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state bar district attorney office
245 s. Figueroa 503 W third fifth fl
L.a.ca. 90017 s.b.ca. 92415

DDA ERIC FERGUSON

~~DEPARTMENT OF JUSTICE
600 W. BROADWAY #1800
S.D. CA. 92101~~

~~ANNOUNCEMENT PROJECT
JUSTIN BROOKS
225 CEDAR
S.D. CA. 92101~~

This service contained the following documents;

RESPONSE TO DDA Eric Ferguson

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:

SAN DIEGO, CA
CLIFF

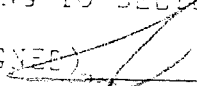
92179
ZIP CODE

This service was conducted on (DATE) September 29, 2020

UNDER THE PENALTY OF PERJURY

THE FORGING IS TRUTHFUL AND ACCORDING TO BELIEF

(NAME) John Henry Yablonsky

(SIGNATURE) 

My address is 140 Alta rd s. San 92179



The State Bar
of California

OFFICE OF CHIEF TRIAL COUNSEL

845 S. Figueroa Street, Los Angeles, CA 90017

May 29, 2020

John Henry Yablonsky #AL0373
RJDCF 18-147
480 Alta Rd
San Diego CA 92179

RE: Case Number: 20-O-07464 Eric Michael Ferguson

Dear John Henry Yablonsky:

We have received your complaint against one or more California attorney(s). We have assigned the number shown above to this matter; please reference this number in your communications with us.

Your complaint will first be reviewed by an attorney in the Intake Unit. If we need further information, we will contact you. We will also advise you of any determination in this matter. If you want to know the status of your complaint, you may contact us by calling the State Bar's toll-free complaint line at 300-843-9053.

Thank you for your patience.

Sincerely,

OFFICE OF CHIEF TRIAL COUNSEL/INTAKE

/lc

John Henry Yablonsky CDCR#AL0373
18-147
480 Alta rd
Sandiego,ca,92179

September 29,2020

RE: STATE BAR COMPLAINT CASE NO.# 20-0-7464
YABLONSKY VS FERGUSON
TRIAL CASE NO.#FVI900518
COUNSEL EXTREME INNACCURACIES DURING BRIEFING STAGE (HABEAS CORPUS)

C

Dear Chief Trial Gonsel ;

Upon the receipt of response by DDA Eric Ferguson on September 23, 2020 with regards to demand for discovery served upon counsel on May 23, 2020 I John Henry Yablonsky (PETITIONER) find the following discrepancies egregious and obhorent by a licensed bar card holder.

Within this response I provide documentry support to show that counsel still fails to state factual issues with accuracy which is the nature of the complaint. That DDA Eric Ferguson incorporated false information into A BRIEFING STAGE to win favor and coerse the court.

1) That DDA Eric Ferguson (FERGUSON) had again mistated facts in his 2020 response, which contradicts his 2012 response

2) That Ferguson still ommits facts regarding petitioners DNA, its location and time at the scene prior to the crime of murder committed by someone other than petitioner

3) That Ferguson still mistates facts regarding evidneces which were initially used to coerse a court, then (RECITED) by other state defenders to defeat petitioners writ of habeas corpus filings throughout the state and federal courts.

Upon the release of states records on January 2016 petitioner was faced with the difficult task to decipher, evaluate, authenticate, and verify evidneces which had been cherry picked from trialo counsels initial release of 300 pages when full discovery was requested in 2009, before trial. That some 5400 pages were different that the 1000 pages released by appellate counsel. Different than the trial counsels second and third release in 2012, as 2014 totalling 3400 pages. Very difficult because petitioner now suffers from visual impairments, as a result of a stroke.

September 29, 2020

John Henry Yablonsky

EXHIBITS ATTACHED HEREIN

- A-1-A.....Fergusons new statement which is false based on Fergusons previous briefing in 2012 and exhibits attached herein .
- A-2-A Petitioners demand for discovery and state bar complaint
- A-1.....Expert witness professional career portfolio as well as testimony during trial ~~DONALD JONES~~ CRIMINALIST
- A-2..... Expert testimony by states pathologist Dr William Saukel
- A.....28 page brief filed by DDA Ferguson in 2012 with alphabetical markers for clarification to compare to exhibits attached herein
- B.....6 Page brief filed by Ferguson in 2013
- C.....18 Page brief filed by Stewart o/Melveny as post trial counsel during P.C. 1405 motion
- D.....Post trial motion filed by Hal Smith regarding IAC claims against David sanders for failure to investigate and incompetence actions
- E.....Prios allegations which were never charged, declined after investigations or withdrawn after police discovery of FACTS
- F.....Latent fingerprint for case FVI900513 which Det Alexander lied about its content, existence
- G.....Dianne Flagg testimony and transcripts about petitioners car not being silver
- H..... The hair located on the victims body was RED!!!!
- I.....Hooper testimony police reports
- J..... Confession report, investigations and arrest of Gregory Randolph for the murder of rita Cobb. Third Party Culpability
- K..... Third Party culpability reports by VICAP as well as FBI profilers typing both Helen Brooks case and rita Cobbs case as serial
- L..... Bruce Nash testimony to prove perjury
- M.....John Sullivan testimony to prove perjury
- N.....Ronald Kobbs statement to prove Daryll Kramer perjury
- O.....Authenticatation of states exhibit 49 to 49A

John Henry Yablonsky CDCR#AL0373
18-147
480 Alta rd
San Diego, ca, 92179

RE: STATE BAR COMPLAINT YABLONSKY V FERGUSON (ALREADY FILED)
P.C. § 1054.9 POST TRIAL DISCOVERY DEVELOPMENT

cc: State bar chief trial counsel

cc: DDA Eric ferguson 20-D-07464 STATE BAR CASE NUMBER

Mr Ferguson;

Pursuant to your response to my P.C. § 1054.9 discovery demand, and specific allegations made within a bar complaint, you filed exhibits supporting your position to the complaint and case number #FVI900518 which occurred in San Bernardino California. Your responses: (EXHIBITS A-I-A thru C) are extremely inaccurate and false.

Response No. #1 that "EXTREME" misconduct occurred with regards to an interrogation transcript which was transcribed by Det. Alexander on November 23, 2010. You provided (STATE EXHIBIT 49A) to support your denial of the allegation. 113 PAGE "VERSION"
THIS TRANSCRIPT WAS NOT USED IN THE TRIAL! (SEE EXHIBIT C)

Although identified as exhibit (49A) it was never used in this case. Another transcript was used which had audio matched to it. This exhibit does not have a transcript /audio. Which if investigated, states exhibit 49 (COMPACT DISC) which was also allegedly placed onto the record, does not match this exhibit your presenting.
THEREFORE YOUR DENIAL IS FALSE!

At one hour seven minutes and fifteen seconds into states exhibit 49 (compact disc) when petitioner was asked if he had a key to the victims house (JOHN HENRY YABLONSKY) (PETITIONER) told the officers he did not have a key. This (CREATED) transcript changed petitioner's answers to saying (UM YEA). On the transcript showed to the jurors had text and audio which matched. The "VERSION" shown to the jury showed petitioners answer saying he had a key to the home of Rita Cobb, which real time recordings indicate (PETITIONER ACTUALLY SAID "NO") (EXHIBIT C)
DDA FERGUSONS ANSWER IS ALSO FALSE.

