for discussion on grounds) The

Rosa v United States, 2017 US District LEXIS 9098. The common law writ of coram nobis is available in criminal cases under the ALL WRITS ACT 28 USC § 1651 Mautus - Leva v Unites States 287 f3d 758(9th cir 2002) The all writs act provide that "all courts may issue writs necessary to appropriate aid of their respective jurisdiction and agreeable tothe usages and principles of [law]. 28 USC § 1651(a) However the all writs act, is not juriddiction itself a some Chavez v Superior Court of Califoirnia, 194 f.supp, 2d 1037(C.D. Cal 2002)(citing Lights of America v United States District Court, 130 f3d 1369(9th cir 1997)(per curiam) A writ of coram nobis thus cannot can only issue "in aid of jurisdiction of the Court......in which the convictuion was had" Madigan vWells 224 f2d 577, 578 n.2 (9th cir. 1955). To warrant on relief a petitioner must establuish that;

1)A more usual remedy is not available
2)Valid reasopns exist for not attakking the conviction earlier
3) Adverse consequences exist fromthe conviction sufficient to satisfy the case or controversy required of art.III; ands
4) The errors is of fundamental character.

Matus-Leva287 f3d at 760

Because these requirements are conjunctive, "failure to meet anyone of them could prove fatal"id The ALL WRITS ACT $ 1652(a) is meant to be used only in exeeptional cases where there is clear abuse of discretion or ursurptations of][power] La Buy v Howes Leather Co (1957) 352 US 249. As a means of reviewing interlocutory now an appealable order, especially in criminal cases amounting to judicial ursurptation of POWERS. United Styates v. Grand Jury(1970 CA 5 Fla) 425 f2d 327. XXXXXXXXXXXXXXXXXXXXn XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

A judgment of convictionthat has been affirmed on appeal is a conclusion of the matter unless set aside on grounds akin to or in the nature of [EXTRINSIC FRAUD] or in some other lack of due process, or upon proof that a fact existed which could ~~have~~ not inthe exercise of due diligence by defendant have been provided at trial,and which if known then would have precluded the judgment from being enteredPeople v Short(C 1948) 32 Cal.2d 502, 197 p.2d 330.

The writ will be granbted only if the respondent can show that some fact existed which withoiut any fault or negligence on his part, wass not presented tothe Court at the time of the trial onthe merits and which if presented would nhave prevented judgmentIn Re Wessley(CAL APP.2d Dist 1981) 125 Cal.app.3d 240;*People v Gilbert(CAL1984) 25 cal.2d 422: see also People v Sandoval(CAL March 29, 1927) 200 CAL 730; People v Lucas 60 Cal.4th 153(2014 It was previously noted that "impeachment evidnece other than felony convictions entail problems of proof") unfair surpirses and moral turptitude evaluate which the felont conviction do not present"People v Wheeler(1922) 4 Cal.4th 284.

PETITIONER MOVES THIS COURT AS SUCH

A) THAT THIS COURT UTILIZE THE LAWS UNDER WRIT OF ERROR CORAM NOBIS TO CORRECT THE EVIDNECES THAT WERE FRAUDULENTLY USED, HANDLED, ALTERED, DAMAGED, AND OR MISREPRESENTED TO CORRECT THAT RECORD "HERE AND NOW" AS PETITIONER ARGUES AND PROVIDED RECORDS TO AUTHENTICATE, CORRECTING THE RECORD ABOUT FACTS AFFORDING STATE PARTIES TO DISPUTE AUTHENTICITY OR BEST EVIDENCE USE.

B) THAT THIS COURT UTILIZE THE LAWS SURROUNDING HABEAS CORPUS AND NEWLY DISCOVERED EVIDENNCES AS BROUGHT HERE OFFERING THE STATE AN OPPRTRUNITY TO AUTHENTICATE AND OR DISPUTE THEM AND THEIR VALUES REGARDING BEST EVIDNECE, WHILE ENFORCING SUCH PROOFS NOW BEFORE THIS COURT IN THIS PETITION FOR HABESAS/CORAM THAT VIOLATED THE FAIRNESS OF A HEARING WHERE PETITIOENR WAS MADE TO SUFFEREPERMANENT INJURY AS A RESULT OF STATE INCOMPETANCE, MISCONDUCT VIOLATING FEDERALLY PROTECTE D RIGHTS AND DUE PROCESS GUARANTEES

GROUND ONE

THAT THE STATE PROSECUTOR AND SHERIFFS DEPARTMENT VIOLATED DUE PROCESS RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS WHEN THEY ALTERED ANSWERRS IN AN INTERROGATION RECORDING THAT WAS TRANSCRIBVED ON NOVEMBER 23, 2010 BY ROBERT ALEXANDER THE STATES LEAD INVESTIGATOR APPPOINTED BY DDA JOHN THOMAS WITH THE INTENT TO PRESENT THESE ALTERED RECORDS TO A PANEL OF JURISTS FOR CASE FVI900518 -FURTHER VIOLATING DUE PROCESS RIGHTS UNDERHT E FOURTEENTH AMENDMENT UNITED STATES CONSTITUTUION AND STATE LAWS-

Facts surrounding this misconduct

That as a result od CODIS matching petitioners DNA to the scene that a crime had been committed DDA Thomas gave detective Robert Alexander instructions to filed an affidavit regarding an arrest warrant. (see exhibit 30) This was applied for on March 4, 2009 and approved by the honorable judge Nakata who ordered that John Henry yablonsky be arrested for the murder of Rita Mabel Cobb as a result of the affidavit filed by Det Alexander. (Alexander) On March 8, 2009 Alexander along with otehr offic fromthe sanbernardino sheriffs department as well as police officers from Longbeach and Signal hill arrived at the residence of petitioner.

The three agencies arrived at 1700 E Silva st. Longbeach ca, 90807 at 0900 hours to serve the arrest warrant as well as a search warrant that had been procured onMarch 4, 2009. Officer arrived stating that theye were sheriffs and investigating a crime, asking to speak to John Henry yablonsky. This interrogationwas recorded on personal recorders without petitioners permission. The interrogatuion occured inside the kitchen area of the home where petitioners family aleo resided. His daughters were inthe living room, sxx both under age and another girl that ws petitioners niece as well as petitioners mother inlaw and his wife, who all sat inthe living room while this barrage of intruding questions were delivered by two officers that identified themselve as homicide detectives Robert Alexander,and Greg Myler, WHILE OTHER AGENIES WERE OUTSIDE THE HOUSE

The interrogations was without MIRANDA waiver by petitioner nor were any rights read of given, while these detective asked personal questions, specific questions and directly related questions regard- informatiomnto a crime the detectived knewe petitioner was a suspcet to while carrying a warrant for the arrest of John henry Yablonsky for the murder of Rita Mabel Cobb. Thgroughout this interrogation petitioenr was asked about his knowledge and information regarding the murder of Mrs Cobb (COBB) while detectives asked about petitioners sexual relationship woith Cobb. Because of the nature and sensativity of thiose questions being asked in front of children and there was no ohligations to reveal these private answers ~~h~~petitioner ~~lied~~ WAS DECEPTIVE about his sexual relationship when asked. Detective also asked about whether petitioner had keys to the Cobb home and petitioner strenuously denied having any such keys. Officer then asked whether petitioner had given Cobb keys to his rental ,and petitioner admitted

that she would have keys yto her own rental property. Officer again asked if petitioenr may have had keys to the Cobb home and petitioner again denied having any such keys. Throughout the interrogation petitioenr tried terminate the uncomfortable interrogatrion thatw s being held in front of his family and children who were less than fifteen feet away listening to their father being asked about his sexual relatiobnship with an older woman "while he was married"!.

After about an hoiur and fifteen minutes intothe interrogatiom petitioner ttried to move the interrogation outside away from his family, making an excuse that he needed to smoke and went to the driveway near the garage. Alexander follwed petritioner along with Myler who turned left when Aleander and petitioenr turned wight. Alexander was told by petitioenr that we should move the discussion to a local cafe around the corner when Alexander stated that he'd like to go someplace more womfoirtable. Alexander stated that the cafe would nto be confortable enough and stated that they had to move the questionsng to the police station, After an argument about the location it would be Alexander stated that it will have to be the Signal Hill police statioin, and that he'd drive me and bring me back. Another argument about who drove whom where Alexander agreed to allow petitioner to drive his own vehicle.

Petitioenrs vehicle was follwed tothe Signal hill police station about five miles away while being escorted by several police cars(marked) and(unmakked) (Turns out that boith Longbeach and Signal hill police particiapetdd inthis escort. When petitiioenr got into the station he was escorted into aa locked locatioin of the station where an interview area was set up that had a cam corder (TURN ON) onthe wall facing the interrogation desk. Again the interrogation was conducted without MIRANDA waiver or warning andf this 3was recorded by camcorder.

Repeatedly petitioner tried to leave the station and was refused to leave, and when asking to call his wife was refused, when he asked toc all his attorney that too was refused. When petitiioner anner asked to go outside and smoke he was also refused. While all these refusals were being given officers ~~has~~ stated that petitioenr waas free to leave at any time,but when petitioenr tried he wwas refuse. Petitioner after fourt hours of interrogstion regarding his involvelemmnt with the murder of Rita Cobb petitioenr was then placed under arrest and not allowed to leave as stated by police.

On November 23, 2010 the sheriffs department at the instruction of Michael Ramos and John Thomas detective Robert Alexander created two seperate transcripts to this four hour interrogations;
(One 113 page version where all custodial markers were removed)
(This same 113 page version petitioenrs answers werre changed)
(one 136 page version that had custodial markers,but answers changed)
(Both version are missing discussion about [custodial] at the house)

(CAPITAL LETTERS IS THE ALTERED VERSIONS IN THIS TRANSCRIPT)
(lower cadse letter are the actual in real time answers given)
(This transcript is for the 136 page version as weel as 113 page)
(The 113 page version was used inthe trial as exhibit 49A) (EXHIBIT 63 + 64)
(see exhibit42, 41, 40) (PAGE 44+45 OF STATE EXHIBIT 49A)
This is veriffied by states exhibit 49 (compact disc availlable upon request)

(One hour seven minutes and fuifteen SECONDS into state 49)
(GM=Greg Myler)(RA= Robert Alexander)(JY=John Henry Yablonsky)
GM-Ok, did you guys also have a key to Rita's house ?
GM- No

(One hour seven minutes and FIFTEEN [redacted] seconds into exhibit 49)

GM- OK, DID YOU GUYS HAVE A KEY TO RITAS HOUSE ?

JY-UM, YEA

(THEY ALTERED PETITIONERS ANSWERS PLACING EVIDNECE INTO POSSESSION)

[redacted]

(One hour seven minuteds and twenty five [redacted] seconds into exhibit 49)

RA-Did, did she have a key to your apartment ?

JY- Yes she did

(One hour seven minutes andtwenty five seconds into exhibit 49)

RA- DID SHE HAVE A KEY TO YOUR APARTMENT ?

JY-NO

(They altered this to establish there was no freindly exchanges)

(One hour seven minutes and thirty two seconds into exhibit 49)

RA- Did she have a pass key to your apartment ?

JY- Yes, she did.

(One hour seven minutes [redacted] and thirty two seconds into exhibit 49)

RA- DID SHE HAVE A PASS KEY TO YOUR APARTMENT ?

JY- NO.

(They altered this answer to verify there was no friendly key exchange)

This next altreration involves the removal completely fraom all versions of the transcript as well as erasing the audio fromthe personal recorders they used to record this transaction. This occured at one hour fifteen minutes into the interrogations and can be verified throught states exhibit FVI900518 exhibit 49 which is available upon request of the Court will not allow filing

At this point into the interrogation petitioner had moved the conversation outside under the guise of smoking. To offer a non custodial location to continue the discussion. This was transcribed into states exhibit 49A.(see exhibit40)

(one hour fourteen minutes and forty three seconds into exhibit 49)

RA-You wanna after you discuss this a little more in detail with him I wanna ask him some more questions. I'd like to go to um, (the other location) to speak. I think some things we're gonna talk about are gonna be a little bit[private]embarrassing and I just wanna make sure that we're ina [comfortable location] um, kinda away from your wife

JY well there is a cafe around the corner called Spires and has enough seating for everyone.

RA- Well iss gonna have to be a little bit more comfortable than that .

JY- What did you have in mind ?

RA- How about the police station, would that work ?

JY- That would be more comfortable for whom?

RA- Well we're going to have to take this to the Signal hill police statioin,and we'll give you a ride there, and bring youn back

JY- If I have to go then i'll need to drive my own vehicle so I can make some calls along the way

(This was altered by conjoining serveral conversations between Myler and petitioner as follows)

RA- YOU WANNA AFTER YOU DISCUSS THIS A LITTLE MORE IN DETAIL WITH HIM I WANNA ASK HIM SOME MORE QUESTUION. I'D LIKE TO GO DOWN TO UM, THE OTHER LOCATION TO SPEAK.

(THIS CONVERSATION WAS WITH MYLER AND NOT PETITIONER)
WHO WAS IN ANOTHER OUT OF EAR SHOT LOCATION

(Second half of this statement was with petitioner in anothr location)
I THINK SOME THINGS WE'RE GONNA TALK ABOUT ARE GONNA BE A LITTLE BIT PRIVATE, EMBARRASSING AND I JUST WANNA MAKE SURE THAT WE'RE IN A COMFORTABLE LOCATION UM, KINDA AWAY FROM YOUR WIFE.
DO YOU MIND GOIUNG WITH US ?

This is verified through serveral manners . Fuirst this "recording" can be authenticated at this very location in real time to verify that there was no sound differences in RA statement that would lead one to believe a conversation outside near a highway that would imply damage tothe recording or tampering. Second, the conversation occured outside while Myler went tothe front yard where the otehr offeers were located, while Alexander followed me into the back yard. (different locations) Third is that inthis specific splice a two minute discussion ensued aboput where it would occur and whowas goiung to drive what vehicle with whom inthe back seat.

Any expert witnesses regrading audio equipment, would have been able to dectect these annomolies inthe "alleged copy" states exhibit 49 (compact disc)., 0r would have known the order the release and access tothe actual original recording devices for "real time" authentications about a)tampering b) equipmnent fallure c) audio distinctions that would lead any expert to believe the original recording equipment had been altered, tampered with, or that state parties did in fact deliberatly change answers by petitioner.

These records were altered for the sole purpose of presenting to a hearing where a panel of jurists would be coersed into decisions regarding the guilt phase of the trial. While the custodial marking

would have validated the jurors question about MIRANDA because the custodial argument would have supported that petitioner should have been mirandized. (One question by the jurors fromthe court)
The jurors were not allowed to determine whether petitioner had malice or premeditated intentions because their decisions were coersed by the records now saying that petitioner now had a key to the victims home, and that he did not have a friendly relationship woith Cobb where an exchange of key in case of emergencies could be reasonably concluded. What the jurors heard, was that there was no friendship, and that petitioner for some reason retained a key to Rita's house months after he had moved out. (One of the elements to the charge was supported by this manufacturing)

DDA Ferguson admitted that petitioner hada key tothe hosue becaudse it was inthe trial records. In fact DDA Ferguson admitted that petitioners filing of the 113 page transcript along with othr papers was insufficient when a habeas petitioner was filed admitting that it was in fact admiitted into states exhibits as 49A and the jurors used this intheir reasoning. The attorney general parroted this exact same argument intheir defense, stating that colludory allegations without more is insufficient. In fact the US District magistrate admitted that the case teetered onthe contents of this "transcript" intheir reasoning that reach a verdict of guilt.

A)Altering these records violated petitioner due process rights to a fair trial under the fifth amendment of the US constitution

B) Altering these records violated petitioners due process right of the sixth amendment of the US constitution to an impartial jury and petitioners right to confront witnesses against him

C) Altering thius records violated due process rights under the XIV amendment due process right of laws P.C. 134 + P.C. 135 + P.C. 141

Points and authorities FOR GROUNDS ONE, TWO , THREE, FOUR AND FIVE

On order to prevail ona misconduct claim premised on the alleged presentation of false evidnece, petitioner must establish that his conviction was obtained by the use of false evidence, petitioenr must establish that his convictions that the conviction was obtained by the use of false testimony that the prosecutor knew at the time to be false, or later discovered to be false and allowed to go uncorrected. Napue v Illinois , 360 US 264; Carothers v Rhav 594 f2s 225 (9th cir 1979);Pavao v Cardwell, 583 f2d 1075 (9th cir 1979)(per curiam)(Noting that petitioenr was to alleges facts showing that there was s knowiong use of perjured testimony by the proesecution) Due process against the admission of false evidence, whether it be by document, testimomny , or any other form of admissible evidnece)Hayes v Brown 339 f3d 972(9th cir 2005) (em banc) Where false evidnece is presented to the jury, the concvition will be reveresed where;(1)"[T]he prosecution knowingly presented to the jury false evidance or testimony at trial; "and (2)" it was material that is, there is a reasonably likelihood that the false evidence or testimony coul d have affected the judment of the jury. Morrios v Ylst447 f3d 735(9th cir 2006);Jackson v Brown 513 f3d 1057(9thc ri.2008)Mere inconsistancied in testimony are insufficient to establish that the testimony was perjured. United States v Croft124 f3d 1109(9th cir 1997):United States v Zuno-Acre 44 f3d 1420(9th cir 1997. California Evidnece Code §1401 (b) Authentication of a writing is required before a secondary evidnece of its contant may be received into evidnece. Spottiswood v Weir80 CAL, 22 pac 289(1889);Smith v Brennnan 13, CAL. 107(1859) Forman v Goldberg 42 Cal.App.2d 308(1941)

under § 1401, therefore if a person offered into evidnece a copy of a writing, he must make sufficient showing (preliminary) of the authentication of [both] the copy and the original (emphasis) (i.e. the writing sought to be proved a copy) Whiule this case these testimonies, altered evidences, supporting an y writkjng known to be false, testimony known to be false is irrelevant because the prosecutor has a duty to know about the evuicneces he is gouing to present inthe first instance. People v Gallegos (Cal.1971)93 Cal. Rptr 229; Boykin v Alabama (1969) 1 Cal.3d 122, 81 cal.rptr.577, 460 p.2d 449 In this stipplation to police reports by trial attorney to the Court was prejudicial error. In Gallegos the plea of guilt was consistaint tothe stipulation by counselor for trasnscripts making the plea involuntary and uninteliigible because the stipulation wass prejudicial. People v Fonnville 111 cal.rptr. 53(cal.app.5th dist 1973).

California rules of professional conduct rule 5-220 a member shall not supress any evidnece that am member has an obligation to produce or reveal. Brady v Marylan(1963)373 US 83; Giglio v United States(1991 501 US 1030; United States v Agurs 427 US 79 (1976); California v Trombetta, 467 US 479(1984) Under the fourteenth amendment due process claims in criminal prosecutions must copmply with prevailing notions of fairness that if fundamentally respected will prevent such miscarriages of justice safegaurding a right to what the courts may loosely consider CONSTITUTIONALLY GUARANTEED ACCESS TO EVIDNECE(emphasis added)United tates v Valenzuela-Bernal 458 US 858, 458 US 867(1982. While defendants claims could be considered directly caused by trial counsel incompetance People v Pope(CAL 1979)152 cal rptr 732, 23 Cal.3d 412.

CA. Ev Code § 1280 Evidnece of a writing or record of an act, condition, or event is not made inadmissible by hearsay rules when offered into evidnece to prove a thing, act, or content or condition even if the following applies ;

a)The writing was made by and within the scope of duty

b)The writing was made near the time of the act, condition, or event.

c)The source of information and method and time were such as to indicate trustworthiness

P.C. § 134 To constitute the offense of procuring a false affidavit, recordsd, writing, recording or papers to be used as evidence does require specific intent. People v Horowitz(CAL APP 1945) 70 Cal. app. 2d 675 and can turn upOon what the evidnece was offered to prove People v Bambetg(CAL APP1st dist 2009)175 Cal.app.4th 618. The preperations of documents are within the meaing of section 134 does not require the document was created by a specific person People v Bhasin(CAL APP.4th dist 2009) 176 Cal.app.4th 461. Altered and or fabricvateds dopcuments where the result would have been different without the altered or fabricated statements, records, writing, papers would have reasonably been different by a reasonable juristPeople v Blaydon 154 Cal.App.2d (1957). Perparing false and antedated papers fopr fraudulent purposes with the intent to produce it or allow it to be produced as genuine into trial, proceeding was sufficient showingPeople v Clark(1977) 72 Cal.app.3d 80. Under section 132 false evidnece ands or fabricated or altered records should have known that it was forged and or false was sufficent People v Howowitz 70 Cal.app.2d 675(1945) And is broad enough to include any interferance with the production of true evidnece People v McAllister 99 Cal.app. 37 (1929)

The professional crime for offering false evidnece involves moral turptitude In Re Jones 5 Cal. 3d 390(1971); People v Pereria 207 Cal.App.3d 1057(1989) Where prosecutions Mistatements of facts were it was clear the mistatement were in bad faith in an effort to influence a jury People v Searcey(CAL1898)121 CAL 1 and could not be cured by abnonmission or instruction, where evidnece though sufficient or insufficient does not erringly point tothe defendants guilt, such misconduct which may be turned the scales against a defendant ina closely balanced case resulted ina miscarriage of justice People v Kirkes(CAL1952) 39 Cal.2d 719(citation)(citation)

The term of misconduct whenb applied to an act by an attorney implies dishonesty, an act or attempt to pursuade Court by use of deceptive methods People v Baker(CAL app.2d dist 1962) 207 Cal app.2d 717

Californai Evidnece Code § 1235 The admission of earlier statements made by witnesses presently on the stand is not constitution limited to impeachment § 1235 People v Woodberry(1970 CAL.APP.2d duist) 10 Cal.app.3d 695 and does not violate confrontation clauses ofhe sixth amendment People v Green 91971)3 Cal.3d 981, cer den, Green v California(1971) 404 US 801 and the rigfht to confront has been preserved Peoplev Strickland(1974)11 Cal.3d 946. Its application is designed to fullfill that opening of the door to a second opinion of the facts that are inconsistantly relied People v Freeman (1971) 20 Cal.app.3d 488; People v Aeschelimann (19762) 28 Cal.app.3d 460 and are admissible if they are consistant with testimony. People v Morgan (1988) 87 Cal.app.3d 59; People v Kane (1984)150 Cal.app.3d 523§ 1235 also proivides the effect that prior inconsistant statements of witnesses is admissible not only to impeach their

credibility but also to prove thetruth of mattersPeople v Green (1971)3 cal.3d 981 cret, dis,Green v California(1971) 404 US 801; People v Strickland(citation ommitted).This also included an officers testimony as to the alleged inconsistant statments People v Williams (1973)9 Cal.3d 24; People v Cromer(2001)24 Cal.4th 889. Prosecutorial misconduct is cognizable under habeas corpus, but the standard of review is that under Due Process Darden v Wainwright477 US 168 (1986) Touchsotnes is not the culpability opf the prosecutor but the fairness of the trial Smith v Phillips 455 US 299(1982); Giglio v United States, 405 US 150(1972) ;Pavoi v Cardwell583 fed 1075(9th cir 1988)

In fact extrajudicial statements are not hearsay if they are offered for the truth of the maatter Am-Cal Inv Co v Sharlyn Estates inc.(1967)255 Cal.app.2d 526. The purpose of allowing extrajudicial statments is to be fair to the paryt whom they were used, denying the oppertunity inasmuich as was the oppertunity to cross examine, thus such a party should at "least" be allowed to impeach the declarants by admitting the declarants own statments whuich were inconsistant People v Lawrence supra 21 Cal 368 . People v Collup, 27 Cal.2d 829(1946) The Court found that the failure to allow impeaching p materials be used that had occured was prejudicial. The Court also found there was a heavy reliance on extrajudicial statments of a party and the acquainatance testimony and acquaintance observations. The Court further found under the circumstances error with regarding to impeaching materials was of vital importance even though many of the circumstances were brought from other witnesses, and determined that the foundation

requirment for impeachmanet testimony was not necessary, where it was impossible to comply with at due "to no fault of the party using the impeaching materials" and that justice and fairness compelled either that the testimony at the former trial be excluded or that the impeaching evidnece be admitted.

The ninth circuit agrees with this analysis under Salcedo v Hedgpeth 2013 US district LEXIS 133001 (July 30, 2013)

Analysis of the ground one merits

First these facts that had been illegally collected were protected from intrusion by government bodies under the fourth amendment, which was mandatory according to (exhibit 30) The warrant for the arrests filed and ordered on March 4, 2009. Furthermore the search warrant that was also ordered by Judge Nakata did not include intrusions into petitioenrs personal knowledge,and without MIRANDA Miranda v Arizona 384 US 436(1935) This act is further protected by the fourteenth amendment due process of law which is outlined by the requirment to read [suspectys] their rights before questioning. It wass the responsibility of the prosecutor to protect these evidneces, to comply to all state laws requiruing copying of recordings which includes the transcripts created from such recoirdings.

These recordings were never authenticated at all by any parties inthe interests of petitioner to comply to Ev.Code § 1401

> section 14091 requires that a writing be authenticated even when it is not offered as evidnece but is sought to be proved by a copy or by testimony as to its content under circumsance permitted.

Evidnece code § 1402 the party producing a writing as genuine which has been altereed must account for the alteration or appearance

thereof. He may show that the alteration was made a by another, without his concuurrance, or was made without the consent of the parties affected by it or otherwise innocently made or that the lateration did not change the meaning or language of the instrumment.

In this case the prosecutor knew that petitioenrs DNA was older than the crime by more than n one full day to as many as several days before the crime had been committed, making it difficult if not impossible to, place him at the scne at the time of the crime, unless petuitioner had some interests inthe crime. For first degree murder to stand there must be several elements satisfied, and without them first degree charges could not stand. Placing an item that was crafted to fit only one door inthe entuire desert area (a key) that fit Rita Cobbs door, was enough to suggest that a person who had no business entering the home without permission , who not only had a key but had had the key for months after he and his wife moved out, would have propincity to comit a crime with that key. (SEE EXHIBIT 51) INFERED (Hence robbery, nurder) It was because the jurors had asked about MIRANDA, and who heard that there was no custodial markers that would induicate a reasonable persoin felt they could not leave, and that this person had a key top the home where a person was killed that he was suspect to, was sufficient inthis case.

The answers thatbwere changed were not similar answering in sound,and because this occured at three very specific locations does impoy intent to coerse a different]view] about the fsacts regaring Yablonskys relationship to Cobb that [DID] LEAD a reasonable jurist to believe that petitioner had committred a crime with the key he held after he had moved out. In this case these answers were volatile and contaminating to a matter that was close at one time

where the jurors were hopelessly deadlocked at one point, that a different version that was real time transcibed would have giventhe jurrors a different perspective. It is irrelevant that these alterations were made to get revnge for the lawsuit filed by petitioner against Mr. Michael ramos, even though that is more likely the answer, but the answers were known, and deliberately created. Why else creat two different version onthe exact same day about the exact same set of circumstance and facts.??? To manipulate a different outcome. (see exhibit 35)

BAIT AND SWITCH(SEE GROUND TWO HERE)

AS A RESULT OF THE MISCONDUCT BY ALEXANDER AND THOMAS DUE PROCESS RIGHTS WERE VIOLATED TO A POINT THAT AN ADMONITION OR INSTRUCTION COULD NOT CURE THE ELEPHANT INTHE ROOM!!

Regarding the alterations of the interrogationtransctript habeas corpus should issue , allowing petitioner to correct the records about [facts] under the law in this petition, and vacate the conviction based on the due process rights that were violatds by the prosecutor who knowingly manufactured evidnece he intended on using to coerse a verdict where there was no other evidnece pointeng towards culpabilty other than this false, fake evidcnece. That they not only created but placed into the states records [forever[]!! as states exhibitds to casee FVI900518 as exhibit 49 (compact disc copy) and 49A (113 page ttranscript)

(see exhibits 40, 41, 42,)

THIS GROUND WARRANTS HABEAS BE GRANTED UNDER P.C.§ 1473

GROUND TWO

THAT THE STATE TEAM DDA THOMAS AND DETECTIVE ALEXANDER FROMTHE SHERIFF DEPARTMENT VIOLATED PROTECTED RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENT WHEN THEY ALTERED ANSWERS ON JANUARY 26, 2011 THAT INCLUDED AUDIO ANSWERS THAT MATCHED THE TEXT ANSWERS THAT HAD BEEN ALTERED ON NOVEMBER 23, 2010 FOR THE PURPOSE OF COERSING A VERDICT FOR CASE FVI900518 FURTHER VIOLATYNG FOURTEENTH AMENDMENTS UNIOTED STATES CONSTITUTION AND OTHER LAWS. VIOLATING PETITIOENRS RIGHT TO A FAIR TRIAL UNDER THE FIFTH AMDENDMENT, [redacted] DUE PROCESS OF LAW. VIOLATING PETITIONERS SIXTH AMEDNMENT RIGHT TO AN IMPARTIAL PANEL OF JURISTS, AND PETITIONERS RIGHT TO CONFRONT WITNESSES COMPEEEED AGAINT HIM. fURTHER VIOLATING PETITIONER FOURTEENT AMENDMENT TO DUE PROCESS OF LAW ALSO PETITIONER RIGHT TO BE FREE FROM SELF COMPULSOURY WITNESS AGAINST HIMSELF DUE PROCESS VIOLATIONS

Facts surropuinding this ground

That as a result of the claims in ground one filed here are now incorperated by reference herein. Fuyrther that now the state parties known as the prosecutor DDA Thomas(Thomas) and detective Robert Alexander (Alexander) had a transcript set, one 113 page version , and one 136 page version chose the more intrusive one to present tothe jurists after they took these material home on January 26, 2011 after the trial had already begun, and drew near closing of the hearing.Where state experts had already cleared petitioners DNA fromthe time the crime had been committed by more than one full day. (see exhibit 51) Then as many as several days before the crime had occured. (emphasis added) That Thomas chose to argue that he needed to take this "transcript " home so that he could wash all the things that needed to be taken out from the recordings, and that he did not trust anyone else to do this. (see exhibit 41)

(Thomas) Then my last witness which will have to be on the stand Thursday is detective Robert Alexander. I need to wait for Mr Sanders to take out the redactions that he has inthe recording

because that was what I was going to play on Thurday and at that point the people will rest. (RT 402) Then I need to make the redaction. Sanders at this point stated that he could do that tonight. (This was wednsday January 26, 2011 during chambers discussions)(RT403) (T-Thomas)(S-Sanders)(C-Court)

T- Then I can get it domne tomorrow, ill do that when I get home tomorrow night.

C- All right, do you have jury instructions ?

T-Illl have those for you by Thursday.

C-Do you know that I like them ?

T-I have no idea. Last time I did a trial in here--

C- Hoiw about Wednesday ? (RT403)

S-S- Thank you your honor. I had indicated tothe prosecutor the parts of the statement that I felt should be redacted.

C- Lets talk about this a little information before we make assumptions.

S- I believe we agree

C- The statement thats going to be offered by the prosecution, and its a statments alleged to be a statement by your client, is that correct ?

S- Yes your honor

C- Alright you are not going to object to entry of the statements, but you believe there should be some things that were stated by your client that shoudl be removed fromthe statement, is that correct ?

S- Mostly statments by the police officers, but some statments by my cluient.