At one hour seven minutes into exhibit 49, petitioner was asked whether Rita Cobb had a key to petitioners house and petitioner stated (YES SHE DID) which had been altered to saying (NO). Again the version shown to the jury was not DDA Fergusons exhibit (49A 113 page transcript)

THESE ACTS ARE FRAUD UPON THE COURT AND VIOLATIONS TO PENAL CODE

(EXHIBIT - C)

As DDA Ferguson already knows, petitioner moved state bar for discovery several times from DPD David Sanders which trial counsel "OBFUSCATED" that "PARTIAL COMPLAINT" by withholding nearly 1400 pages from the trial record, states discovery, when he told state bar he complied. I did not get access to all these materials until January 2016 when post trial counsel Hal Smith finally released these to petitioner. releasing them while petitioner was recovering from a major stroke and in medical housing.

Further during post trial habeas action you stated there was no proof another transcript existed other than the (113 page) transcript you provided here, knowing there was another transcript. When petitioner begged for discovery then, your office would not comply, which would have allowed petitioner sufficient (SUPPORTING) records to your statement (THERE WAS NO PROOF ANOTHER TRANSCRIPT WAS CREATED) Yet now you argue that there was a stipulation to redact from the interrogations recording. **ADMITTING A 136 PAGE SET EXISTS**

First under Ev. Code § 1400-1410 indicates that "IF" the transcript was altered, that it had to be authenticated first. This did not occur. Next that if the transcript was "redacted" that the redactions could not change the language of the "WRITING" (EMPHASIS)

When they changed the answers they changed the meaning. Furthermore the stipulations to redact did not include "STIPULATION *CANNOT AND* TO ALTER LANGUAGE) that my friend is fraud, especially if the intent was to be used to coerce a panel of jurists.

WHICH THIS TRANSCRIPT DID !

MUST (SEE EXHIBIT-D)
The actual copy of states exhibit 49 (COMPACT DISC) Evidence Code § 452 states that actions may be taken as judicial notice. In this matter for cases (CIVILS 1506664 Superior Court) as well as (E068775 Court of appeals) That compact disc is now part of the states records and any court may take judicial notice of that evidence. Your response to habeas court at the Superior Court level before Honorable Judge Kyle Brodie relied on your statements being accurate, and they were not. Therefore you perpetrated intrinsic fraud by (DELIBERATELY OMITTING FACTS) to coerce the Court. **(MISTATING FACTS)**

With regards to (number #2) you now stated that you did not tell the court that my DNA was located underneath the victim. Again your a liar!! You told the Court that petitioners DNA was located underneath the victim where she had been killed. Not only is that statement a bald face lie, but you never mentioned that my DNA was located inside the victim only. (RT317 & 490) Clearly stated my DNA was from one and a half days older than the crime to "SEVERAL DAYS OLDER". Yet during your allegation that my DNA was located under the victim where and when she had been killed in the exact same spot was stated to manipulate the courts view of when petitioners DNA was placed there,. Then you added that Criminalist Donald Jones testimony was not sure how long the DNA was there. When he clearly stated that it had been there several days (INSIDE HER) and then she died. Adding that he was certain of that. Only you omitted this information and refused me access to discovery which I literally begged for. **(EXHIBIT A-1, A-2)**

Therefore your response to number two is also false. Please take notice of the language you used for case WHCSS1200311. You stated that Donald Jones located a felt pad underneath the victim, and that too is false. The felt pad was located underneath a bedroom quilt on the bed, and was not under the victim. He further stated that the felt pad was at the foot of the bed, not under the victim's body. But the language you used during briefing stated that the felt pad was directly under the victim which was not true. You stated this to place my DNA at the scene at the time the crime occurred, and it was not. Furthermore Mr Jones did not comment on how long either of those DNA's located on the felt pad had been there because it had not been tested properly because the original felt pad had been damaged by sheriff who threw most of the pad away and only kept a 3 inch by five inch piece of felt pad that was INITIALLY 288 square inches. Trombetta Youngblood comes into play.

(SEE EXHIBIT C)
(EXHIBIT H) Your response to number three is that you stated there was no proof the hair located on the victim was red. ^{then added} That because I could not prove it belonged to Gregory Randolph my argument should fail. This is a hurdle too far for anyone, much less an inmate to prove from a cell. But the language you used was too coarse the Court suggesting there is nothing in the states record which show this hair had been red. It was red, and it was found on the body, and I am blonde. You added that there would be no reason for trial counsel to have this investigated because of the evidence that was overpowering against me would not have altered the direction the juror seen this case. This is also not true. There was no evidence that I committed this crime. My DNA was older than the murder by more than two full days. Leaving nothing but the interrogation where my answers were changed to place a key into my possession, which the detective and prosecutor changed to put that evidence into my possession. Real time transcript recordings prove this!!

(EXHIBIT J)(K) As to number four, Gregory Randolph's DNA was located at the crime scene. Even though he did not leave his sperm in a location that was found, his employment as science coroner for the county would have provided him training on how to avoid such evidences from being left behind. Only he forgot to collect his cigarette butts from the flying ashtray. His DNA was at the scene. And even though my DNA was located inside Rita, it was proven to be the result of an encounter that occurred more than two full days before the murder. Therefore not relevant in comparison to the confession by Randolph. The VICAP as well as FBI profiles repeatedly stated that the "SPREM" was not the only controlling factor in both Helen Brooks case and Rita Cobbs case. Typing these two crimes together as being committed by the same suspect. You knew all this yet you argued that because I could not prove Randolph was red headed or that the red hair located belonged to him my argument fails.

THIS IS AN ABSURD THRESHOLD BY YOU FOR AN INMATE TO MEET !

Your response to number five is also very wrong. You clearly stated that Mr Sanders filed a motion for DNA testing and that that motion was denied. See the motion you filed provided herein. You stated this when I charged Sanders with IAC for failing to examine the red hair, watchband pin, as well as the murder weapon, and other DNA qualified evidences in this case.

As to number six, that you filed a brief with regards to P.C. § 1405 motion where O'Melvany filed briefs. In my O'Melvany briefs he indicated your briefings did not support the granting of the DNA motion. Your claim of communications between you and O'Melvany are not within the scope of section 1054.9. This is inaccurate because his work-product is (MY WORK PRODUCT) and "ANY" statements between you and he regarding me are "DISCOVERABLE" material when misconduct is in question. (EXHIBIT C)

As for number eight. I am an inmate who has been transferred to numerous prisons, medical housings which caused the loss of numerous pages of discovery which had been delivered to me while in medical during stroke recovery. Your allegations suggest that "IF" I had been given these records that you are no longer obligated to provide them to me. This is wrong when I state that I am unsure what discovery you have, versus what had been given to Hal Smith. There are several key factors as to why your office would not have been forthright to begin with because of the fraud your office committed in the first evidences you manufactured. DDOA Thomas is on the record admitting as much.

I am now arranging that a copy of states exhibit 49 be (recreated) with regards to these claims and delivered to your office for you to sit at a desk and listen to the many discrepancies where my answers were changed, or blatantly redacted, to hide facts as described within my many claims. That at about fifty minutes into this interrogation there was an argument over (CUSTODIAL) which had been removed from states exhibit 49. Therefore the original copy (HISTORIC REAL TIME AUTHENTICATIONS) will show deceptive anomalies showing CUSTODIAL was removed. That the ORIGINAL COPY IS SO BAD THAT IT WAS 1) UNRELIABLE 2) ALTERED TO CHANGE TO MEANING 3) THEN SHOWN TO THE JURORS TO COERSE A VERDICT

Mr Ferguson sir, if you take the time to look at these facts, and use them as markers as to what was said during briefing you would have to admit that acts of, intrinsic fraud occurred by your office, the prosecutors office, and trial counsel withheld these facts from me before trial to help the prosecutor convict someone they had no evidence of committing.....because I am innocent!!
SOMEONE OTHER THAN JOHN HENRY YABLONSKY KILLED RITA CORBI!

I am taking the liberty to provide you with a copy of your briefing at the habeas level where you lied to the Court, as well as the briefing Mr. O'Melvany filed with the Court where he stated that "YOU HAD MORE EVIDENCES INDICATING I WAS GUILTY OF THIS CRIME" which you now state you never said. Either he's a liar too, or your lying once more. Either way, the gravity and affects of your lies rang throughout the entire court system who "PARROTTED" your comments about states evidences which in the exhibits I provide you were "BLATANT LIES" to coerce a decision by the Court, then when I begged for discovery deliberately withheld them to prevent full disclosure.

Your acts of professional misconduct are a disgrace to your profession, and against rules of ethics and statute while still you seek to coerce and investigations into your wrong doing. It seems that your offices have influenced CGCR to minimize access to resources

which would have allowed sufficient research into "MY ARGUMENTS" which would have assisted the Court with "PROPER AUTHORITY" to support habeas actions should be granted. Your office knows this, because of the repeated complaints by inmate litigators fighting for their lives through "PLEADINGS". It is unfortunate that your offices are given such resources, extreme trainings and unlimited legal experiences to defend your positions, yet still rely on deliberate omissions or, in this case acts of fraud, intrinsic as well as extrinsic.

I am providing you with a copy of your briefs, the briefs of o/.Melvany as well as expert testimony for you to ponder and explain how you come to the conclusions you do, before chief trial counsel about how your answers could be so starkly different that historical truths. Please explain to me how you came up with different answers than what the facts of this case are. Keep in mind you knew all of this when you initially filed your briefs in Californias defense.

I was correct in filing an objection in the first instance when I learned a district attorney would be defending my habeas, telling the Court that this would be too prejudicial. That allegations of misconduct could not fairly be evaluated by a culprit from the same office.

In the long and short of this sir, your acts are pathetic and a disgrace to the entire judicial system where a life was taken, and the state prosecuted the wrong man for that crime. It is tantamount to killing the victim one more time, causing unnecessary hardships upon the victims family who now believe you got the right suspect when all the historical evidences indicate you knew you had the wrong suspect, and because you had already made an arrest, had to change the facts of the case so that you could save face.

THIS SIR IS DISPICABLE AND A DISGRACE TO THE ENTIRE COMMUNITY!!

Upon your explanation herein I am prepared to file for your disbarment, and corrective actions to the trial record which you embellished facts, lied about facts, withheld facts to coerce a Court to deny my petition for writ of habeas corpus.

To the Chief trial counsel of this matter, please take notice of the exhibits I have attached herein, supporting that your lawyer who is licensed and practicing law is lying to you now, lied to a court, and should face disciplinary actions .

If it is Fergusons intention to deny these allegations , then order him to authenticate these state records, and to arrange the "AUTHENTICATIONS" of states exhibit 49 with states exhibit 49A to validate that no misconduct occurred. Expert audio technicians will be available for this to validate whether or not anwers were in facts changed, where, and what to.

AUDIO EXPERT
ARLAN BOLL (AB AUDIO)
box 8020
Longbeach ca.90815 (562)429-1042

(HAS PROVIDED EXPERT SERVICES FOR SANDERNARDION ON SEVERAL OCCAISIONS)

PETITIONER RENEWS HIS

DEMAND FOR DISCOVERY

1) With regards to states exhibit 49 (THE COMPACT DISC) copy of the "ALLEGED" interrogation recording and 49A (113 PAGE) transcript created on November 23, 2010, which you provided the text transcript but kept the audio version out of your compliance. In your 2012 as well as your 2020 response you still claim there is no proof the recordings or transcripts had been altered.

- i) I demand that you provide me with a real time transcript of all personal recorders of Greg Myler and Robert Alexander. In text form (FOR MARCH 8, 2009)
- ii) I demand you provide me with a real time audio copy of the personal recorders of Greg Myler and Robert Alexander. An unaltered audio creations from real time copies of both parties recorders. (For March 8, 2009)
(TO BE PLACED ON COMPACT DISC FOR RADIOS)
- iii) I demand from you the cam corder creation at Signal Hill police station in the form of a (CD) which can be played on a television set. This cam corder was created on March 8, 2009 between 0900 and 1300 hours.
- iv) I demand from you an exact real time duplicate copy of the creation from these recorders which was created by DDA John Thomas in his home on his personal recorders of these interrogations recordings and used in trial. As you can see in(exhibit C) he placed onto the records that "HE HAD TO DO THIS PERSONALLY TO MAKE SURE IT SOUNDED GOOD"
- v) I demand a real time copy of the authentications of these transcripts, by whom, when, and how, before copies could be made
- vi) I demand from you an explanation why on November 23, 2010 it was necessary for Detective Robert Alexander to create two seperate versions of transcripts from the March 8, 2009 interrogations which occurred for case #FVI900518
- vii) I demand from you an explanation how a district attorney is allowed and trained on how to edit audio and text without acting outside his authority.

I DEMAND THESE EVIDENCES NOW!

2) With regards to responses in your 2012 brief filed in Habeas Court, you stated that my DNA was located underneath the victim. In your 2020 response you declared thatw as not said. Both are incorrect. I demand that you provide me with all discoveries with regards to where my DNA was located. Who collected it. Chain of custody records, scientific examinations and their results

In your 2020 response you provided a copy of an examination report which indicated a red hair had been located, but that was all you provided.

- i) I demand that you provide me all records as to where my DNA had been located.
- ii) I demand that you provide with all chains of custody for all these records created with regards to my DNA and [ANYBODY ELSE'S LOCATED AT THE COBB MURDER SCENE].
- iii) I demand that you provide all scientific data created with regards to [all] DNA's collected, located at the Cobb residence for case (DR#1331036-07)

3) In your 2012 response you stated there was no proof a red hair had been located yet in your 2020 response you stated and provided an examination record which indicates there was a red hair with the roots attached, that had been processed

- i) I demand that you provide me with all examinations, forensics results, and chain of custody reports for this evidence
- ii) I demand that you provide me with all forensics results for all evidences collected from the Cobb residence for (DR#1331-36-07)

4) In your 2012 briefing as well as your 2020 response you declared Mr Gregory Randolph's DNA was not located at the Cobb crime scene. I have taken liberty to provide that proof to you, and now make these demands with regards to Gregory Randolph. According to exhibits provided here (exhibit J).

- i) I demand from your office [all] investigations reports created by any parties within the sheriff department for Gregory Randolph (between 1985 and 2009)
- ii) I demand from your office all sheriff notes, ledgers, investigative reports created in the special investigations of the Cobb murder
- iii) Records indicate that Gregory Randolph had been arrested on or about August 10-17, 1988 (exhibit J). I now demand from you all sworn affidavits for this arrest which Gregory Randolph admits was an arrest on page 5 of the interrogation transcript. *(COPY OF BACKING SLIPS ETC)*
- iv) I demand from your office all sworn declarations created by any officer for any suspect with regards to the investigations of the murder of Rita Mabel Cobb on or about September 20, 1985

5) With regards to all communications between yourself, Mr DDA John Thomas, and Mr David Sanders, and Mr Robert Alexander, and Mr Greg Myler, and Mr Michael Ramos with regards to case FVI900518 and (DR#1331036-07) I demand the production of all forms of communication between yourself and them prior to your filing the 2012 brief, and now.

AGAIN THIS IS NOT A FISHING EXPEDITION!

The findings under STEELE were that good faith efforts were to be made with trial counsel. (Id at p.690) Furthermore under the language of steele the prosecutor, law enforcement are obligated to releasing these discovrries.