C-Mr Thomas has not disagreed with you and attempted to provide you with specifics of [how] he [intends] to redact the statement of your client, so that is not objectionable to you ?is that correct ?

S- Thats correct

T- Mr Thomas you've seen that, and do you have any reason to disagree with the --

(here these statements were redacted from transcripts to cover misconduct

T- No , as far as --

C-Statments that Sanders --

T- As far as Sanders, he provided, I dont have any problems with the redactions of the [stuff]. The only question I did have for Mr sanders is theres reference at the end of the interview where Mr.Yablonsky invoking. [I was planning on taking that out] unless you wanted to keep it in.

S-I did this very late last night, and I did forget when he involked MIRANDA to take that out.

C- Othetr than thaty, sounds like we're in conjunction on what should be [done]. No disagreements between the two of you ?

S-I believe so.

C- Alright, that cant be done until tomorrow

T- I wouldnt be able to do it until tonight. Im going to star this afternoon once we're done.

C- hopw much is it ?

T-Its aboiut a three hour interview. Im requesting a redaction of about ten minutes but in different parts of the interview.

T- So I got to go through everything and find out where I got to cut the interview and make sure it"sounds good "

C- Cant be done betrween 11:05 and noon ?

(remember sanders only wanted ten minutes to be missing...allegedly)

(see exhibit 43) On January 27, 2011 at 0916 hours detective Alexander got onto the stand and swore tothe authenticity of the interrogations transcripts that allegedly had been transcribed on November 23, 2010, wqhreee Thomas admitited tothe Court that he on Januarty 26, 2011 had to further redact ten minutes froma four houir interrogation. Detective alexander unde oather swore that the transc ipt the jury was about to hear was the exact transcript fro originals.

On January 26 , 2011 sanderd had told the Court that he needed to take them home that night so he could redact statement he felt wsas damning to his client only he had already made some type of arrangem,ent with Thomas to redact invokation of MIRANDA and other alleged mistatements involving, petitioenr du rug use history and criminal background.....allegedly. But if he had actually listend tothe interrogation as he suggested then he wouyld have heard that petitioenr had stated that he did not have any keys tothe rita Cobb home. Futher, he only wanted a ten minute window from diffeeretn locatinns inthe interrogation to be removed. Only this recording was from trhee seperate recording devices that included one cam corder cassette that lasted three hours and firty eight minutes.

Sanders stated (RT454;3-7) Thta he had already made these redactions after telling the Court he needed to do it that niught. The Court gave Sanders an op;ertuinity to protect petitioenrs rights regaridng the invokationwhich would have strikent this entire recording fromthe record for breach of rights under the fourth amendment, but this imbusil had altready cut a deal with the prosecutor,who now had to take this evidnece home and make it "SOUND GOOD". (RT455:24)

After alleging to authenticating the recoird-ing that was created on march 8, 2009 and alterrd on November 23, 2010 tha state predsented tothe jury a two hour and fifty five minute version of the states interrogation. Placing this into the states records under exhibit 49-CD interview with defendant
49A- transcript of 49 exhibit

(see exhibit43)

The prosecutor then played a version that wass two hours and fifty five minutes tothe jury ona text version that played

on a screen that stood over the jury box. This was accompanied by an audio sound that was also played tothe jurors who werre allowed to read along with the text and audio. This versionwas verbatim to the altered sounds where petitioenrs answerrs were changed placing evidnece into his possession. Also petitioners wife thatw as right there when the interrogation occured was also washed fromthis version.

As well the statements made by petutioner and detectived knowing that petitioner owne a dark blue pinto were also washed fromthis version. This is verified by (exhibit 28) where a witness seen a silve r pinto at the cobb residence. This exhibt shows that Diuanne flagg had stated in 1985 that she seen the [XXXXX silver] pinto at the Cobb residence the night she had been killed. Only the versdion of the interrogationws shown tothe jury washed this fact out. Furhter state placed this alleged transcript into states records ars exhibit 49A only the versionthey placed was the November 23, 2010 version, neglecting to place the January 26, 2011 versionfrom ever being seen. (see exhibit 40) Notice the recordeds information at the lower right of the page (49A) entered on January 27, 2011)

What the jurors seen in text on the screen were the markers that this transcript had been done on (November 23, 2010) which had just been verified by Alexander (revied by Det Rob Alexander) (#A1672) Why wouldnt they believe a detective who just swore to its authenticity under oathe.

This information placedc before the jurors violated so many rights,where do I beging. First I begged the attorney after seeing that they had altered my answers to review this, telliong him that I had not been ptroperly MIRANDIZED. (see exhibit 3) I told himthis on June 2009.

Had Sanders done a preliminary listening he would have heard that his client had tried at least three times to terminate the interrogation. This verifies that he never listened tothe eviudnece. Or he assisated the prosecutor. In either event petitioners trights under the fourth amendment were abolished woithout his coinsent, which he had already tried to invole that right in 2009, and was refused.Also ignoring that his clients answers changed.

Second, after invoking this protected right, this team then allegedly agreed to wash it from what they were going to show a panel of jurists who were watching and listening. Thye asked about miranda right afetr they heard this version. This was then argued bythe Court and preecuting team that included Sanders. Thomas boasted that he encountered this situation before and even though those rights were violated suggested that they could draw up something that would stipulate petitioner had been ready his w rights(RT532) only they knew that petiutioner would have never waived this right. Next where the Court tried to give them a chance to correct this the Court treid to pelad with the counsels to draw something up, but neither of the parties widshed to get involved with this ~~esnoi~~ canundrum of a pickle where not only were the rights invoked, but the prosecutor had also washed the recording for the direct non custodial request that was denied and petitioner was forced tothe local police station while being escorted by more than one agemncy. (RT454;19-25)(RT 532:

Because petitioner wads not inteligably informed about this access to a prtoected right before they abolished it fromthe records, they then presented to the jury a ½piece of evidnece that was fake, forbidding petitioner an oppertu nity to challemnge this through right to confront, while plading this into the records againrt

the protected right to be free from compulsory witness against himself where [information] may caue injury upon petitioner aghaint his interests. Only this is exactly what they did by placing a piece of evicnece that had been altered tothe point it was destroyed, and virtually unusable. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Because petitioner had heard this and tried to get the attorney to at least let him testify, counsel said he'd prepare that later on in the trial. Leaving petitioner to believe that there was in fact a defense strategy about presenting evidneces.(see exhibit 44)

The prosecutor then stated that as far as the transcript, that neither of the parties havea problemn with the jurty getting it as an aid to exhibit 49 itself. (RT533) The Court again stated that he wanted them to write something up regarding the MIRANDA issue. (RT533:17-19) while neither party wanted anything to do with this dragon of error. Both counsels asked the Court to give an instruction according to what the Court had said previously, then injected "Something tothe effect of I'll instruct the jury that they will disregard that issue" (RT533:25-27) Adding [or] do you want us to write something up ?(RT534:2-4)(see exhibit 41) Thomas added (RT534:5-12) "In the past, I used to do the drug cases, and as an issue that would come up would be whether or not the defendant vehicle or a person house was searched in accordance tothe laws. The special instructuion that would be given usually in "that case] "] woudl be something tothe effect that, its- this is a maatter for the Court to decide,and the Court has decided it was a lawful; search" This type of statements suggerst that Thomas did not respect any laws protecting defendants, and the Court aggreed here.(RT534)

So, with regarding the transcript shown to the jury who listenedxxxxxxx to the fake evidnece that showed it was transcribed on 11/23/10 when it was in fact alterred on 1/26/11. They did not get this information. Further Thomas then had to take this evidnece home with him, down load the recordings fromthe [copy] of the interrogations and dubb sound in from another locations to a newly trasnscribed answqer, then make another copy of the transcript while placing onto the [text] version ofm this [transcript, showing it was not tanscribed on 1/26/18 in an eefort to prevent the jurors who were wantching and listening from knowing that it was doen at the last minute. 1/26/11

Next Thopmas then placed his expert witness detective alexander onto the stand to swear it was an exact copy of the recordings that were created on 3/8/09, when it was anything esle but that. Falsifying the recoirds they knew would coerse a verdict int h this matter. In fact this decision was not made until after the states entires case where;

a) Kramer admiitted to finding his mother after being alamed she was in danger, and that he ignored instruction about enbtering the residente until after investiogations

b) Nash who stated that his last knowledge of Cobbwas that she arrive at a party on September 20, 1985 drinking a bottle of liquor and drank more after that had been finished. That when he offered to drive her home, she told himshe was not going home and would be going to a bar instead. (Seeexhibit13)

c)Dianne flagg had seen a siver silver Pinto at the residence the day of the murder,and that she was a car entheusuiast and would know the make because her neighbor had one,and that she was certain of the silver color (see exhibit28)

d) That Sullivan testified that he remembers bettwer after 25 years than he did three days after the murder and that he now knows he was not asleep when Nash left the party (contradicting nash testimony), amnd that he seen Cobb at the party on 9/20/85 and that they drank white lightening together, and then seen Cobb being given a ride home by Nash(also contradictory to Nash testimony) (SEE EXHIBIT 14)

e) That Criminalist Jones testified that he had not matched petitioners DNA to the murder weapoin, watchband pin, or the red hair located at the scene onthe body. In fact Jones stated that the DNA matching petitioner that was located indide Cobb was the result of an encounter that occured several days before she had been killed and that he was certain of that. (see exhibit 51) (RT 317)

f) The Dr. pathologist Saukel who stated there was no evidnecwe that Cobb had been murdered. Physiucal or scientific. (RT 491) and that the DNA matching petitioner that was locatd from inside the cavit of Cobbw as the result of an encounter that occured as much as one and a half days before she had been killed. (RT 490) (see exhibit 51)

g) Thatbthe detective Alexabnder gave tsestimony that there was was no fingerprint report from this crime scene,and if there was that he dont recall whther it had been developed or not, opining that he knew petitiioners prints were not ,located at the scene9(see exhibit 29)

h) That detective McCoy admitted that the evidneeces had been cross contaminated, because they were placed intot the sasme bags when they collected these evidnece

This decision to finally place the manufactured evidneces intothe possesion of the defendants case, was a last hail mary to get this skellitin to stick ona person they knew to be innocent. Whuich explains their need to purge the entire panel with prejudicial materioal before the trial ever started telling them that they had failed 19 murder charges against a defenant who was being tried later that year,and that Ramos promised closure inthat case. (see exhibti 33) Further more these PARTIES AS defendants chose to admit these allegations in the civil arenas while petitioner chjarged them with gross negligence, professional negligence,and other misconducts regarding the coinspiracty to manufacture evidnece. These partied (David sanders) (John Thomas) (Robert Alexabnder) admitted as much and faiLed to even dispute the charged in Court CLAIMING immunity under HECK and AEDPA while they suggest THEY

that they are immune so long as these acts stand and the conviction is uncorrected, boasting that they owe no professional quality as long as their acts reach a verdict, irregatrdless of the gravity of misconduct that was committed or acts that they did caused injury to petitioner because they are government bodies. This can be verified through case nunmbers #CIVDS 1506664 (superior court) and #E068775 (Court of appeals) Briefing by county counsel for John Thomas, Robert Alexander, Greg Myler, Michael Ramos, Mark Shoup, Geoffery Canty who all tio some degree participated in a conspiracy to alter and fabricate evidcneces that they knew were false and would cause injury.....or hoide these proofs until after the direct appeal had been exhausted. Sealing these facts behind AEDPA. (see exhibit 61) The appellate Courts findings about the allegations made by petitioner under civil rights. Although the court minimallized the claims veracity it acknowledged them without dispute for validity.

Furhter because petitioenr could not file the malliable compact disc in the Court, stating they will not aaccept compact discs, the Suoperior Court prevented a rercord from being developed that would have supported the verification that the transcripts were in fact altered comparing exhibit 49 (compact disc) to exhibit 49A the states exhibit of 113 pages that was used in the trial where petitioners answers were in fact changed.

Points and authorities as stated above are hereby now incorperated

In the Court People v William, 1 Cal.5th 1166(2016) discussed how and why due process applies to mistatements. "There are some residual effects to due process exceptions to hearsay rules, which

require some [relaibility] and upon reflections it seems that..... we all get caught up the [right] to cross examine under the right to confront, and the timing about [cross], it is that period of time in which lawyers get the chance to destroy another[s] witness thtrough impeachments. But it also is the time whjen reliability of the evidfnece is deminstrated....." People v Lucas60,Cal.4th 153(2014) The Court added that although evidbnece could have discounted credibiltyiissues, that unl;ess the record is vacant for ampleness of evidnece supporting the juries conclusion , credibility issue may have no effect ontheir view of the case. Peopel v Butler, 212 Cal.app.4th 404(2012):(arguing)People v Avila 46 Cal.4th 680(2009) ("under weell established principles of due process the prosecutor ncannot presente evidnece he knows to be fakse and must correct [any] falsity of which it is aware inthe evidence it presents, even if the fasle evidnece was not intentionally submitted"))(AVILA): See United States v Agurs, 427 US 97(1976);In Re Richards 63 Cal.4th 291(2016)(That is resonably probable that the fasle evidnece afffected the outcome because with exceptions of the bite mark evidndece the defense had a substancial responsibility to much of the prosecutions evidnece was sop weak (transparent) for culpability that carried any weights

ANALYSIS OF THE FACTS

It is because there was litterally no evidnece placing petitioner at the scene other than the DNA collected from inside the victim tyhat had been verified that it had been placed there from one and a half days before the murder occured(RT49) to as many as [several] days before the crime occured(RT317) that there was

[NOTHING] inthe states entire case that placed petitioner in that house, much less placed there when the crime was committed. Furhter because the state relied onthe testimonmy of Dianne Flagg who seen a specific type of vehicle at the home that was [SILVER] that Pinto wassuggesting that the actual killer had in fact driven a silver [pinto]. Only in real time the recording shows that petitioner owened a dark blue pintoi which further suppoirts that they also remoived the discussion in two different location while being interrogated that detectives knew petitioenrs pinto was blue and not silver.

As weel whenthe prosecutor asked the jury why would a man lie about his sexual involvement with a person that had been killed unless he was the actual killer. In fact there was a jury instruction about what the jurors seen and weight they gave that evidnece. Only in this case the facts that petitioner wifes presence that had owcured at about page ten of the states interrogation and later in that same interrogation had aleo been washed fromthe recoirding and transcripts creating exhibit 49A. I fact the murder weapon that carried DNA , none of the DNA was matched to petitioner. The state relied on the watchband pin located under the vicitims head also carried DNA according the the criminalist, yet that DNA was not matched to petitioner either. All making the value of the fake evidnce carry weight, and even after the jurors heard all the states [theory] and evidences tying petitioner tothe crime of murder, they came back hoppelessly deadlocked. Suggesting that any of these facts inside the "doctored" records where state partied deliberatley and ina calculated manner removed specific facts which would have contradicted their arguments and evidndeence, but then forced them to hear that petitioner had a key to a home he did not live and a crime was committed

Because DDA Ferguson arued that the jurors did rely on this fakle evidndces as exhibit 49A for the state to reach their verdict, petitioner agrees, they did rely onthe transcripts that were doctored to place evidence into petitioners possession. As a result of this act along with the ground one here, habeas should issue for the due process violations perpetraited by design and malicous intent by state parties. (see exhibit 51, 62, 43)

You cant waive petitioenrs rights outside of his presence, and you can stipulate to manufacture evidnece that will be used ina criminal trial, irregardless of who that crafter is. (THE RULE OF LAW APPLIES TO ALL PEOPLE.....EVEN A JUDGE)

GROUND THREE

DDA THOMAS, DETECTIVE ALEXANDER, DPD SANDERS VIOLATED DUE PROCESS RIGHTS AFFORDED UNDER FIFTH AMNEDMENT TO A FAIR TRIAL, SIXTH AMEDNMENT RIGHT TO IMPARTIAL JURISTS,RIGHT T TO CONFRONT WITNESESES AGAINST HIM, RIGHT TO DUE PROCESS UNDER THE FOURTEENTH AMENDMENT UNITED STATES CONSTITUTION WHEN PROSECUTOR AND COUNSEL PRESENTED LIARS ON THE STAND OF ALEXANDER WHO LIED ABOUT THE AUTHENTICATION OF AN INTE RROGATION TRANSCRIPT CONTENT, AS WELL AS LYING ABOUT THE EXISTANCE AND CONTENT OF A FINGERPRINT REPORT. THAT BURCE NASH LIED ABOUT THE DESTINATION OF RITA cOBB WHENE SHE L LEFT THE DRINKING PARTY. THAT JOH SULLIVAN XXXX LIED ABOUT WHAT HE SEEN ON SEPTEMBER 20, 1985 REGARDING NASH TAKING COBB HOME

A & B-Robert alexanders lies tothe court

C-Bruce Nash lies about the destination of Rita Cobb after the party

D- John Sullivan who lied about what he seen regarding nash giving cobb a ride home

Facts surrpunding false testimony

A.

Detective Robert Alexander was assigned as the lead investigator

fopr the state regardi g case #FVI900518. His duty as an officer of the Court wass to proviude truthful and reliabel evidneces regarding his knowledge of facts of the case otr evidcncee. Alexander was aksed about the contents of a fingerprint report during cross examination. Trial counsel had asked whetrher the detective had seen the entire file regarding the case. Alexander gacve veruy misleading responses trying to prevent the comntents of the report that had been collected fromthe crime scene. Alexander was asked whether he had seen and has knowledge of all the evidnces tothe case and he responded he did. (RT687) He then was asked was he familiar with the entire investigations since 2009 the crime was committed in 1985 until the facts of the cadse up until 2009, and he stated he did. Admitted that all of the reports that had been generated were in fact in his possession. Stating that he had not discovered abny later that he did not know about. (RT687:9-19) He then stated that he was not sure whether there were fingerprints that had been developed. (RT688:5) But then suggested that he knew that petitioners prints were not located at the scene. (RT688) Stating that if he had seen the reports that he dont recall all the mnames, but then admits that there was a print on a cup located in the kitchen. (RT688:5-19) The prosdecutor entered an objection that was allegedly sustained as hearsay. The Court abusing the discretion for hearsay statements by a state employee about state records that had been collected was an abuse. The prosecutor knew the report existed as well as the detectoive knew that it existed and there was a result which shows that petitioners prints were not located at the scene.

Because these records are state records and deemed to be credible, they are not hearsay and are an exception, all parties

knew this, including trial counsel. But because of the Courts interferance with cross examination the results of that print were not divulged, but more importantly was the results where petitioners proints were not revealed in this report because his prints were not found at this scene. Trial counsel did not have the knowledge to navigate this hurdle which would have been Evidnce Code § 1280 making this record exception to the heasrsay standartd the prosecutor allegedly objected to. By refusing access tothe information in this report that Alexander was mistating facts to evade the release of the results was prejudicial to petitioners case, specifically that the jurors asked about Joseph Saunders presence at the scene.

//

IN REAL TIME TRANSCRIPTS THIS WAS NOT THE DISCUSSION ABOUT THE REPORT THIS IS EXACILY WHAT WAS ASKED AND ANSWERD.

Q- DID YOU REVEIVE ALL THE EVIDNECE TO THIS CASE AND DO YOU HAVE KNOWLEDGE ABOUT THE EVIDNECES TO THIS CASE ??

A- YES I DO.

Q- DO YOU RECALL A FINGERPRINT REPORT FROM THIS CASE ??

A- NO NOT THAT I CAN RECALL

Q_ SO YOU DONT RECALL ANY FINGERPRINT REPORT FOR THIS CASE ??

A- NO, NOT THAT I CAN RECALL.

these transcripts were alteredd after the trial and is supported by Thomas' closing statements saying that there was no fingerprint evidece presented in this case **SEE EXHIBIT 59**

//

The prosecutors closing statement is as follows regarding this alleged denial of access tothe results of the fingerprint report (RT648:26- 649:7) (Prosecutors closing) "Lets say that we did collect-- there was evidnce that there wwere fingerprints, **[AND YOU DIDNT HEAR ANY EVIDNCE]**, BUT LETS SAY THER WAS EVIDNECE THAT FINGERPRINTS ~~EW~~ WERE COLLECTED, AND IT CAME BACK TO ..

TO MR YABLONSKY. WHAT WOULD HIS EXCUSE BE ? oF COURSE MR YABLONSLY WASSIN THE HOUSE AT SOME POINT, BUT THAST FINGERPRINT, THAT WOULDNT TELL US THT HE WAS IN THERE THAT FRIDAY NIGHT OR SATURDAY MORNING. HE'S HAVE ANOTHER EXCUSE, JUST LIKE THE CONSENSUAL SEX.....HE HAS AN EXCUSE".

First it is almost irregardless if the transcripts were altered after the trial, but for arguments sake even the altered version violates due process rights to question witnesses against petitioner, giving him the oppertunity to develop the facts about not onlty that the prints were found matching Saunders, and petitioners were not at the residence, but that this print supported a defense that would have falledn undetr thirtd party culpability, because saunders was at the house just after Cobb got home,and arrived un-invoted. His arrival scared the hell out of Cobb so much that after he arrives she tells him that a) she lives near friends b) That there goes one of them now c) That she was on the phone d) That Cobb had never divulged to Saunders where she lived for peculiar reasons e) That his arrival and parking onthe highway over 100-yarsds down hill froim her house and walking to her home that she called a son that beats the hell out of her and lives in another town 30 milesd away for his help. f) He committes suicide three months after telling the sheriffs that he did not have a relationship with cobb, nor had they discussed having sex, g) onlyn after he kiloled himself the sheriff located a journal in his home **[ABOUT HIS RELATIOSHIP WITH COBB] AND THAT HE HAD CHANGED HIS LAST WILL AND TESTIMENT !)** But to stated that he has no knowledge of the finger-print report does match what the prosecutor told the jury in his

closing argument, that there was no fingerprint evidence in this trial. Even though Alexabnder "allegedly stated" he knew Yablonsky's prints were not found in the scene. b) That the prosecutor stated there was no evidcnece of fingerpritns inthis cadse, but Alexander allegedly ~~stated that~~ stated that he dont remembers all the ~~names~~ names, or that if it had even been developed yet. By refusing this infor tothe jury that was not hearsay violated petitioners right to confront as well as to fairness of the trial because if the DNA was in fact older as the experts stated, (RT317, 490) that a fingerprint from a man who stated he last eseen Cobb at a party,and was invoted back to her house but never went and cannot account for his time or proof he did in factr go home suggests that his culpabuility outsweighed petitioenrs by a landslide. This lie was deliberate and intentional.

B.

That detective Alexander was aksed to testify about the ~~authenkic~~ accuracy of the transcript of exhibit 49 to 49A that was used in the trial on January 27, 2011 where the prosecutor asked Alexander whether the ~~tape~~ transcipt was accurate to the best of his ability.

P- As far as the digital audio portion, have you had the oppertunity to review the transcript, along with the recording to ensure it was [accurate].

D- Yes.

P- As far as exhibit 49A which is the recoirding do you believe that thats accurate tothe best of your ability ?

D- Yes.

Because the detective knew that the answers were no accurately transcribed intothe exhibit 49A(113 page traanscript) because the andswers were not only changed by him inthe inititial changing on November 23, 2010, but he assisted the prosecutor o n January 26, 2011 to futher altering the answers so that the sound now matched the terxt that was used in exhibit 49A (see exhibit40, 41) The evidence code aloowed for copies of recordings so long as the meaning had not been changed. Only the evidnece code does not cob ver the altering of answers. That is covered by P.C. §§ 134, 135. For the sheriff officer to swear under othe about evidbnece he knew to be false at the assistanc eof his prosecutor who alos knew the evidnece to be false violates due proicess rights to due process rights to access top evidnece,andf the right to confront., Furhter trial counsel cannot waive rights to his client without discussing the exposures of the waiver, unleess the trial counsel participated inthe conspiracy to present false evidnece, and even then he cannot waive rights of the client without the permission. The sheriffs officer had an obligation to the truth, and even if it could be interpreted as misleading that amoiunts to lying tothe jurors who were relying on the integrity of the state official to be honest, why else take the sworn oathe before giving testimony.

When this was argued under habeas corpus with the state DDA Ferguson stated that inconsistant statemrntds are not synonomous to perjury. Only these statements were in the first hand nature by an expert aboput evidnece that was relevant on both accounts , but specifically about the authentication of the recording that was manufactured on 11/23/10 as well as on 1/26/11. (SEE EXHIBIT 29)

C.

The state relied on the testimony of Bruce Nash who was one of the lat people to see Rita Cobb alive. Bruce Nash (Nash) gave stateme in 1985. (see exhibit 13) telling officers he seen Cobb at the drinking party at the mini spring ranch (John Sullivan) Nash stated that he seen Cobb arrive at the party on 9/20/85 around 1930 hours (&; (7:30 p.m.) That he seen Cobb drinking bourbon and that he and his then girlfriend Cynthia Hooper, now wife left the partry aroubnd 2145 ((;45 p.nm.) and that when they offered Cobb a ride home because she was a little "buzzed" but that they left her there with Francesca Drake. Nash told sheriffs that Cobb was a lonely woman that was looking for a man she could share her life with. (CT117) Nash was again reinterviewed two decades later recalling the same conversation he gave Det. Knapp in 1985. This time he was interviewd by Det Myler in 2009 almost 25byears after the crime had occured. Inthe statement XXXXX Nash told Myler a) That he hada pinto back then b) that they all hung out together until about 9-10 p.m. c) That Cobb was good about holding her liquor, but that she seemed more drunk that night than usual d) That he and Cynthia tried to give Cobb a ride home, but that she was adament that she could drive herself e) That he did not give her a ride home f) Becausae Cobb told hiom that she was gouing to go to a bar in town called the Zodiac Lounge or somewhere else before gouing home.

Admitting that this left Cobb, John Sullivan and Francesca at the ranch drinking. Nash did offer a fwe list of a couple boyfriends he though Cobb to have. (CT 270 -272)) (seee exhibit 13) (

Nash was called to testify inthe trial, and during cross examination was asked about his last known conversation with Cobb

who very weel may have been the only one who could state what Cobbs last words wer. Nash was asked (RT416) whether he recalled having a con versation with Cobb on 9/20/85 and Nash admiited that he had. He then stated that he did offere her a ride home, but that she refused his offer. Whe tria counsel asked if he remembers what she said, Nash stated that he did. The prosecutor argued under objection that this information was hearsay. Trail counsel could ~~not~~ not defend that objection and had no undertsanding of the laws of the stated regarding herasay exception when the Court asked for authority of "indica of reliability" (That answer is Ev. Code § 1250)

Because trial counsel did not have that knowledge the states objection was sustained under hearsay by the Court. (discussed later here). The trial counsel then asked another way of the information that was refused by the Court (RT 417 :13-26)

Q- So did you-- you offered her-- to take her home. Was she in the prtocess of getting ready to go home ?
A- ~~XXX~~ I Dont remember. I believe so.
Q- Okay, she declined your offer to drive her home ?
A- Yes.
Q- Did you watch her as she left to go to her house ?
A_ I dont remmber that.
Q_ Was there some discussion be~~w~~wen she and your girlfriend ?
A- Coorrect.
Q- Was there some discussion between the two of you that you should follow her home to make sure she got home safe ?
A- I dont remmember .

Here because ther Court intruded upon the right to probe and develop facts that were related to the last known conversation it was wwithheld fromthe jurors that Nash was told by Cobb that she said she was not going home. In fact she ~~told Nash and Hopper~~ to.,d Nash that she was going to a bar,which she also told Hopper.

)(seee exhibit 20) That Hooper was interviewed by an investigaotr on 1/1ß/10 and told the investiogaoptr that she remembers seeing Cobb at the Sullivan drinking party, but recalls that soemone had taken her home or checked up on her to make sure she arrived home safely. Hoopper added that she believed it odd for Kramer to have found his mother becuase they had been so estranged for some time. Now when Francesca Drake gave an interview in 1985 she told det, tuttle Tuttle that she had also been at the apryt ans did see cobb there drinking. She stated that she recalled Cobb leaving the party around 2330 (11:30 p.m.) that Friday night on 9/20/85.

All of these statements agree that Nash did not give Cobb a ride home after the party and that he had left aropund 9:30 p.m, almost two hours eb before Cobb left the aprty which was verified by Francesca who was there after Nash had left. Further because the state ebntered an objection and the trial counsel could not intelkigably defend it for lack of knowledge, the tright to probe was cumulative. First violation to due process rights to probe a witness under the sixth amednemtn which the Court of appeals aggreed intheir ruling. (see exhibit 52) Stating that this information should have been made known tothe jurors and unddeer Ev.Code § 1250 this information would habve.

Had this witness told the truth, he would have told the Court that Cobb had not been headed home, and that she was going to a bar, even though he stated he did not give her the ride, could not recall whether she left the party before he did or not. That information is irrelevan when it comnes to whether he knew her to be headed home or not. As a result of this lie

Further when Fergusoin argued under habeas his statement to the Court that inconsistant statements are not synonomous to perjury puts this "mistatementy" into a catagory that does not qualify in this instance. First Nash gave repeated same statements to police and investigators of the facts over a period of 25 years that weas exactly the same. (see exhibit 13) (see exhibit 20) (see exhibit 14) The fact the Court gave Sanders the oppertunity to challenge the appeal which could have been won.....but did not know the ;law does not change the result of the testimony, nor does it recharacterize its nature. Nash lied. He told the Court he believed that Cobb was headed home, when he distinctly remembers that conversation that she did not want a ridfe home when he offered.

He remembered the statement she gave about going someplace else other than home, so for himto say he thinks she was going home is critical for the victims past words. But more importantly this would have supported another third party culpability issue regarding Gregory Randolph who addmittingly stated that he A) met Cobb at the same bar she said she was goiung (see exhibit 16)(see exhibit 25) B) and that he met her Friday night , took her home and after an argument about sex strangled her until she turned black and then he raped her. (emphasis added)

The lie was not only coersed by detective Alexander who visited both Nash and Sullivan before thier Monday testimony in Court. (discussed later here) But then interfered first by the prosecutor who entered a bogus objection on hearsay whop also should have klnown the laws (Ev.Code §§ 1250) but chose not to honor the law in an effort to diminish the petitioners right to a defense. Furhter the Court entertained this objection and Sanders "FAILED"

For third party to stanbd there has to be something direct or circumstancial to connect that party to the crime, and here Cobb going to a bar where another man who not only confessed tothe crime,but at one time had been under arrest for this crime stated that he met her before he killed her meets that requirement under the HALL theory regarding third party culpability. The Court of appeals agreed that this informationshould have been allowed and that the Court had committed prejudicial error from not allowing it,and admitted the laws under § 1250 should have been applied for the victims last statements,which in this case Nash knew, Thomas knew, Alexander knew,and even the damn attorney Sanders knew should have been admitted. It was as if Sanders had worked withthe prosecutor to discuss issue but fail to prepare, research or challenge the states case with any effort, interests, or showing of professionalism. But none of this changes the facts that Nash lied, he admitted that he was coached about what to say,and even though the transcript has been washed for this the elephant in that room could not be overcome.

D.

John Sullivan was interviewed several times over the years (see exhibit 14) and in those interviews from 1985 until 1988 had been consistant, telling officers that he knew Cobb and the last time he seen her she was at his drinking party on 9/20/85. He told officers that she arrived at about 7:30 p.m. drinking a bottle of bourbon (her favorite drink) alone and that when she finished that he offeered her some moon shine (whitlightning) He told officers the same accoiunt that Francesca had that he had fallen asleep aaround 10:30 p.m. after Nash had left.