6) My final demand for discovery from your office is the entire 'HISTORICAL' records of officers Greg Myler and Robert Alexander for any complaints either within the department or public. I am demanding all inner agency disciplinary records within "ANY" department these parties worked. This is to include any unfavorable evaluations, civil litigations by any party. I am demanding the production of these records for evaluation and authentication for crdibility as well as integrity of these parties.

Mr Ferguson sir, in short, it is because of the gross mischaracterizations of the facts, deliberate embellishments of the historical values of the evidnecs and facts of this case, **EVERY CASE FILED CHALLENGING THIS CONVICTION WAS OBFUSCAT ED** as a direct result of your lies, mistatements, and deliberate ommissions.

I have been made to suffer extreme hardships trying to develop this case which you already know because of your comments in the 2020 response. I am innocent, and did not commit this crime . nor have I ever killed anybody. But you placed me under the blanket of horrific allegations which were untrue, in an effort to secure this conviction.

It is my belief because of the harsdships caused by your litigating practices, ability to lie to the Courts that I had a stroke which nearly killed me because of the stress I suffered as a result of your gross misconducts.

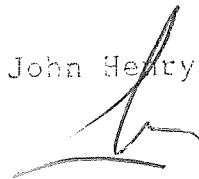
SWORN DECLARATION

I John Henry Yablonsky was made to beg for discovery from david sanders who pilfered through 5400 pages in 2009 to give me 300 pages telling me thatw as all there was. Then to file complaints to the Courts was given 1400 more pages after trial by Sanders who once again stated thatwas all there was., Then state bar complaint which release another 1600 pages in 2014 after direct appeal as well as habeas, filing occured. Still not providing the state entire file!@!

It was not until after I suffered the stroke on October 8, 2015 that a another release was made by Hal Smith provided me a set of discovery that included some 5400 pages as well as a compact disc recording of states exhibit 49. It is my belief and knowledge that the state of California as well as County of Sanbernardion still wptholds informations, discoveries to this case which would have expnnerated me. I swear this under penalty of perjury and if called to testify will state the same ina court of law.

September 29, 2020

John Henry Yablonsky



I have provided you one expert witness which if you verify will support that he is licensed and has worked for the county of Sanbernardion as an audio expert. I am now pleading with you to make available me through this expert all evidences in your possession for him to pick up, examine within your department as well as a helper to examine and authenticate as well as make real time copies of all evidences with regards to the interrogations evidences.

- 1) To include all [ORIGINAL] recording devices, names of brands and style of units
- 2) To include all original real time copies made from [any] of these recordings
- 3) To include all video creations from Signal Hill police station cam corder and any real time copies made from that device
- 4) To include all copies made at any time for any purpose from these recording devices and equipment
AUDIO, AUDIO/TEXT, TEXT AND OR PARTS THERE OF
- 5) To include all real time and authenticated equipment used in the March 8, 2009 arrest of John Henry Yablonsky between 0600 hours and 1500 hours of any agency in this arrest.

Petitionner will make arrangement for the expense of these examination at no cost to state or county. I further ask of you to make available to Arlan a safe place to work in your evidence storage so he and a helper may examine and authenticate these evidences. I further ask that you make a safe opassage for these persons to and from your secured environment and safe place they may work on these materials. That once these arrangements are made available petitioner will bear the burden of expense, at not cost to the state or county. If this is not an option then provide me a list of authorized expert audio specialists which could perform these tasks at the expense of the county from which I may choose one for these examinations

September 29, 2020

11.

John Henry Yablonsky

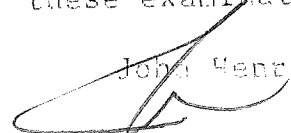


EXHIBIT A-1
CRIMINALIST JONES
TESTIMONY ON
DNA TIME FRAME

EXHIBIT
E

CRIMINALIST JONES #1

1 larger amount that's taken some time.

2 THE COURT: The Court's going to sustain its
3 own objection to vague. You want to restate?

4 MR. SANDERS: Yes, your Honor. Thank you.

5 BY MR. SANDERS:

6 Q You said you found a large amount of sperm
7 cells.

8 A Relatively large amount compared to other
9 sexual cases that I worked, yes, sir.

10 Q All right. But you have no knowledge of the
11 person that -- that -- the sperm count of the person
12 that made that deposit?

13 A Absolutely. That's correct.

14 Q So it could have been -- you can't tell the
15 time based on just looking at what you looked at?

16 A No, sir.

17 Q Okay. In other words, from the information
18 that you had, the sexual experience of the victim could
19 have been at the time of death, hours before the time of
20 death, or after death?

21 A That's probably true. I would say it probably
22 wasn't days before in terms of she had intercourse,
23 several days passed, and then she died.

24 Q Right.

25 A I'm fairly certain of that.

26 Q Okay.

27 A If you take those days and shrink it down into
28 hours and so forth, I can't tell you.

61

**DONALD T. JONES
CRIMINALIST II**

**San Bernardino County Sheriff's Department
Scientific Investigations Division
200 South Lena Road
San Bernardino, California 92415-0056
(909) 387-2200**

EDUCATION

California State University, Northridge
Bachelor of Science Degree, Chemistry
1978

California State University, Los Angeles
Completed major course work in the Criminalistics Master's Program
1978 – 1985

California State University, San Bernardino
Master of Science Degree, Biology
1997

SPECIALIZED EDUCATION AND TRAINING

Los Angeles Police Department Reserve Academy
386 hours – February 1978 to September 1978

Legal and Investigative Techniques
California State University, San Bernardino
8 hours – July 1981

Gas Chromatograph Intoximeter Training Course
Las Vegas, Nevada
40 hours - October 1982

Basic Law Enforcement Academy
San Bernardino County Sheriff's Department
664 hours – October 1983 to January 1984

Basic Forensic Serology
F.B.I. Training Academy – Quantico, VA
80 hours – July 1984

DONALD T. JONES

continued

Semen Identification

Serological Research Institute – Emeryville, CA
80 hours - November 1984

Bloodstain Pattern Interpretation

SBSD - Scientific Investigations Division Training Center
16 hours – January 1985

Hazardous Materials: Modules I and II

San Bernardino County Sheriff's Training Center
16 hours - December 1985

Clandestine Laboratory Investigation

California Department of Justice, Riverside
24 hours – December 1986

Gas Chromatograph/Mass Spectrometer Operator Training

Hewlett-Packard – Paramus, New Jersey
40 hours - September 1987

Clandestine Laboratory Forensic Investigation

California Criminalistics Institute – Sacramento
40 hours – October 1988

Capillary Gas Chromatography – Dr. Walter Jennings

CA Association of Criminalists and CA Criminalistics Institute
8 hours – October 1988

Forensic DNA Analysis

University of California – Berkeley
64 hours – July 1989

Polymerase Chain Reaction Workshop

Northwest Association of Forensic Scientists – Concord
16 hours – October 1989

Forensic Applications of DNA Typing Methods and Laboratory Applications of DNA Typing Methods

F.B.I. – Quantico, VA
November 25 - December 19, 1990

DONALD T. JONES

continued

Gang Awareness

San Bernardino County Sheriff's Training Center
8 hours – January 21, 1991

Civil Liabilities

San Bernardino County Sheriff's Training Center
8 hours - February 8, 1991

Homicide/Suicide

San Bernardino County Sheriff's Training Center
8 hours – February 11, 1991

Recombinant DNA Workshop

California State University, San Bernardino
40 hours – July 7-12, 1991

Advanced Officer Tactical Communications

San Bernardino County Sheriff's Training Center
24 hours – August 29-31, 1991

Occult Crime Investigation

California Association of Criminalists Meeting – Ontario, CA
8 hours - October 18, 1991