Sullivan never told officer back then that he seen Nash giving Cobb a ride home, while he did offer Rita had been drinking alot and that she dated a man named Fred Berdard who drove a van. He told officers that she was a lonely woman and seen alot of men and that as far as he knew she was seeing someone from Sptring valley. He admiitted that the last time he seen heer ws at the party and added that he remmembers Cobb being hit by Fred(CT64-65) In fact Sullivan told investigators almost a mirror statement in 2010 about his knowledge of Cob b and her going to his party and again he did not say anything about Cobb being driven home although he admitted Cobb and her sone had been estranged from some time.

He was again interviewd in 2009 by Myler on March 9 2009. In this intervuiew he told officers that Cobb had gone to his house about twice a month and usuallu on Fridays and Saturday nights. (CT266)(see exhibit 14) He recalled Rita arriving at 8:00 p.m. where his earlier statments were that she arrived at 7:30 one time and 6:00 p.m anothetr. He then admiitted to giviner her some whitelightneing and that they continued to socialize. He added that soemtime around 10:00 p.m. that Cobb said it was time to go home and that the rest of the aprty goers felt she was too drunk to drive home. He said he seen Bruce Nash get into her drivers seat of Rita's cafddillac and drove Rita home as Cynthia followed them. Knowing that Sullivan had just told him a different story that he told in 1985 25 years ago and two days after the crime, Myler probed and recorded these extreme differences in Sullivans testimony as well as Nash' testinony and Francesca Sullivan terstimony. (see exhibits 13, 14)

When Sullivan got onto the stand he offered that he had been coached by Alexander and Myler and then told the jury who just heard Nash's testimony that he did not give Cobb a ride home, that Sullivan now tells thewm he seen Nash drive Cobb home. The prosecutor knew these differences would only confuse the jurors, but more impoirtantly was that he knew that Sullivan statements in 1985 were corroberated by every other witness at the party (Bruce Nash)(Cynthia Hooper)(Frabcesca Drake) admitted that Sullivan had fallen asleeop at 10:30 and that Burce and Cynthia had left the party while not driving Cobb home and left around 9:30-45 p.m.. Francesca stated that she recalled Cobb leaving at 11;30 p.m. well aftrer Nash had left and after her husband had already falledn asleep and that she may have been going to a bar because she liked to frequesnt the bars. This information was well established and the prosecutor knew that this mans unreliablity would only confuse the jurros. But when Sullivan bantered aboiut how his memory now 25 years after the crime is better than it was three days after the crime and that his memry was coached by Alexander who visited his ranch that Friday before. It was the duty to correct this mistatement by the prosecutoions team Alexander and Thomas but they allowed this to stand. Because this liar got ontothe stand at the guidence of Alexander who knew that he was either incapable of remembering, or only remembered the storyy that Alexander had planted on March 10, 2009 AND AGAIN ON SUNDAY BEFORE TESTIMONY when Myler interviewed him and knew that Sullivan had then been incapable of recalling facts ol outside his name, Coobbs arrival at the party and the names of the opther party attenders. This was very prejudicial to the trial and the prosecutor banked on this.

E.

During the trial the state presented evidneces that had been collected from the crime scene. Specifically a watchband pin that had been pulled from the perpetraitors arms during the struggle of the crime. Being ripped from his arm on his left side while he strangled Cobb . This was identifoed as states evidnece for DR#1331036 Item #A15 (watchband keepr) During the testimony by criminalist Jones (RT292- 297) he testified that skin cells werew great source for DNa samples (RT292:13-15) adding that they can get great results from sweat (RT292:18-19) admiitttding tha there were blood splatters in the ahll way that may have trahsfers of DNA(RT293) and that they are able to get DNA from cigarette butts. (RT293-94) He was then asked about the colllections fromthe watchband pin ,where he stated that there was no testing of the pin. (RT297:8)"To have DNA, no sir. I dont know if anybody has looked atb it again. I did not, and honestly, if anybody requested we do touch DNA on it, I would finfd a way to convince them that we weren't going to do it" (RT297:11-14) (see exhibit 60)

Later during the prosecutors closing statments he grossly mistated the experts testimony as such. (see exhibit 59)(RT596)

> "WHAT ABOUT THE WATCHBAND PIN ? tHATS INPOTTANT BECAUSEW LOKK WHERE ITS AT. ITS ABOVE HER RIGHT SIDE. ITS LIKE IF SOMEBODY WERE TO HOLD MXR THEIR HANDS--IF A MALE WERER TO HOLD THEIR HAND, AND SHE WAS STRUGGLING, SHE MIGHT HAVE GOTTEN THE WATCH PIN OUT. IT WAS THE DEFENDANTS WATCH PIN. [YOU HEARD THE TESTIMONY, THAT THEWATCHBAND PIN DOES NOT MATCH THE WATCHBAND PIN THAT RITA HAD] LOOK AT THE SIZE. I WOULD ARGUE ITS A MALES PIN THAT WOULD SHOW ADDITIONAL SIGNS OF A STRUGGLE AND SHOW ADDITIONAL SIGNS THAT SHE WAS, IN FACT RAPED AND THIS WAS UNCONSENSUAL . IF YOU CONCLUDE THE MOTIVE IN THIS CASE WAS RAPE, THEN EVERYTHING POINTS TO THIS P PERSON WHO COMMITTED THE RAPE.

DNA EVIDNCES SHOWED THAT ONLY THE DEFENDANT HAD SEX WITH RITA. THERES NO OTHER EVIDNECE SHOWING THAT ANYBODY ELSE HAD SEX WITH RITS OTHER THAN THE DEFENDANT

Because the prosecutor relied on this (watchband pin) to s show that there waaas a struggle when Cobb had been killed and showed that it was left behind by the actual killer when they strangled her, but when it came to making comments about the facts of the experts testimony Thomas fg grossly mischaracterized what was said (That there was no DNA testing) by the expert. Only Thomas asked the jurors to remember what was said inthe [trestimony] placing the value of this pin as being something left by the killer and proof that the alleged sex at the time of the murder was non consensual and had been committed by the [defendant].

This was a critical point in the case, where there "really" was "nothing" inthe case that placed the petitioner at the criem scene the day the crime occured., And even though this expert cleared the DNA matching petitioner by several days before the crime occured (RT 317) The other expert cleared the DNA by as much as one and a half full days(RT490) So this mistatement was made to coerse the jurors into believing that there was DNA ~~matching petitioner~~ onthe watchband pin and that it had been matched to pettiioner, when it had not. After he had given them this gross mistatement the jurors were now to believe that he had another expert have this evidnece examined , only forgot to produce it ?????. Only that watchband pin belonged to a right handed person. It is common knowledge that right handd people wear their watch on their left hand, while left handed people wear their watches on their right. PETITIONER IS LEFT HANDED. The prosecutor then aruged effectively that "they" held their hands

over while they leaned into Rita as they strangled her from the top, which would have left a watchband pin on her right side lying face up from a right handed person hovering over her as they committed the crime. (A watch that was strapped to the left wrist of [the right] handed person). This could have also been scientifically supported by an expert who examined the manner which the weapon that had been wrapped around the victims neck when she wass killed.

But that the prosecutor argued that this [pin] should be included intheir detrminations of a[element] where sex was to be determined as consensual or non consensual makes this mistatement that much more valuable in a defense. As like the entire case, counselor Sanders did not challenge this error either, while he warmed the seat in this courtroom, forfieting this LIE by the state, possibly because he didnt know that law either.....or he had already told Thomas that he was not going to challenge the case on any meritorious matters at all. I would not be surprised if Sanders had already applied for the job as being a prosecutor in that county.

Now when this was argued by Ferguson in habeas, he offered that because petitioner could not provie who's DNA was on this item, that the argument should fail. Adding that even though there is another mans DNA in this bedroom does not mean they killed anybody adding that possibly Mrs Cobb was collecting watchband pins. (emphasis added) Petitioner filed a objection for the gross and heartless comments by ferguson ~~about~~ about Cobb collecting pins. (BECAUSE FERGUSON STATEMENTS WAS SO DISPROPORTIONATE TO WN ITEM THAT WAS LEFT BEHIND BY THE KILLER, THEN ADMITS THAT THERE WAS DNA ON THIS ITEM AND IT DID NOT MATCH PETYITIONER()

Points and authorities listed above are herby now incorperated

Perjury is defined by United States v White 2016 US District LEXIS 54486 as whoever havinbg taken an ~~oxhxx~~ oathe before a competant tribunal, office or person in [any] case in whioch a law of the U.S. authorizes an oathe to be administered, that he will testify, declare, depose, or certify as true, or that any written testimony, declaration, deposition or certified by subscription ,is true, willfully and contrary to such othe statute or subscription in any manner or matter which he does not believe to be true in order to establish due process violations stemming fromthge use of ½perjured testimmony the defendant must;

1) The witness committed perjury
2)The government knew or should have known the testimony was false
3)The testimony went uncorrected
4)There is a reasonable likelihood that the false testimony could have affected the verdict

See also U.S. v Agurs, 427 US 97(1976):In Re Richards 63 Cal. 4th 291(2016) That is reasonably probable that the false testimomny or evidnece affected the oputcome because with the exception of a certai evidence the defnedants prosecutor had a substancial responsibility to present evidnece above the threshold of mere suspicions or circum-stamnciality. Furhter more CRPC Rule 5-200(A)(B) state that a member of the bar shall employ all meens that are consistant inthe truth, and ah shall not seek to mislead the judge, judicial officer by any artiface or false staement of facts.....or law.

Analysis of ground three A through E

The prosecutor had an obligation regardin g the witnesses he used in trial as well as the statements he was to give the jurors throughout the trial regarding facts, testimoinies and witnesses he presented in order to protect the integrity of the rights afforded the defnedants interests, When the state lead detective gave false testimony the prosecutor knew or should have known regarding the a) Fingerprint report b) the authenticity ofhte interrogation transcript which he both knew was false as well as misleading had an obligation to correct the statements by his detective about state evidence. Only Thomas assisted, and coersed thesde mistatements that were false about specific material evidnces. First the fingerpritn teport that the prosecutor corroberated was misleading when he stated that no evidnceds were presented regarding fingerprints. When the detective gave misleading responses a)not sure there were results b) if there were any results developed c) But that he knew Yablonsky's prints were not located. All of which are misleading. But when an objection that is against hearsay blockades suggesting state evidneces are hearsay was wrong per § 1280 as explained above. Next when the detective alleged to authenticate the interrogation he gave knowing falkse and misleading statements that the jury relied as factual.....and it was not!!!

The state ehtn relied on two very critical witnesses Nash and Sullivan who for a better way of words gave confusing statements to the jurors either contradictorty to their previous statements or one o another statements copntradicting each other about the last kbnown destination of Cobb and whether anyone drove her home!!!

These were critical as to how and what the jurors were to believe regarding the last destination of Cobb after the drinking party at the Sullivans. Because neither of these witnesses gave relaible testimony boith shoudl be impeached for factual material evidnece as to whether theybgave Cobb a drive home,and whehter Nash did in fact drive Cobb home that night, or whetherr Thomas and Alexander coersed the testimony of both these witnesses. Because of the knowingthe falsey statements enjoined by Thomas and Al;exander does suggest that they too coersed the statements before these witneses entered the courtroom on Monday .

These facts violated due prosess tights under the right to confroint and caused such unfairness that the entire became a sham and farce regarding the states entire case. Espec ially when the experts who placed Yablonsky at the crime scene did so by placing him there from one to severaba days before the crime ever ocvcured(RT317,490) and then these witnesses gave such unrelaible testimony the jurors didnt have a chance to see the historical facts of the czase. They were shown a manufactured recording transctrip that was so altered that it did not resemble the actual interrogation, while they were to believe Yablonsky hads keys tothe Cobb residence.

These repeated injections of falseness crippled the entire case into an absolute miscariage of jusitce that could not be relied. As a result of hte prosecutors acts and misconduct that violated due process rights guaranteed petitioner habes must be issue and an order to show cause where state parties are to authenticate the exhibits in this petitioner and admit their values or provide such proofs that woudl diminish their values. These evidndces are material and relevant to the case and should be alowed in the record!

GROUND FOUR

TRIAL COUNSEL DAVID SANDERS VIOLATED PETITIONERS SIXTH AMENDMENT RIGHT TO EFFECTIVE COUNSEL WHEN HE DELIBERATELY, RECKLESSLY, INCOMPETANTLY FAILED TO INVESTIGATE MATERIAL AND RELEVANT EVIDNCES, WITNESSES WHILE REPRESTENTING PETITIONER VIOLATING DUE PROCESS RIGHTS TO EFFECTIVE REPRESENTATION WHEN HE FAILED TO INVESTIGATE AND HAVE EXAMINED THE RED HAIR WITH THE ENTIRE ROOTS ATTACHED,, THE WATCHBAND PIN LOCATED UNDER THE VICTIMS HEAD THE MURDER WEAPON FOUND ON THE VICTIMS BODY THE BLOOD SMEARS LOCATED ONTHE VICTIMS BEDROOM JAMB THE CIGARETTE BUTTS LOCATED INTHE DINING ROOM THE ALIBI WITNESSES THAT PLACED PETITIONER AT ANOTHER LOCATUION WHEN THE CRIME ALLEGEDLY TOOK PLACE FAILED TO INVETIGATE GREGORY RANDOLPH FAILED TO SUPRESS EVIDNECE HE KNEW HAD BEEN ILLEGAL AND ALTERED. REDUCING THIS CASE TO A FARCE AND SHAM.

Facts surrounding ground four

On or about May 2009 David Sanders was appointed to represent petitioner for a serious crime #FVI900518. Upon the very first discussion petitioner asked had he spoke to Geoffery Canty about the case and Sanders admitted he had. Petitioner then asked counxsel about the states entire case file and Sanders stated he wsa told by Canty that it had already been released. Petitioenr told Sanders it had not, and demanded to see the states entire case file. After about a month of no response. petitioenr wriote and vcalled sanders demanding the entire file and asked about specific investigations regarding petitioners rights and interests. (see exhibit 2-1)

Sanders then chose to tr release only 300 of the over 5000 pages, less than 7 % percent of the states file, enclosing a note saying that this is the states entire records except for the DNA records for petitioner. Telling petitioner that they were difficult to understand anbd would only coinfuse petitioner. (see exhibit 1-3) Sanders was asked about specific investigations which were related to viable and intelligable defenses.

Sanders had repeatedly asked petitioenr to waive time so that Sanders could conduct investigations that had been asked for by petitioner, telling petitioner he was going to investigate the DNA evidence that was found at the scene, specifically the desk cloth that was located which had petitioners DNA on it, because Canty had stated that it wads found. Sanders was also asked about the investigations to a We-Tip investigation about a confession. When petitioner spoke to Canty the first counsel from this firm Canty stated that there was [nothing] that placed petitioner at the crime scene that relates tothe crime, but stated this without the release of any tangible papers fromthe case to support these comments by coiunsel.

After Sanders released 300 pages of the states records on June 2009 petitioner made more requests regarding the records that had beebn rekleased. Specifically the transcript to the interr-ogation that occured on march 8, 2009. Petitioner stated that the transcript was innaccurate Sanders stated that it was on.ly an inter preterd transcript. This was a 113 page version. Petitioner was not told there was another version and then told Sanders that answers had been changed with the interrogation transcript as weell as the jail phone call transcripts. Sanders stated that if the case went to trial that verbatim records woudl be used. Petitioer did not know tha suppression motrion could be used, and did not know to s ask, counse did not explain possible defenses either, onloy that verbatim would be used if the case went to trial. This is verified by Global tel calls to (760)241-0413 from booking #0903344068 after June 2009.

Sanders had kept telling petitioner that he was getting expert witneses, and was having all the DNA examined by labratories.