Microtechniques Analysis

California Association of Criminalists Meeting – Ontario, CA
8 hours – October 19, 1991

Population Genetics and Statistics Seminar – instructed by Dr. B. Wier

California Association of Criminalists/SBSD – Training Center
24 hours

Microscopic Examination of Sexual Assault Evidence – instructed by Edwin L. Jones

California Association of Criminalists Meeting – Ventura, CA
3 hours

Meet the Challenge for Organizational Success

San Bernardino County Sheriff's Training Center
24 hours – July 1993

DNA-Polymerase Chain Reaction

California Criminalistics Institute
December 6-10, 1993

DONALD T. JONES

continued

Combined DNA Index System (CODIS)
End User Training, FBI & Synetics Corporation – Vienna, VA
32 hours – April 1994

Statistics Workshop
Promega Corporation, Scottsdale, Arizona
24 hours – September 1996

Hostile Work Environment Awareness
San Bernardino County Sheriff's Department – West Valley Detention Center
8 hours - February 21, 1998

Crime Laboratory Auditing and Quality Assurance Compliance, National Forensic Science
Technology Center
Santa Clara County Crime Laboratory
24 hours - May 2001

ASCLD/LAB Inspector Training
Salt Lake City, Utah Bureau of Forensic Sciences
20 hours – October 21-23, 2001

Use of the FBI/DNA Audit Document
Salt Lake City, Utah Bureau of Forensic Sciences
12 hours – October 23-24, 2001

Promega International Symposium on Human Identification
Phoenix, Arizona
40 hours – October 3-7, 2004

Use of F.B.I. Quality Audit Document
F.B.I. – Quantico, Virginia
December 12, 2004

DONALD T. JONES

continued

ON-THE-JOB TRAINING

Controlled Substance Analysis: Instruction by Criminalist II P.M. Kellett culminating in a 32 sample proficiency test prior to casework assignment.
October 6 through November 18, 1990.

Forensic Alcohol Analysis: Instruction by Criminalists II/Forensic Alcohol Supervisors N.R. Wallis and G.R. Lightfoot culminating in a written test by the State Department of Health accompanied by a set of proficiency samples.
October 6 through November 17, 1980.

Forensic DNA Analysis: After several months of development of a Restriction Fragment Length Polymorphism protocol based on the FBI procedures, I correctly analyzed a set of nine training samples provided by the FBI.
November 1990 through March 1992.

Forensic DNA Analysis: I was trained by Criminalist D. Gregonis in the application of PCR technologies in the typing of the DQ alpha locus which culminated in the analysis of several qualifying samples.
October 1993 through January 1994.

Forensic DNA Analysis: I was trained by Criminalist D. Gregonis in the application of PCR technologies in the typing of the D1S80 locus which culminated in the analysis of several qualifying samples.
February 1995 through December 1995.

Forensic DNA Analysis: I was trained by Criminalist D. Gregonis in the application of PCR technologies in the typing of the PM loci (LDLR, GYPA, HBGG, D7S8, and GC) which culminated in the analysis of several qualifying samples.
April 1996 through June 1996.

LICENSES AND CERTIFICATES

Forensic Alcohol Analyst
California Department of Health

Commission of Peace Officer Standards and Training
Basic POST Certificate – July 1985

Commission of Peace Officer Standards and Training
Intermediate POST Certificate – February 1986

Commission of Peace Officer Standards and Training
Advanced POST Certificate – February 1990

DONALD T. JONES

continued

Deputy Sheriff / Criminalist II – Quality Assurance Officer

San Bernardino County Sheriff's Department
Scientific Investigations Division – Crime Lab Unit
March 2001 – August 2004

Deputy Sheriff / Criminalist II

San Bernardino County Sheriff's Department
Scientific Investigations Division – Crime Lab Unit
July 1982 – March 2001

Deputy Sheriff / Criminalist I

San Bernardino County Sheriff's Department
Scientific Investigations Division – Crime Lab Unit
October 1980 – July 1982

Student Professional Worker

Los Angeles Police Department
Scientific Investigations Division
December 1979 – October 1980

Student Professional Worker

Los Angeles County Chief Medical Examiner's Office
Toxicology Laboratory
October 1978 – December 1979

SUPERVISORY TRAINING

Fundamentals of Supervision II
County of San Bernardino – National University
30 hours – September/October 2004

Safety for Supervisors
County of San Bernardino – GSA Building
December 7, 2004

Assertive Supervision – Marin Consulting Associates
San Bernardino County Sheriff's Department – Glen Helen North
24 hours – February 8-10, 2005

How to Excel at Managing and Supervising People
SkillPath Seminar – Ontario, CA
February 9 and 10, 2006

DONALD T. JONES

continued

COURT QUALIFICATIONS

Subjects: Forensic alcohol analysis, clandestine laboratory investigations, controlled substance analysis, field investigations, serology, shoe print comparisons

Municipal Court: San Bernardino County
Superior Court: San Bernardino County

Subject: Serology

Superior Court: Los Angeles County
Superior Court: Brevard County, Florida
Superior Court: Clark County, Nevada

Subject: Forensic DNA Analysis

Superior Court: San Bernardino County
Superior Court: Riverside County

MEMBERSHIPS

California Association of Criminalists, October 1985 to present
Nominations Committee, twice
Serology Study Group Co-chairman
Ethics Committee, 2001 to present; chairman July 2003 to July 2005

Association of Forensic Quality Assurance Managers, October 2003 to August 2004

California Association of Crime Laboratory Directors, May 2007 to present

American Society of Crime Laboratory Directors, October 2007 to January 2009

EXPERIENCE

Criminalist II (voluntary demotion)
San Bernardino County Sheriff's Department
Scientific Investigations Division – Crime Lab Unit
January 2009 – Present

Supervising Criminalist
San Bernardino County Sheriff's Department
Scientific Investigations Division – Crime Lab Unit
August 2004 – January 2009

DONALD T. JONES

continued

PUBLICATIONS AND PRESENTATIONS

An Improved Extraction Technique for Group Specific Component (Gc) Determination Using 6M Urea.

PRESENTED AT THE 66TH SEMIANNUAL SEMINAR OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS, LOS ANGELES, OCTOBER 1985

An Improved Extraction Technique for Group Specific Component (Gc) Determination Using 6M Urea.

PRESENTED AS A POSTER AT THE INTERNATIONAL SYMPOSIUM ON FORENSIC IMMUNOLOGY, QUANTICO, VIRGINIA, JUNE 1986

Evaluation of a Nonequilibrium Isoelectric Focusing (IEF) Method for the Simultaneous Typing of Esterase D (EsD), Red Cell Acid Phosphatase (AcP1), Phosphoglucomutase (PGM1), Adenylate Kinase (AK), and Adenosine Deaminase (ADA).

JOURNAL OF FORENSIC SCIENCES, VOL. 35, #1, JANUARY 1990

DNA Analysis in the Riverside/San Bernardino Regional Forensic DNA Laboratory.

PRESENTED AT THE 80TH SEMIANNUAL SEMINAR OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS, VENTURA, OCTOBER 1992

Match Criteria Determination for Restriction Fragment Length Polymorphism DNA Analysis Using Five Molecular Weight Zones.

PRESENTED AT THE 80TH SEMIANNUAL SEMINAR OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS, VENTURA, OCTOBER 1992

Use of Five Molecular Size Zones for Match Criteria Determination and for Interlaboratory Comparison of Precision Measurement for RFLP-DNA Analysis.

PRESENTED AT THE SECOND INTERNATIONAL SYMPOSIUM ON THE FORENSIC ASPECTS OF DNA ANALYSIS, QUANTICO, VIRGINIA, MARCH 1993

Demonstration of Concordance of RFLP Results between Laboratories Contributing to the CAL-DNA Profiling Data Bank.