In fact there was a specific motuion to recuse the prosecu tors office where the Court specifically granted Sanders a continuanc to coinduct certain investigations. (see exhibit 35,36 37) NOTICE exhibit 37 where the minute order stated motion denied and continuance granted. The transcript to this hearing does stated continuance to investigate. Sabnders had never even filed for expert witnesses stipen. In fact it was not until after the trial when Sanders release another 1600 pages in March 2011 and another 1600 pages in July 2014 trhat trial counsel had not investigated one piece of evidnece, had challenged the states case to any degree. In fact when full disclosur was made to petitioner by Hal Smith and Richard Levy that trial coun els actions, innactions and failures amounted to an absoulte mis carriage of justice forfieting rights , benefits,and privileges guaranteeing petitioner to a fair trial by the imbusilic incompet ance of David Lynn Sanders who had been a state employee and appoint ed to defend petitioners rights. Once petitioenr had discovered tyat trial counsel was doing nothing more than sabotaging the entire cas case petitioenr filed a motion to [terminate] appointment. (see exhibit 47) This was filed immediatley after the petitioner had been triaed and convicted by fake and falsa evidneces where Sanders did not challemnge the states case to any reasonable, or competant degree that would lead the reasoanble person to believe Sanders was the defense copunselor. (see exhibit 47) Filed on February 25, 2011

c A.

Trial counsel had time and acces to the states entire case and all the evidnecwes collected throughout thew states case cfrom 9/23/1985 until 3/8/2009 when petitioner had been arrwsted as well

all the evidcnceds that had been examined by state experts. Specif ically a red hair that had been collected from the victims body. This hair had been collectred and processed by state experts see (exhibit 26) (Exhibit 26-9) That a red hair had been collected and ahd the entire troot structure still in tact. This is valuabe not onl because of where it had been found, but that it was DNA magnificent according the criminalist Jones (RT300-330) That hairs with the roots in tact would be DNA credible(see exhibit 60) Then that this hair was in fact red, while petitioner was a blonde suspect makes this evidnce material and relvant . Sanders did not have this results produced tothe Court, nor did he expamine the result or did and chose to forfiet those results from being known to his client or the Court.

Thois evincece is very critical tothe case, specifically tha petitioners DNA was older then the crime (RT317, 490) for as many as several days before the crime ovcured. But also that the states argued that Cobb pulled a watchband pin loose from her attacker, which peroduced a watch band pin that was located under her head. But more imporatnly was that if she did pull that watch freee she would have also been able to free the hairs thast were directly under that band the pin was attached to. **THE RED HAIR WITH THE ENTIRE ROOTS ATTAC ATTACHERD** (sTATES EVIDNECE #B67999 TTEM #A1 AND A5)(SEE EXHIBIT 26) Not only would this evidnced have provided anothere DNA profi profile for the jurors to look into, but would have been more co cuplable than petitioners DNA beoing that petitioner DNA was several days older then the crime(RT317) When petitioner argued this to collaterally attack the convictio under habeas these records were not availabel, while DDA Ferguson argued that petitioenr could not prove the hair was red, nor could he prove it belinged to [redacted]r

Gregopry Randolph, and that just becouse there was anoth mans DNA inside the bedroom that it did not mean they had killed som somebody.(emphasis added) The failure to use this evidnece in trial was prejudicial because the states argument was that there was no other DNA's located at this scene, nor was there any presented in this trial, making petitioners DNA the only DNA irregardless if it was older than the crime by several days(RT317, 490) Had the jurors knew that there was red hair found onthe victims bodym while they we were looking a5ta blond suspect they would never reach a verdict, especially since they were already deadlocked weith all the states facts, evidnces and witnesses, anything else would have tilted the scales into petitioners favor and there is not a rewsonable juriost on this planet that would have convicted pettioner,therefore prejudice for NOT presenting the states investigations, and prejudice for failing to to have this examined by states experts which would have given the jurors a DNA match tothe killer, irregardless if it came back to Gregory Randolph or somebody else. In fact because there is another mans DNa inside that bedroom does infer that they are thr true kill ers in this case, especially when petitioners DNA is expertly examine to be older by several days(RT490, 317) (emphasis added)

B.

Like above Sanders had access to the states case, especiall when Myler had given him all the evidcnes before trial. Sanders knew that the states intended on using DNA evidence that was locatred unde the victoims head. (watchband pin (Item #A15) Sanders knew that the statew prosecutor would be relying on this evidnceds to support his element 2nd of the charge of intent and knew that this was DNA

credible and witheld that it existed from his client do that specifi investihgations could niot be asked for. Sanders knew that this was credible evidnces and could be used as a defense when his client spe cifically stated that he was last with Cobb the week before the crim crime occured. (see exhibit 2, 3) Sanders knew that this DNA evidence should have been examined or was told by the prosecutor it had been examined and failed to challenge the statesa case for the relevance of this material ~~colored~~ evidence that was located in a remote ~~sop~~ spot,under the victims head, and ~~fgaield~~ FAILED to have thi this evidences examined. Sander knew that the prosecutor woudl be using this evidnece and knew that the prosecutor would be telling the jury that it belonged to the defendant Mr. Yablonsky. (RT596) (seee exhibit 59) Sanders failure to have this examined by experts or to challenge this evidnces to any certain degree was ½prejudicail not only because he could have used the different DNA profile other that petitioners that would have comne off this evidnces but it would have reduced the prosecutors argument to show it had belonged to someone else. DDA Ferguson arguied that counsel did not have this examined because it may have come back matching the= petitioiner. Adding that just because there was abnotyher man DNA inthe bedroom where Cobb was killed does not mean they killed some body. Futher adding that maybe Cobb collected watchband pins from her killers and kept them. *(emphasis added)(EMPHASIS ADDED !!!) Failing to inform his client of its existance was prejudicial, while failing the oppertunity to have it examined reduced the trial to a farce and sham, because this evidnces was relvant,and material!!. Sanders failed to challeng e the states use of this evidnedce nor did he bring tothe attention that it was DNA magnificent!!

Just as the red hair there was no tactical reason to not challenge the states case which DNA wou.d have dramatically undemine the states theory that petitioner had coimmiited the criem relying on false statements in an illegal interrogation. Where DNA matching petitioner tothe scene was older than the crime by more than one full day and as many as several days before the crime occured, making this item left behind by the killer exteremel critical and failure to ~~exa~~ examine it very prejudicial. Because Ferguson argued that because petitioner cannot prove who it belonged to does not satisfy the prosecutors responsibility to prove beyond reasonable douht.,Only now they place that burden upon petition while he is in a concrete tomb to make this showing. Had these results been shown to a reasonable jurist there would not be one jurist on this planet who wouyld have reach a verdict Oof guilt. Especially when the trial was close where the jury actually deadlocked with no evidnece at all, making this evidnece that much more powerful.

C.

With the above in mind, the counsel also knew that there was a murder weapon located around the victims neck, and that the state also intended on using this eviudnece to show how the victim was killed while states expert Jones qualifored solid non pourous o objectrs as powerful DNA materials and that there would be DNA on this specific item. Sanders knew this and knew that the DNA matching petitioenr was in fact the result of the encounter he had with Cobb the week before the crimeoccured as petitioner told him this before

petitioner ever seen one piece of evidnece showing that petitioner was in fact telling the truth when he stated it was the week before Cobb had been killed that he was sexually with her. Making it that more important that Sanders have this evidnece tested when his client stateds that he wanted all the DNA evidneces tested. Specifically th the murder weapon. This was states evidnece Item # B3 (Metal coat hanger) States expert testified that this would be DNA credible while Sanders already knew this when Myler and Alexander gave himthe states complete file and all DNA evidnces. Sanders did not have this evidndece tested and did not challenge the States use of the weapon wether making this material and relvant evidnced be forfieted. Sanders could have validated his clients statements that he was innocent and have all the evidences examined as he told his client that he would, only Sanders forfeited this oppertunity to place the states case to [sopme] adversarial challenge. (see exhibit 50) Sanders had sent the states file to an expert for estimate so that the estimate could be used to file for P.C. 987.2 stipen for DNA examination. When the experts stated that the case required mandatory examinations Sanders failed to secure that oppertunity as he did the rest of petitioners case, FAILED to place the states case to [sopme] chgallenges, especially if these oppertuinity had merit. DNA had merit at this trial. Especially since the prosecutor placed this into a DNA case. Forfieting this oppertunity to show the jurors that the murder weapon was never tounhed by petitioner would have crippled the states entire case.

This failure was prejudcial because this examination would have presented another DNA for the jurors to examine and soince petitioners DNA was older then the crime , the murder weapon could have proven the entire case en and acquitted petitioner.

With the results of this evidndec before the h jurists who in this case were paying attention and were reasonable. That there is not one reasonable jurist that would ahve reach a verdict of guilt,making this failure critical and prejudicial.

D.

The states experts located blood smears on the bedroom doorjamb in this case. They later determined this blood to be the victims blood and had been smeared into the jamb leaving fingerprints that were unreadable. States experts testified that this type of evidndce would have touch DNA and could produce a DNA profile regarding who smeared the blood, and may have come back to matching someone other than the murder victim hereself. In fact because Cobb was found in her room laying on the bed with blood smeared on her face could have bheen determiend that the killer had smeared her blood intothe jamb. Even if the prints were unreadable, there would have been DNA because there were aprtial prints that led one to believe that the killer did not wear gloves. Confirming that the murder weapon as a well as thwe watchband pin had DNA as well.

Sabnders knew that this was a DNA case and that petitioner DNA had been cleared for the time the crime was committed as his client stated(RT317, 490) and would have been able to have this evidnce examined for another DNA profile. Because Sanders had sent DNA records to experts who stated this case needed manadatory review that this evidndece would have been material and relevant as to who killed Cobb and then left her blood on the door jamb.

Failure to test this evidndece and place the states case under some challenge wass prejudicial and cauxses caused irreperable harm to petitioners case to challenge the states case in his defense. Fuirhtermore Sanders did not reveal this information to his client until after the trial had been copmpleted and the injury sustained.

Because this evidnece had noit been secutre the oppertunity to present this tothe reasonable jurist was prejudicial as to who actually killed Cobb and left their handprint in her blood as their calling card and Sanders forfieted thsi oppertunity as the rest of the oppertunities he sacrificed incompetantly.....or deliberately!!

E.

Sanders knew that there was evidnceds collected at this scene that came fromthe victims dining room as htray that had eight cigerrette butts in it. Sanders knew that this would have supported the third party culpability to Gregory Randoplh who confe ssed tothe this crime. (see exhibit 16, 16-6, 16-7, 16-5,)

Three of the cuigarette butts collected fromthe crime scene were matfched to Ran fdolph while two matched Kramer, and one of the butts mnatching Randolph alos had Cobb DNa on that as well. Sanders knew this,and when he alleged to try to get this third aprty evidnece intothe states records, the Court asked for indica of relaibility to show some (relaible source) of the confess- ion made by Randoplh on 8/6/88 that he alleged to kill cobb. The Court of appeals admitted that the Court violated due process (COA14) by forbidding access tothe we tip confession, which needed suppoirt

THE RESULT OF THE CONFESSION LED TO POLICE INVESTIGATIONS

(See exhibit 52) and that the we tip was an exception to hearsay if trial counsel had argued the result of ht ereport under(Pweople v Waidla supra, 22 cal.4th at 724) only counsel failed to know the laws surrpiunding his alleged strategy of tactical choices. This was supported by the Court of appeals ruling in (Case #E055840) Because trial counsel did not examine this eviddence he should have known woiuld have placed Randolph at the scene he earlier told police he had not been at the scene for two weeks prior tothe crime being committed. But more importyantly this would have supported a motion to complee compell discovery that would have produced the arrest warrant, the interrogation transcripts for when Randolph had been arrestred onm August 10, 1988 after the confession instigated aflurry of investigation, and arrewst.

Knowing that these cigarette butts came back matching everyone other than the client and did not match his client made them that much more credible regarding a defense, showing that this oppertunity was also forfieted matched the momentum of this trial counsels abilites. That Sanders did not know, or understand about the duty he owed his client about presenting a defense, or at least challenge the stateds case to some degree, but to not challenge the case to any degree is not only incompetant but agrees with petitioners summation, that Sanders assisted the prosecutor in alter-ing evidnece, and then hiding the facts to prevent duirect appeal making this failure doubly prejudicial. Because not only was the trial reduced to sa a sham and farce, but poetitioenrs right to direct appeal was also prejudiced by this incompetance display of a trial attorney.

F.

Trial counsel Sanders was told from the very beginning of the representation of petitioner that he was innocent and that he wass not in Lucerne Valley for the week end that Cobb had been kille and was in Downey california over 160 miles away with an entire fami family who would have and could have vouched for him. Thta petitione was in Downey from Thursday September 19, 1985 and as earlty as September 18, 1985 until september 24, 1985 when he returned with his wife Holly and son John Jr. Petitioner told his counsel that one of the parties that could b verify this was his mother inlaw who was a retired laws enforcement named Linda Mitchell. Sanders stated that she was on the prosecutors list as a witness. Petitioner gave Sanders questions that he could ask her that would verify that pet itioner was in fact in Downey when this alleged crime occured with at least ten other family members fromthe Mitchell , Mullen family vising with his wife and son.

When Sanders responses were negative and unrelaible regar ding this alibi testimony petitioner filed and prepared subpenas for Holly Mitchell/Yablonsky/Brown and Linda Mitchell and sent them to Sanders for sertvice. Sanders stated that it was not necessary that they would be at the trial. Petitioner asked had he investi gated these witnesses and Sanders stated that he had not. (see exhibit 38) These were prepared by petitioenr and sent to trial counsel before the trial occured. When trial started petituioner ask the prosecutor whether Linda and Holly Mithcell were going to test ify and Thomas stated that Holly was crazy as a loon and that she would not be there to testify. Possibly because Sanders had told

that his client had prepared a series of questions that would have gotten alibi responses verifying that petitioner was in fact in Downey at the time this alleged crime occured. In fact becuase these witnesees were used to devvelop the states case about alleged violent behavior by petitioner to Holly (his ex wife) that these witnesses needed to be there to be examined and were not. In fact petitioner had told Sanders that there woudl be two witneses in the courtroom audience that were there to validate the allegations about Yablonsktys' abouse to Holly that was not only a lie, but would have provided credibility issues with these witnesses had the statee relied on their statements given in 2009 that Yablonsky had beat Holly.

In fact petitioner gave Sanders a list of possible leads t to Holly;s medical recorss that would have supported that Holly was Masochistic and would cause harm to herself which her police retired mother would have corroberated and been morally obligat4ed to admitt ing this on the records about her daughter. Furhtermore Sanders w would have been able to probe for names of other witneses that were also at the family gathering at the Mullen residence that weekend who gathered for Holly's last visit for some time due to her being due to deliver almost anyday.

Because these witneses were not inthe courtroom and were onthe prosecutions witneses list and Sanders did not protect this valuable defense by filing and serving the subpenas suggest that he was "assisting the prosecutions" case at every oppertunity he could prevent this relaible and credible alibi testimony. In fact petitioners own daughter Jasmine Shawnda Jade, Yablonsky (the 1985 child) at the time of the alleged crime was in the Courtroom with

with her cousin that could have also provided corroberating testimony that John was in Downey for the weekend before Jasdmine had been born. It would be impossible to remember dates, but an event such as giving birth would have tabbed the timeline to somehting more memorable where this could have been remembered with specificty. The family gathering at the Mullens included Hollys uncle, and his wife. His two children. Hollys mother,and sister Joy Mithcell, as well Thomas and June Mullen. All of the information here was given to Sanders, who for some reason relied onthe prosecutors witness list to priovide the alibi testimony as stated above. But Sanders entire conduct pretrial, and dutring trial suggest that Sanders bagged these witneses with the assistance of Thomas to prevent the alibi testimony needed in this case. Failure to interview, or subpena these witneses was very prejudicial and would have been able to provide reliable corroberating testimony that matched the DNA in this case (RT317, 490) That petitioner had been with Cobb the week before and there was **NO OTHER EVIDENCE IN THIS CASE OR EXISTANCE THAT PLACED PETITIONER IN THAT HOUSE THE DAY THE CRIME OCCURED!!!!!!**

Because Sanders knew these were valuable and would have been verified, yet he chose to forfiet these oppertunities he perjudiced petitioenr beyond undertsanding. Had these witnsese been allowed to testify in trial along with the less than weak case the prosecutor presented, there is not one reasonable juror on this entire planet that would have found petitioner guilty beyond reasonable doubt. In fact the case was so close to acquittal anything leaning towards not guilty would have completely undermoine the entire states case and an acquittal would have been the respOnse!!