PRESENTED AT THE SECOND INTERNATIONAL SYMPOSIUM ON THE FORENSIC ASPECTS OF DNA ANALYSIS, QUANTICO, VIRGINIA, MARCH 1993

Allele Frequencies for Five Polymorphic Proteins in Three Hispanic Populations.

PRESENTED AT THE SEMIANNUAL SEMINAR OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS, PASADENA, OCTOBER 1994

You Will Be Known by the Sweat of Your Brow (or Who is the Cat the Hat?)

PRESENTED AT THE SEMIANNUAL SEMINAR OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS, SACRAMENTO, MAY 1997

DONALD T. JONES

Continued

A Study of Hardy-Weinberg Equilibrium, Linkage Equilibrium, and Population Structure in Hispanics Using Seven Genetic Markers.

PRESENTED TO THE FACULTY OF CALIFORNIA STATE UNIVERSITY SAN BERNARDINO IN PARTIAL FULFILLMENT OF REQUIREMENTS FOR A MASTER OF SCIENCE DEGREE IN BIOLOGY, JUNE 1997

A Study of Hardy-Weinberg Equilibrium, Linkage Equilibrium, and Population Structure in Hispanics Using Seven Genetic Markers.

PRESENTED AT THE SEMI-ANNUAL SEMINAR OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS, MONTEREY, MAY 1998

“Quality Assured” column, The CAC News:

NEWS OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS, THIRD QUARTER, 2002 – IMPORTANCE OF PROPER CONCLUSIONS BASED ON THE DATA ACQUIRED FROM TESTING.

INSPECTIONS

ASCLD/LAB inspection and FBI DNA Quality Assurance Audit

Illinois State Police Forensic Science Laboratories

June 2 through 7, 2002

ASCLD/LAB inspection and FBI DNA Quality Assurance Audit

Louisiana State Patrol Crime Lab

September 13 through 17, 2003

ASCLD/LAB inspection and FBI DNA Quality Assurance Audit

Florida Department of Law Enforcement – Tampa Regional Operation Center

April 16 through 22, 2005

ASCLD/LAB inspection

Nassau County Police Department Forensic Evidence Bureau Laboratory – Mineola, New York

October 22 through 26, 2007

FBI DNA Quality Assurance Audit

California Department of Justice – Riverside Criminalistics Laboratory

June 21 through 23, 2003

Quality System audits of crime labs 2000 to 2004

Orange County Sheriff-Coroner's Office, Los Angeles County Sheriff's Department, San Diego

Police Department, Los Angeles

DONALD T. JONES

continued

INSTRUCTOR OF:

S.A.R. Response to Clandestine Drug Labs
Search and Rescue Training Weekend, Barstow
2 hours October 1, 1989 and October 7, 1990

DNA and Bio-Hazards
California Association for Property and Evidence Seminar, Ontario
4 hours March 13, 1991

Forensic DNA Topics
Presentation to San Bernardino County District Attorney's Office, San Bernardino
4 hours March 28, 1998

AWARDS

Riverside County Sheriff's Department
Citizen Commendation for linking three sexual assault cases through forensic DNA analysis
February 6, 1994

2000 Employee of the Year
Scientific Investigations Division
Forensic Biology/DNA analyst

2005 Unit of the Year
Scientific Investigations Division
Supervisor of Forensic Biology/DNA

3/09

EXHIBIT A-2
PATHOLOGIST DR. SAUKEL
DATA TIME FRAME ON

1 A It would have to have been shorter than that.

2 Q How short?

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

4 Q Within a day and a half?

5 A Yes.

6 MR. THOMAS: Nothing further.

7 THE COURT: Mr. Sanders.

8 MR. SANDERS: I have just another question.

9 RE-CROSS-EXAMINATION

10 BY MR. SANDERS:

11 Q Is there any possibility in this case that
12 the -- that the sex was postmortem?

13 A Yes.

14 Q It could have been based on the things that you
15 saw?

16 A Yes.

17 MR. SANDERS: I have nothing further, your
18 Honor.

19 THE COURT: Mr. Thomas.

20 MR. THOMAS: Nothing further.

21 THE COURT: May Dr. Saukel be excused?

22 MR. THOMAS: Yes.

23 THE COURT: Thank you for being with us, sir.
24 You are excused.

25 Call your next witness.

26 MR. THOMAS: That was my only witness this
27 afternoon.

28 THE COURT: Okay. Folks, I told you it

51-117

EXHIBIT A-1-A
IS THIS YOUR STATEMENT
NEW, OR IS THERE ANOTHER
ONE TO COME LATER



County of San Bernardino
Office of the District Attorney

JASON ANDERSON, District Attorney

Appellate Services Unit

September 23, 2020

John Henry Yablonsky
CDC # AL0373
R.J. Donovan Correctional Facility - 18-147
480 Alta Rd.
San Diego, CA 92179

Dear Mr. Yablonsky:

We are in receipt of your informal request under Penal Code section 1054.9. Thank you for your patience as we considered it in detail.

Your request is, in places, difficult to follow, and it is also interwoven with complaints and allegations against the prosecutor (John Thomas), the Sheriff's Department, your own attorneys, and the Court. However, you have helpfully assembled your specific demands by number, and the best approach, it seems to me, is to go through it item by item and explain our position - and our questions - as we go. You may then wish to respond to me informally, but you are also free to bring a formal motion with the court if you are dissatisfied.

Penal Code § 1054.9 took effect in 2003. As modified in 2019, it now reads:

(a) In a case . . . in which a defendant is or has ever been convicted of a serious felony or a violent felony resulting in a sentence of 15 years or more, upon the prosecution of a postconviction writ of habeas corpus or a motion to vacate a judgment, or in preparation to file that writ or motion, **and on a showing that good faith efforts to obtain discovery materials from trial counsel were made and were unsuccessful**, the court shall, except as provided in subdivision (b) or (d), order that the defendant be provided reasonable access to any of the materials described in subdivision (c). . . .

.....

*THIS STATEMENT
CONTRADICTS
JDA FERGUSON
2012 BRIEFINGS*

(c) For purposes of this section, “discovery materials” means materials in the possession of the prosecution and law enforcement authorities to which the same defendant would have been entitled at the time of trial.

....

(Emphasis added.)

The statute goes on to provide that “the actual costs of examination or photocopying pursuant to this section shall be borne or reimbursed by the defendant” (§ 1054.9(e)), and “this section does not require the retention of any discovery materials not otherwise required by law or court order” (§ 1054.9(f) [emphasis added]).

As you seem to be aware, the leading California case on the parameters of § 1054.9 is *In re Steele* (2004) 32 Cal.4th 682, which identified four categories of information properly discoverable under that section. Specifically, the Court held, defendants should receive materials that “(1) the prosecution *did provide* at time of trial but have *since become lost to the defendant*; (2) the prosecution *should have provided* at time of trial because they came within the *scope of a discovery order* the trial court actually issued at that time, *a statutory duty* to provide discovery, or the *constitutional duty* to disclose exculpatory evidence; (3) the prosecution *should have provided* at time of trial *because the defense specifically requested them* at that time and was *entitled to receive them*; or (4) the prosecution had no obligation to provide at time of trial absent a specific defense request, but to which the defendant *would have been entitled at time of trial had he specifically requested them.*” (*Steele* at p. 697 [emphasis added].)