G.

As stated above that gregory Randolph had confessed to this crime and state sheriffs had processed investigstions that could have supported the arrst that occured on or about August 10, 1988. Sanders knew all of this and knew that the result of the we-tip report that led to investigations where Gregory Randoplh had been suspected of not only the Rita Cobb murder, but was also a suspect in Helene Brrooks=murder that occured a couple months before the Cobb murder and was commitred ina very similar maner as well as circumstance. (see exhibit 18, 19, 17, 16) Sanders had all this information and witheld this from his client when he gave petitioner 300 pages of the over 5000 pages., When petitioner asked for these records in May 2009 (see exhibit1,2) Sanders chose then to hide them from petitioner. Sanders admitted onthe record during marsden hearing that he witheld the states entire file even after his clint had beggoed for them. (see exhibit 4)

Sander failure to investigate this specific evidnece forfeited third party culpabuility oppertuinity where direct or cir=-cumstancial evidence was needed to attach anoither person to the crime. The confession was hearsay without the investigations, but with the investigations which could have provided matches to the cigarette butts at the scene. (see exhibit 17) would have bneen enough to get this information into the trial records and the jurors would have bneen made aware of the person who not only admitted to being at the residence, but also provided a confession that stated he last seen Cobb at the very bar she stated she was going. (see exhibits 13, 161, 25)

This failure ws very prejudicail as strated above that the Court of appeals for this stated that this information would hvae been aloowed under state law had the trial attorney known the ;law, but beciase Sanders did not the tria., Court violated due process rights by witholding this information fromthe jurors (COA 14) (see exhibit 52) Furthermore Sandersnot only failed at this point but witheld these fascts until July 2014 after the direct appeal had been exhausted, further injuring opetitioenrs due process rights to a fair trial and fair direct appeal. The cigarette butts were matched tothe crime scnee among the other characters provided by the state and federal governments. (see exhibit 19) where Gregory Randolph was most likely tom have been the true killer,and Sanders knew this and c chose to refuse any investigatioin efforts forfieting this opertunity for his client. Had this informationbeen made knowt tothe jurors there is not one reasonabel jurist on this planet that would have found defendsant guilty and would have acquitted petiti= ioner. Even after the trial jurors told the media there was no evidendfe and that was why it took so long to decide. (see exhibit 32,46) **SOME JUROIR FELT THEY NEEDE MORE EVIDNECE!!!!** This failure to invest- gate fitrs into the character of sanders trial capabilities inthis case. That he either did not care to do his job, did not know how to do his job, or had assisted the state prosecutor win reaching a verdict of guilt for favor later on in his carreer.

H.

Sanders had all this evidndce and time to investigate and when he was told by his client the interrogation transcripts

were incorrectly transcribed and illegally collected he forfieted the opertunity as discussed above to supress this interrogation transcripts that were used in trial that showed petitioner had lied tothe detectives on march 8, 2009. Had Sanders filed a supression motoin it would have had merit because the evidnece had been illegally collected outside of MIRANDA and had that motion been denied it would have been reserved for appellate purposes.

Petitioner told Sanders that he did not give some of the answers the transcript was recorded saying,and had sander filed the motion to supress it would have been granted, and possibly had the case thrown out for fraud the state parties committed..... unless Sanders did in fact assist these parties in creating this false evicnece that wwere created after Yablonsky sued Ramos (see exhibit 35) Because the suppression kotion was never filed, the false evidnces were themn presented into the courtroom even after the judge basically begged Sanders to chalenge this in the heaing inside chambers out of the presnece of petitioner on January 26, 2011. (see exhibit 42, 43) Sanders stated then that he will not enter an objection, nor will he file suppression motion that would have protected his client from deception by the state who had no case without this manufactured piece of evidence that was used on January 27, 2011 where the jurors were told that Yablonsky not only lied tothe cops about his sexual relatuionship but held a key tothe Cobb home for months afrer they moved out so he could return and commite a crime. Failure to supress this valuable oppertunity to destroy the states case prejudiced petitioner beyond repair as the state habeas court and federal habeas court were made to hear that evidance was used to show the jurors that petitioner had lied to the cops therefore he is guilty of killing Cobb.

Had this eviodndce been suppressed the prosecutor would have been left withthe fact that petitioners DNA which had been examined and verified as the result of an embcountert hat occured several day before the crime occured and [nothing] else indicating petitioners guilt. But because this evidnece was not suppressed the prosecutror had an opertunity to alter the course of the trial with inferances, possibilities, and propincity of a piece of evidnece that was so contaminating and worthless for its values with accuracy. The prosec had no case without this critical piece of evidmnece he altrered to support his theory, that becauee Yablonsky lied to the cops about his sex with Cobb then he [must] be the killer.....look he had a key to Cobb house.....weren't you listening ??

Points and authorities abopve incorperated herein along with these for ground four

An attorney can be liable to former client for actual fraud if the elements are proven Frost v Hanscome(1926)198 550 559 246 p.53 It is an attorneyd duty to protect his client in every possible way and it is a violatuion of that duty for the attornerywe to assume a position that is adveree or antagonistic to the client without the latters free and intelligent consent given [after] full knowledge of the facts and circumstances Anderson v Eaton (1930)211 CAL 113.

Collateral attack on the basis of newly discovered evidnece only if the new evidnece casts fundamental doubt upon the accuracy or relaibility of the proceeding. In Re Hall(1981)30 CAL.3d 408; In Re Webber(1974)11 Cal.3d 703; In Re Branch (1969)70 Cal.2d 200 Only if the new evidndce casts doubt upon the unferringly accuracy

and reliability of the proceeding at guilt phase of the heariong. It must undermine the the entire case and point toward innocence or reduce culpability People v Gonzales (1990)51 Cal.3d 1179.

Defense counsels incompetance resulting in failure to discover and present evidence is a basis for habeas corpus if it under mines the prosecutions case. The presumption that the essential elements of an accurate and fair proceeding were present is not ap;llicable. None the less petitioner must establish prejudice as demonstratable that counsel knew or should have known that further investigations was necessary and must establish the nature and relevance of the evidence the counsel failed to present and or discover. Prejudice is established if there is a reasonable probability that a more favorable outcome would have resulted if the evidnece was presented Strickland v Washington)(1984) 466 US 668 ; People v Gonzales supram 51 Cal.3d 1179,

None the less petitioner must establish as a demonstratable reality not simply speculate as to the effect of error, or ommission of the counsel (citation) Petitioner must demonstrate counsel knewe or should have known that further investigstions was necessary and muyst establish the relevance and nature of the evidnce counsel fail to present or discover People v Williams(1988)44 Cal.3d 883.

Ignorance of the laws and responsibilities was not this counsels only fatal flaw which denied petitioner his right under the sixth amendment and ineffective assitance claims are better addresse unde r habeas collateral attacks, rather than direct appeal. even though in petitioner direct appeal the court recognized the incomp etance (COA 14). Since the record of appeal often does not fully illuminate the reasons for trial counsels actions or ommissions

However in cases such as this those facts could have been hidden or witheld where counsels explaination for the poor preformance an issue which should be considered here rather than on direct appeal People v Mendoza Tello,(1997)15 Cal.4th 264; In Re Jones (1996)13 Cal.4th 552. Further the Court in this case heard a motion for new trial where compteance of counsel was at issue and inthat hearing the Court relied onthe counsels perfoprmance inside the courtroom which was not incorrect by prejudice on petitioner for the case had not been investoigated at all much less sufficient to make the much needed and required decisoins that would have ptotected petitioners rights. Under the sixth amednment of the United states constitution and article I section 15 of the California constituton a criminal defendant has the right to assistance of counsel "An accused right to be represented by counsel is a fundamental componant or our justice system. Lawyers in criminal cases are [necessities and not luxuries]. Their presence is essential because they are the means through which the other rights of the person on trial are secured. Without counsel, the right to a trial itself be "of little avail"' United States v Cronic (1984) 466 US 648. This right also guarantees the right to [effective] representation, not just some bare assistance. McMann v Richardson (1970)397 US 759;People v Ledesma(1987) 43 Cal.3d 171 "That a person who happens to be a lawyer is present at trial along side the accused in not enough to satisfy the [constitutional command]"Strickland v washington (1984)466 US 688. In other words, "because the right to counsel is so fundamental to a fair trial, the constitution cvannot tollerate trials in which counsel, though present in name, is unable to assist the defendant to obtain a fair decision on the merits" Evitts v Lucey(1985) 469 US 387

The right to counsel thus encompasses "the right to effective ~~to~~ver assistance of counsel(ciatation) United States v Cronic supra, 466 US at pp.654 (The sixth amednment requires counsel acting inthe rolse as an advocate (citation)(id at p.656) Generally a defendant claiming incompetance of trial counsel must show both that counsels assistance was deficient and that this deficiency performance prejudiced the case. Strickland v Washington supra, 466 US 668;People v McDermott(2002)28 Cal.4th 946. However in United States v Cronic 466 US 648, The Supreme Court held that per se reversa;l is reqwuired when counsel entirely failed to [subject] the prosecutions case to meanmingful adversarial testing." (id at p.659) The fundamental question is whether the"[process] has lost its character as a confrontation between adversaries: (Id at pp.656-657) If so, then it is not necessary to demomnstarte actau;l prejudice. This exception to the prejudice requirments may arise in several different contexts. [Most obvious], the Cronic Coiurt noted "is the cOmplete [i.e. actual] denial of counsel" (Id at p.659) Of course that is only part the issue here. But Cronic Court also noted the possibility of constructive denial of counsel when , although counsel is rpesent, the "performance of counsel is so inadequate that , in effect, no assistance of counsel was provided"(Id at 654 fn.11)That is precisely what happened in this case here. (emphasis added)

Because the Court "normally apply a strong presumption of reliability upon the proceedings "in cases of mere attorney n error, "defendant are required to overcome the presumption by "Showijng how specific errors of counsel undermine the reliability of the finding of [guilt](citation)

Roe v Flores -Ortega(2000)528 US 470. Where defendants are actually constructively .....denied the asistance altogether , howeverm no speicif showing of prejudice is requuired because the adversary processitself is [presumptively] unrelaible""(Id at,483) In Cronic the defendant was was indicted on mail fraud charges involving a check kiting scheme where checks were transfereed between banks in Florida and Oklahoma. When defendant there retained counsel who withdrew shortly after the scheduled trial date the Court appointed a young lawyer with a real estate practice who had no trial experience in jury trials, was allowed to represtent the defendant, but only aloowed 25 days to prepare for trial

While the prosecutor had four and a half years to prepare and review the thousands of documents tothe case. The defendant was convicted while the Court of appeals reveresed the matter under the sixth amednment that had been viiolated. The Court based its inferance onthe circumstances surrounding the representation the defendant received 1) Time offerddd to investigate and prepare 2) the experience of counsel 3) the gravity of the offense 4)the complexity of possible defenses and 5) the assessibility of the witnesses. The Supreme Court, while reversing the lower Court decision utilized thes factors. United States v Cronicsupra 466 US 648. The holding in Cronic was reitterated by the Supreme Court in Bell v Cone(2002)535 US 685. The United States Supreme Court in BELL explained that it identified three situations implicxating the right to counsel that incvolved circumsxxxxx tances so likely to prejudice the accused that the cost of litigating their effect ina particular case is unjustified(citastion) First and foremost obvious was the compklete denied access to counsel(citation) A trial would be presumtively unfair, we said, where the accused is denied

is denied the presence of counsel(citation) [fn ommitted]. Second that a similar presumption was warranted if counsel entirely fails to subject the prosecutions case to meaningful adversarial testing (citation) Finally we said.....where counsel is called upon to render assitance under circustances where competabnt counsel very likely could not, the defendant need not show theat the proceedings were affected(Id at 695-96) Under Cronic and Bell prejudice is presumed only under the most egregious conditions. Error by counsel may be presumed inthe rare circumstances when counsel actions undermined the reliability of the finding of gublt, such ads, when counsel has repeatedly slept through a guilt phase (e.g Burdine v Johnson,(2001) 262 f3d 336) counsel was intoxicated during trial (e.g. States v Keller (1929)57 N.D. 645; or counsel had a conflict in interests affecting the preformance (Cuyler v Sullivan (1980) 466 US 335

LACK OF PREPERATION

In sufficient preperation for trial may be constitutionally ineffective assistance odf counsel In Re Gay (1998)19 Cal.4th 771; People v Bolin(1998)18 Cal.,4th 297; Seerules of profesional conduct Rule 3-110. "To render reasonable competant assistance ,an attorney in criminal cases must perform critical duties. Generally the sixth amendment requires counsels diligence, active participation inthe proceedings, knowledge,and understanding of the laws and a duty to diligently investigate carefully all defenses of fact and law that may be available to the defnedant.(citation)This includes confering withthe client [without undue delay] and as often as necessary to elicit matters of defense(citation)People v Pope, supra 23 Cal.3d 412;People v Berryman (1993) 6 Cal.43th 1048. Wiggins v Smith (2003)539 US 510 (That adversairial testing required throrough

investigations, describing the significance of thoee investigations befor making critical decisions. In this case there was no rewquest for DNA fumding through P.C. 987.9, hence all DNA in this case was therefore prejudiced for failure to challenge its values and integrities as well as all the DNA qualifioed evidnces that were not presented in this case that were relevant and material. Rompilla v Beard(2005) 545 US 374; In Re Cox(2003) 30 C4th 643, where investigations showed that testimony would have been impeached

ANALYSIS OF COUNSELS INCOMPETANCE

Bringing the Court focus onthe DNA that was presented in this case. (RT317 criminalist Jones who stated that solid surfaces would caryy DNA possibilities. That he did not examine the watchband pin, and the DNA matched to petitioner was the result of an encounter that occured several days before the crime of murder occured and that he wa s certain of that finding) (RT490 Dr Saukel stated that there was no physical or scientific evidnces Rita Cobb had been raped,and that the DNA matching petitioner was the result of an encounter that occured as many as one full day before she had been killed,and as many as up to kne and a half full days before Cobb had been killed)

Neither of these experts were uncontested, standing this FACT inside the courtroom. The other evidncences in this case involved the illegal intrusions into ones proivacy protected by the fourth amendment while w arrant for arrest was on the record. That collection, although illegal had no values until the officers chose to present this tothe court, after that evidnce had been tampered, altered, and doctored to show a different result than the real time recordiongs.

The jurors were listening to the three week trial where that state presented experts that verified that Rita Cobb had been killed on or about September 20, 1985 by strangulation and the use of a murder weapon thatwas rapped arounfd her neck and twisted until she turned bl;ack. These experts testified that Mrs Cobb hyoid boine had been crushed and that she had livvidity on her upper right outter shoulder and ribcahge area. The jurors then heard that Cobb had past been seen by her son six weeks before she had been kuilled but he was the one who found her afer she called him with a distressing call that Friday before(September 20, 1985) asking for his help becuazwe someone scared the hell out of her. The jurors heard that Cobb was last seen at the Sullivan drinking party and that she arrived atthe party around 7;45 p.m drinking a bottle of bourbon herself and then drank mopre after she finished the first bottle. The jurors heard that when Bruce Nash was about to leave that he offered Cobb to drive her home, but that she refused his offer so he and his wife Cynthia Hopoper ledft around 2100 that evening.

The jurors then heard contradictory testimony by another person who seen Cobb at that same party and stated he remembers seeing Nash giving Cobb the ride home, and that he drank whtie lightening with her before she left the party around 2200 that evening. Thye were also made to listen tothe testimony of Francesca Sullivan who stated that she rememebrs cobb likeing men and went tothe bars alot while not telling the jurors what time she left the party.

The jurors heard that the state had a reliable witness who seen a spceific vehicle parked inthe Cobb c driveway and that she knew this to be a Ford Pinto and that it was silver in color. They then heard how these evidneces that were collected were cross

contaminated ~~ev~~ when they were collected by detective McCopy who also took pictures of the scene,while admitting to the jurors that there was a six pack of beer missing from the table that he had included in his sketch of the scene he made befre taking photos. The jurors heard greate details about how the petitioners DNA had been placed into this CODIS data base and matched him tothe crime scene, while being told that this DNA that was collected from inside the vagina of rita Cobb had been placed there as much as several days before she had been killed to as little as one and a half days before she had been killed. The jurors were told how there were no fingrepritns tothe case, and then told that they would listemn to a recording and given a transcript to rerad along with of the interview that occured on march 8, 2009. The juurors were trold that this transcript was accurate tothe best of the detective ~~was~~ abolility and made to listen to how petitioner lied tothe cops about his sexual relationship with cobb.

The jurors heard the state case for three solid weeks of grusome photos of the victims neck, hyoid bone and her dead bodsy laying on her bed with her legs spread and photos of a watchband pin laying underneather her head and told that the expert did not match petitioienrs DNA to this item even though the prosecutor dutring closing arguments stated that the expert testified it bewlonged tothe petitioenr.....and still came back hopelessly deadlocked after three days of deliberations. All of this above before the jurors and they still deadlocked! WHY????? Because they were listening tothe state case,and even asked about the validity of the interview as tot whether it was illegal or not,and were misinstructed by the Court about that !!!!!

While this panel of reasonable jurists were litening and paying attention to [all] the evidneces in the case asking who spoke about Joseph Saunders atthe party first, and asking that testimony be read back, and then concluding they were deadlocked. (see exhibit 67 pp.29) Trial counsel Sanders happen to admit to all of this during another case where he not only defaulted for failing to respond timely there by admitted to all of these alegations by failing to respond timely to that as well. (see exhibit 66) Admiting that he witheld 4700 paged expecting his client to make reasonable decisions from that first 300 pages he released in June 2009 for the trial in 2011. Sanders admitted that he never examined a) the watchband pin b) the red hair c) or even authenticated the interrogation recording. He admitted that he helped alter the recordings and that he scehedueld trail dates without having one piece of evidnce tested [at all]!!.

David Lynn Sanders forfieted every oppertunity that was availabe to his client by the states release to him and his clients pleas for a defense providing reliable persons and evidnes for his defense and still made incompetant decisions to not investigate the evidnces in this case. While he had moved the Court eight times for cointinuances for the oppertunity to investigate. (see exhibit 67) In fact at one point Sanders stated that he filed a motiuon for change of venue, only the case summary is vacant, while it does show that Sanders filed a faulty motion in another persons mname regardign two of the states ccritical witnesses. (see exhibit 49, 67) He also filed a recusal motion in the wrong capacity as there being a conflict between Michael Ramois and petitioenr through jail house treatments which the Court denied for several rerasons but mainly

that Sabnders did not know that law either and failed to perfect it by not serving the attorney general. (see exhibit 36, 37)

This case was reduced to less than a sham and farce, it amounted to a circus where Sanders assisted in, participated in, allowed and or just did not have his cleints interests when he;

a) failed to file chang eof venuie when the prosecutor flooded the community with prejudicail flkyers right before the trial (see exhibt 32, 33)

b) Deliberatley wuitheld records from his client so that he could hide his incompetance until after direct appeal (see exhibit,3,4)

c)Made wreckless and prejudicail errors to not have [anything] tested in this case after he initially was told by experts that this case required mandatory examination. (see exhibit 50)

d) Failed to supena alibi witneses as he relied on the prosecutors witneses list allowing the prosecutor to know that Lind and Holly Mitchell were expected to excuplate petitioner with alibi testimony 38)

The record is completely blank for trial attorneys proof of competance while the cause summary shows he knew to ask for continuances to investigate. Had any one of these evidncese been presented tothe jury in the capacity and volume of a thimble they would have completely a;ltered the course of the trial forcing the state to abandon the charges or face acquittal, and because the level of incompetance is of such great volumes prejudice should not be required. But while each of these pieces of evidcnexse, defense oppertunities found the hands of Sanders, they diminished, vanished and or changed into different evidnces as trail counsel sabotaged, traded, and conspired to force this case into a verdict of guilt. Hell, he would not stand in the courtroom when they announced they had a verdict on February 2, 2011. Sanders did not present one piece of evidnceor reliable authority throughout the entire case .

Sanders did not do an opening statement, cheated his client out of an oppertunity to tell his side of the story which had been blown completely out of context regarding the lies in the interrogation (states theory) and about his involvement with the deceased Rita Cobb. Sanders closing statement was about baseball and the density of bats, while he led the jurors into history about animlas intothe wildreness. In fact Sabnders is such a team player that he asisted Detective Alexander and DDA Thomas in changing the trial transcripts where Alexabnder sated that he did not knwo anything about any fingerprint report. (see RT 59, 29 ,) There was not one thing competabnt about Sanders while he could not argu law with the Court about facts he tried to bruing into the record (Gregory Randolph) (Bruce Nash conversation with Cobb the night she was killed) or was he able to provide one authority regading theird party culpability outside the [hall theory] He forfieted petitioenrs right to a fair trial, foreiting rights to due process in so many ways and did this with absolute ignorance of the applications of law, or rights afforded the people he swoire to defend. THEN TRIED TO HIDE THESE PROCESS

GROUND FIVE

PROSECUTOR THOMAS AND COUNTY PROSECUTOR MICHAEL RAMOS VIOLATED DUE PROCESS RIGHTS AFFORDED UNDER THE FIFTH AND SIXTH AMEDNMENTS TO A SPEEDY TRIAL WHEN RAMOS USED PETITIONERS CASE IN A CAMPAIGN SMEAR POLLUTING THE ENTIRE VENIRE OF JURISTS AS HE ENTERED INTO THE HOMES OF EVERY REGISTERED VOTER TELLING THEM HE FILED 19 MURDER CHARGES AGAINST PETITIONER AND PROMISED THEN CLOSURE INTHE TRIAL LATER THAT YEAR WHEN HE SENT THREE RED BULLITENS INTO EACH HOME IN A ONE WEEK TIME SPAN PLANTING PREJUDICE INTO THEIUR MINDS ABOUT PETITIONERS GUILT. FORCING TRIAL POST PONEMENT

Trial counsel told petitioner in May 2010 that he had completed the investigations asking to place the case onto the calendar for trial to beguin. Petitioner agreed to schedule trial dates ~~xxxx~~ on April 2, 2010, being made to believe the ttrial would begin within 60 days from that date. Thomas and Sanders sceduled these dates ontothe Court calendar. (see exhibit 67) This trial was to begin within 60 days from that date. In May 2010 the county prosecutor had created campaign flyers thata were 8 x 12 in in size and red in color with the petitioners case on them along with petitioners photograph that was as big as 8 X 12 with prejudicial commentys about the prosecutors belief in the defnedant guolt as Michael Ramos promise closure inthe upcoming trial in exchange for votes. (see exhibits 32, 33, 67) These flyers had information about the petitioners case amd suggestions that they had solved the crime 25 years after it had been committed. Ramos then after the case had been placed onto the records to begin had these flyeres made to enlist(on trial later that year) into the contaminating materials that were meant to cause prejudice on petitioner while gaining voters conmfidence withthe trial ;later that year, only trial was set to begin on June 2010.

Ramos then mailed into every business, home, residence three seperate flyers ina one week span of time beginning on May 13, and ending on May 20, 2010, [just days before the trialw as to start]. These flyers were so contaminating that their values and contents were remembered seven months later when the tria finally began. On July 12, 2010 the trial was vacated because of the campaign smear by Michael Ramos that occured on May 2010 . The trial had been vacate several more times vo over trht the fotoowing months because of the

campaign that led to further litigationby petitioner who fought for this protected right (impartial jurors) (see exhibit 35) where trial counsel ignore the right and chose against petitioners advice, chose to file recusal motions. (seee exhibit,36)

Petitioner was not given the choice to vacate this trial and discussed this with his attorney, who argued that the entire panel of jurists will be prejudiced. Please take notice on the voir dire that occured several months later.....they were still prejudiced. While some of the jurors stated that did not recall these mailers, other stated that they did making comments that they believed the county to have proof of guilt before they aloowed these mailers to be sent. Other made comments about how Yablonsky had been burnt, and other made stated that when there that much smoke there must be fire. Because it was the actions on behalf of the government who forced the case to be vacated from trial dstarting petitioenrs rights were violated, violating due process rights toa speedy and fair trial . The repeated vacating of trial dates did not cure the level or prejudice caused by this misconduct, in fact the jurors came to a verdict of guilt with absolutley no evidndes tothe case suggesting these prejudicial flags mailed in May 2010 did the trick

Points and authorities for ground five

Constitutional safegaurds against post accusation delays The sixth amendment provides fundamental right to a speedy trial that serves to 1) Prevent undue and oppressive incarceratuion, 2)minimize anxieties and concern accompanying public accusation,and

3) Minimizen the possibilities that long depay will impair the abilituy of an accused fórompresenting a defense. U.S. V Ewell 383 US 116(1966): Klopfer v N.C., 386 US 213(1967) The right to a speeeddy trial attaches at the time of form,al charge. The remedy for violation of this right is to duismiss the indictment and vacate any sentence that had been imposed. Strunk v U.S., 412 US 514(2009)= Here the state took responsibilkiyt for the April 2, 2010 conduct that they planned to destruct the right to speedy trial knowing thyat the campaign flyers woul;d frustrate the petitiojers ability to provide a defense against the erroneous charge because there was no evidence, which was explained with the November 23, 2010 altering of hte evidencé which was in fcat the [only] incriminating evidnces inthe states entire case, that the petitioner had lied duriung an interrogation about his relationship wit Cobb. But they took it a step further and washed the custodial marker foom the "COPY" tyhey made fromthe three sets they had, and then changed petitioners answers so that they can place evidnced into petitioenr possession while the t real time record shows that he did not have this evidence at all. (see exhibit 49A 49 of the states evidences for case #FVI900518) By intentionally presenting a ploy to begin trial they got two fold. The oppertúnity to momopolize onthe publicity of the case that had by then been made infamous inan election campaign, where promises were changed for voites. Then giving the state team to learn and perfect their audio and technical manufacturing skills as they created evidnces they needed to reach a verdict of guilt. These acts were calculated and deliberate with the assistance of meny parties, violating due process rights under the sixth and fourteenth amendments.

GROUND SIX

THE COURT ABUSED ITS DISCRETION WHEN THE COURT VIOLATED DUE PROCESS RIGHTS AND SAFEGAURDS ENLISTED BY THE EIGHT AMENDMENT WHEN THEY SENTENCED PETITIONER TO LIFE WITHOUT THE POSSIBILITY OF PAROLE FOR A CRIME THAT OCCURED WHILE PETIUTIOENR WAS UNDER THE AGE OF TWENTY FIVE YEARS OLD PETITIONER WAS BORN IN SEPTEMBER ON THE THIRTIEHT DAY OF 1963. WHILE THE ALLEGED CRIME TOOK PLACE ON SEPTEMBER 20, 1985 WHEN PETITIONER WAS ONLY TWNETY TWO YEARS OLD MAKING THE MAXIMUM SENTENCE PETITIONER SHOULD HAVE GOTTEN TO BE 25 YEARS TO LIFE FOR FIRST DEGREE MURDER

Facts of the matter

That petitioner was 22 years of age when this alleged crime took place, and even though the Court did noit sentence petitioner until he was 44 years older that does not alter the language of the laws that recently passed where the Supreme Court decided that sentencing persons to a life without the possibility of parole where the crime took place when the defendant was under the age of 25 years of age to be of some diminished capacity to have knowledge and maturity regarding understanding. The Supreme determined this sentence to violate defendants eight amendment right to be free from cruel and unusual punishment under the constitution. Therefore this Court must adhere to the SuprememCourt findings and reduce this petitioners sentence to the maximum term of 25 yeard to life, to cohabitate the language of hte Supreme Court

POINTS

S.B. 261 PEOPLE V. FRANKLIN (2016) 63 CAL. 4TH 261, MAKING LWOP INMATES ELIGIBLE FOR PAROLE. EXTENDING THE MATURITY AGE TO 25 YEARS OF YOUNGER WHEN THE OFFENSE WAS COMMITED MILLER V. ALABAMA (2012) 567 U.S 460: PEOPLE V. CABALLERO (2012) 55 CAL. 4TH 262

CONCLUSION

As a result o f the allegations made above and the exhibit one through sixty seven incorperated herein petitioner makes a fair and reasonable showing that his trial was reduced to a farce and sham as a direct result of actions, innactionds and trial misconduct by trial counsel and goivernment bodies that repeatedly violated due process rights out.lined in this petition for habeas/coram hybrid extraordinary writ. Where petitioenrs colorful presentation of factual innocence is presented here. Petitioner had developed these fact over a period of nine years with the interferances of David sanders John Thomas, Robert Alexander, DDA Ferguson, and the department of corrections who reduced ;library access to as little as two hours per week, at times while none in others throughout this development of the historical facts presented in this extraordinary writ under THE ALL WRITS ACT. These newly developed facts could not have been diuscovered and presented at an earlier time without challenging or interfering with the juridsdicion of other litigeous filings that were meant to further and support these allegations. In fact the new law did not pass regardfing the review for new evidnces until January 2017. Petitioners makes this known that his stroke he suffered on October 11, 2015 further raised complicatuions that were out of the control of petitioner. It is in the mattrers set forth above that petitiner moves this Court to utillize the laws surrounding Coram nobis to develop the historical facts o f this case that had be ignore, mispoke, error or ommitted. Petitioner then moves this court to utlize the laws surrounding habeas corpus to provide relief as both writs are under the all writs act languages as outlined earlier in this petition (pages 55 through 70 of this petition. That petition is in fact factually innocent.

PRAYER FOR RELIEF

1) THAT THIS COURT TAKE JUDICIAL NOTICE OF EXHIBITS FILED HEREIN

2) THAT THIS COURT GRANT AN ORDER TO SHOW CAUSE REGARDING GROUNDS ONE THROUGH FIVE AS OUTLINED HERE

3) THAT THIS COURT ORDER THE STATE' PARTIES TO AUTHENTICATE THESE STATE RECORDS

4) THAT THIS COURT GRANT HABEAS CORPUS RELIEF ON THE GROUNDS BEFORE IT VACATING THE JUDGMENT ENTERED AGAINST PETITIONER FOR CASE #fvi900518

5) ORDER AN EVIDENTIARY HEARING REGARDING ANY RECORDS DISPUTED BY THE ATTORNEY GENERAL

6) ANY OTHER RELIEF THIS COURT FIND APPROPRIATE IN THIS M,ATTER

7) GRANT THE PETITIONER A FEDERAL ATTORNEY TO PROTECT THE FEDERAL ISSUE IN THIS CASE

8) REDUCE PETITIONERS SENTENCE TO 25 YEARS TO LIFE CONSISTANT TO THE SUPREME COURTS RULING WITH TG

SEPTEMBER 5, 2018

John Henry Yablonsky
In propria persona