This language, the Court held, is broad enough to make § 1054.9 more than just a “file reconstruction statute.” It does *not*, however, authorize “free-floating” discovery requests for almost anything possessed by the prosecution. (*Barnett v. Superior Court* (2010) 50 Cal.4th 890, 899, quoting *Steele, supra*, 32 Cal.4th at p. 694), and no more does it create a prosecution duty to seek or obtain materials not currently possessed (*Steele* at pp. 693, 695). Indeed, section 1054.9 requires “defendants who seek discovery beyond file reconstruction to show a reasonable basis to believe that other specific materials actually exist.” (*Barnett, supra*, at p. 899.) This requirement recognizes that section 1054.9’s purpose is to allow the defense to receive materials that they have reason to believe are missing, rather than permitting defendants to open-endedly traverse the prosecutor’s files for any material that might exist – a “proverbial fishing expedition,” per *Steele (Id.* at pp. 899–900).

To be sure, when a defendant “can show a legitimate reason for believing trial counsel’s current files are incomplete,” the state Supreme Court has said, he “should be able to work with the prosecution to obtain copies of any missing discovery materials it had provided to the defense before trial (assuming it still possesses them).” (*Barnett v. Superior Court, supra*, at p. 898.) Here, though, while you understandably complain

about the delays in receiving discovery from your various attorneys over the years, these efforts seem to have eventually been very successful, and you have made no claim that any specific item is missing from what you've been given, nor that any specific item must be in our possession. And further, though you suggest that our arguments during the habeas corpus litigation were derived from our files, in fact they were grounded in the record of evidence introduced at trial, as made clear by our citation to the Reporter's Transcript.

For these reasons, in regard to actual trial discovery, we do not believe that you have sufficiently established that your efforts to obtain from counsel the items you now demand from us were "unsuccessful," nor have you identified sufficiently specific materials as being missing from what you received. However, we will nonetheless provide certain items to you as a courtesy, and are happy to consider a further request for other **specific** items – if any – that you have seen but cannot now access.

Turning to the numbered requests, we note that at item **(1)**, you raise an allegation that transcripts of an interview were "tampered with" by DDA Thomas and SBSD Detective Robert Alexander, then write that "[t]his evidence would have been available to you and in the form of three different article[s][:] a) Compact disc as state[']s exhibit 49[;] b) 113 page transcript made on November 2010[;] c) 136 page transcript made on November 2010." You then "demand all this discovery" from us now.

While the wording of this is somewhat unclear, our first response is that your claim of tampering has been raised before, is backed by no evidence and is simply false. Therefore, the only "discovery" we would have is of the three items listed.

Later in your request you confirm that you received a copy of the relevant disc, Exhibit 49, from attorney Hal Smith. (Mr. Smith, in the event you are unaware, sadly passed away last year.) You would not be entitled to receive the same item from the People under § 1054.9, which requires a showing that you have *not* been able to get it through defense counsel.

The 113-page transcript of the recorded interview, featuring redactions agreed upon by the parties, would have been provided to you during appeal, as it is part of the Clerk's Transcript of trial. However, as we have the full transcripts of trial in digital form, there is no difficulty in providing it to you again, and it is herewith enclosed.

The 136-page, pre-redaction transcript is already in your possession, as you provided it in full as Exhibits to the California Supreme Court in writ litigation concerning a previous 1054.9 motion in 2015.

At item **(2)** you assert that we told the Court, in our 2012 response, that your DNA "was located underneath the victim." You then claim that this is "blatantly false," and seem to demand the "records and discovery" that support it.

We did not assert exactly that, focusing more strongly on the fact your DNA was found *inside* Ms. Cobb's vagina. (Response at pp. 20, 28.) But in recounting the evidence, we stated that criminalist Donald Jones had "collected and tested samples cut from a felt pad that had been underneath the victim's body," and that those samples matched you. (RT at p. 6.) This not drawn from "discovery," but instead cited directly to the court record. Revisiting the full record, I see that at page 262 of the Reporter's Transcript criminalist Donald Jones testified to recovering the felt pad, which contained stains. He later described the location as "toward the foot of the bed" on which the body was found. (RT at p. 300.) At pages 283-284 he testified that he had examined sperm from that felt pad, and at pages 286-287 he testified that the felt pad and the vaginal swab had the same "semen donor" – that is, you. And criminalist Susan Anderson later testified about further testing the semen stain from the felt pad and finding that it matched your DNA. (RT at pages 362-372.)

You are entitled to the underlying investigative reports as discovery, but again, the People serve only as the "backup" option for discovery under section 1054.9, if your efforts to obtain the materials from your own counsel were unsuccessful. You recount having received thousands of pages of discovery from your various attorneys, and never assert that any such reports are missing. So we will not, respectfully, attempt to locate and provide them to you at this point.

At item **(3)** you refer to our statement in the Response that there was "no proof that the hair located on the victim's body was red," in response to you alleging that it was. You then seem to demand "proof" of this negative as a matter of discovery.

Our response actually stated, on page 19, that you had offered "no useful support" for the claim that this hair was red, or that this matched William Backhoff/George Randolph, and we then noted that "from the record and the exhibits provided," we saw no proof of either point. However, we ourselves pointed out that the Motion for New Trial contained an exhibit that appeared to be a comparison of *two* "reddish-brown" hairs, which apparently could not be "linked" in that analysis – a document we found by making a proactive search of the available case materials. (Response, fn. 6, pp. 19-20.) We enclose a copy of that document here. This is the extent of our pertinent knowledge.

As a habeas litigant, you have the burden to offer proof of your own allegations, not the People's burden to disprove them. Our comment was limited to the lack of evidence you had yourself provided and the record at trial, not grounded in any police report affirmatively proving the contrary. But in any event, you should have received all police reports in the thousands of pages of discovery you now acknowledge that you have received, and if you do *not* have such a report, *Steele* requires some basis for the belief that it exists. The People are not required to search our files for hypothetical documents.

In regard to request **(4)**, at least two documents showed that Backhoff was not the source of the sperm found at the murder scene – which, of course, matched to you instead. The first, a report by criminalist David Stockwell, was offered as Exhibit M to your New Trial motion and also attached, in part, as an exhibit to your June 21, 2012 habeas corpus petition. The page of this report you attached to the petition also describes the inconclusive comparison of cigarettes Backhoff smoked to cigarettes apparently found at the murder scene, and your annotation that Backhoff’s “expertise as a coroner could have been used to prevent a DNA deposit.” I have provided the full version of that report, albeit a copy of a battered copy, in case it has been mislaid. And the second, which you also previously provided to the Court, was a 2005 report by Sgt. Bradford of the San Bernardino County Sheriff’s Department, noted in my habeas response, which confirmed that blood testing excluded Backhoff (Randolph) as the source of the sperm at both the Rita Cobb and Helen Brooks murder scenes. (Response at p. 18.) Again in the interests of courtesy, I am enclosing that report for you here.

Your request **(5)** is somewhat puzzling. We did not assert in our response that Mr. Sanders brought any motions for DNA testing, but rather that 1) he had considered hiring a defense DNA expert (Response at pp. 17-18), though ultimately his office decided not to; and 2) that he had made strong efforts to defend against the DNA evidence that was introduced (Response at pp. 15-18). We are not aware of him seeking testing of any specific items, but such testing had already been undertaken by the state. The specifics of how Mr. Sanders responded to the DNA evidence, including his cross-examinations, are part of the trial transcript, and not a matter for discovery.

Regarding item **(6)**, I show that we did *not* file any briefing in regard to your potential DNA motion, because Mr. O’Melveny indicated to the Court in his memorandum that he did not believe it to be warranted. And the demand for communications between Mr. O’Melveny and myself must be declined, as they do not fall into the category of discoverable materials under section 1054.9.

Concerning item **(7)**, you would already have been provided the full transcript at the time of your appeal, and such transcripts are not “discovery” under *Steele*. However, as it is readily available to me, I have reprinted and enclosed the relevant section for you. I also came across in the Clerk’s Transcript the original latent-print report in the case, also attached as an exhibit to the Motion for New Trial, and am providing that to you as well.

Your request **(8)** is very broad, and also somewhat unclear, but we interpret it as a general demand for *all* inculpatory information in our possession. Here again, however, we must note that you have described receiving thousands of pages of discovery, eventually, from your various attorneys, meaning that your rights have been satisfied as to all those specific items. It is not our duty to provide you that which you have already successfully obtained, and, as noted above, no more is it our duty to comb our archives for hypothetical materials. Section 1054.9 does not authorize “free-floating discovery asking for virtually anything the prosecution possesses” – instead, it requires defendants who seek materials not originally provided to show a “reasonable

basis” for both the proposition the materials exist at all, and for the belief they are in the People’s possession.

While you make some effort to identify our conclusions and assertions about your guilt, and are correct to think that these conclusions had a basis, that basis is typically the trial record itself, or – as noted – in reports you yourself provided to us as exhibits to your original habeas petitions. Had we relied upon other sources, those would have been cited in our opposing brief. We have no secret reservoir of unprovided discovery or hidden investigative reports.

Your item **(9)** is again a bit unclear, but we interpret it as a demand for any information we have that would substantiate any allegation that you have committed violence of any kind, sexual or otherwise. Apart from your conviction in this case itself, I am unaware of any such allegations beyond the two episodes fully litigated at trial, of which discovery was certainly provided at the time of trial, and see no further information of that kind in our files. Again, as you acknowledge receiving thousands of pages of discovery from your attorneys, we must ask you to be precise about what you seek. If you lack the specific police reports of those two incidents, from 1982 and 1996, please advise and we will assess whether we still possess them and can provide them in redacted form.

Finally, your request at item **(10)** largely reiterates your request in item 6, and must be rejected as noted there, as such communications do not fall within the category of discoverable materials under section 1054.9, and in many cases would also likely be privileged from disclosure under Code of Civil Procedure section 2018.030 and Penal Code section 1054.6.

In sum, we have made our best effort to understand and interpret your request in light of the prevailing legal framework, and have erred on the side of providing you materials that we have near at hand, even if you likely have them already. We also will not seek reimbursement of expenses for duplication at this time, as these items have generally not been directly requested. However, we are unclear what further specific materials may be missing from the thousands of pages of discovery you acknowledge receiving, and it is neither our duty nor our desire to speculate on this point. If you can direct us to concrete rather than hypothetical items or reports that you know to exist and can’t find in what you’ve already received, we will certainly attempt to assist.

Yours sincerely,



Eric M. Ferguson
Deputy District Attorney
Appellate Services Unit
San Bernardino County District Attorney

EXHIBIT A-2-A
DEMAND FOR DISCOVERY
3-23-20

PROOF OF SERVICE BY AN INMATE

ACCORDING TO PRISONER MAILBOX RULE

THIS MAILING IS DEEMED FILED AND SERVED UNDER ANTHONY V. CAMERA, 236 F.3d.563(9th cir.2000)

WHEN THIS MAILING HAS BEEN DELIVERED INTO THE CUSTODY OF CDCR STAFF

This service and mailing was conducted by a party and inmate of CDCR, and was conducted according to California Code Regulations § 3142 and P.C. § 2501(b). This mailing was inspected and sealed in the presence of an on duty correctional officer, into a fully prepaid envelope to be delivered by the U.S.P.S. as addressed to the following parties;

DISTRICT ATTORNEY OFFICE
ERIC FERGUSON
APPELLATE UNIT
303 W 3rd st.
S.B.CA.92415

This service contained the following documents;

DISCOVERY REQUEST INFORMALLY PURSUANT TO P.C. 1054.9

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) MAY 23, 2020

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 CDCR#AL0373
18-147
480 Alta rd.
1 Sandiego,ca,92179

2
3 RE: INFORMAL REQUEST FOR DISCOVERY PURSUANT TO P.C.§ 1054.9
4 IN RE STEELE 32 CAL.4th 682(2004)
5 TRIAL COURT #FVI900518
6 HABEAS CORPUS #WHCSS1200311

7
8 Dear Eric Ferguson;

9 As responding counsel for the state of California during
10 post trial habeas briefing, and [other] litigations instigated
11 by myself, your office as well as yourself have responded, alleging
12 certain facts within the trial record and discovery for DR#1331036-
13 07. THE MURDER OF Rita Mable Cobb on September 1985.

14 Specifically in your filings on October 19, 2012 and
15 May 1, 2013, your stated several facts that contradict historic
16 records which are memorialized by trial testimony, or discovery
17 which existed prior to the trial which occurred in January 2011.

18 Several of your statements to the Court were used to
19 navigate specific allegations, which if true would have afforded
20 relief pursuant to the rules of habeas corpus, post trial collateral
21 attacks. It is in these responses you provided which must have
22 been supported by [some] record which you relied that are the
23 target of this .P.C. § 1054.9 "INFORMAL DISCOVERY REQUEST".

24 Consistant to the language set out by [STEELE] these
25 discoveries "WHICH EXISTED PRIOR TO TRIAL" and "SHOULD" be in your
26 possession are now hereby requested as follows.

27
28 1) In your October 19, 2012 response you offered
that the jurors relied on states exhibit 49 and 49A to
determine that I admitted to having a key to the victims
home during interrogation on March 8, 2009. This interro-
gation recording transcripts were and are the target of
[ONE] of my post trial challenges. "THIS EVIDNECE" was
tampered with by SBSB Detective Robert Alexander and
DDA John Thomas. "ANSWERS WERE CHANGED TO INDICATE CULPABILITY"
Arizona v Youngblood 488 US 51(1988); California v Trombetta,
467 US 479(1984);P.C. §132, 131, 134

This evidence would have been available to you
and in the form of three different article. a) Compact
disc as states exhibit 49 b) 113 page transcript made
on November 2010 c) 136 page transcript made on November 2010
I DEMAND ALL THIS DISCOVERY FROM YOU NOW, PLEASE!

DISCOVERY FROM FERGUSON-1

1 2) In your October 19, 2012 response you offered
2 to the Court that my "DNA WAS LOCATED UNDERNEATH THE VICTIM."
3 The records and discovery you had access to "SHOULD"
4 be in your possession which support this allegation.
5 This is one of targets in post trial challenge and is
6 blatantly false according to the trial record, expert
7 testimony, and was used to influence a Court about culpability.

8 I DEMAND ALL THIS DISCOVERY FROM YOU NOW, PLEASE!

9 3) In your October 19, 2012 response you stated
10 that there was no proof that the hair located on the
11 victoims body was red. You stated this because I declared
12 that red hair had been located on the victim. The records
13 and discovery made available to you should still be in
14 your possession which support your allegation "THERE
15 IS NO PROOF THE HAIR LOCATED ON THE BODY WAS RED"!

16 This is one of the targets in my post trial
17 challenge....that trial counsel refused to have experts
18 examine DNA evidnece which would have affected the result
19 in this case.

20 I DEMAND ALL THIS DISCOVERY FROM YOU NOW, PLEASE!

21 4) In your October 19, 2012 response you stated
22 that there was no proof the the DNA belonging to Gregory
23 Randolph (WILLIAM BACKHOFF) was located at this crime
24 scene. This information should be in your possession
25 and is related to arguments I am litigating in the
26 Court.

27 I AM DEMANDING ALL THIS DISCOVERY FROM YOU NOW, PLEASE!

28 5) In your October 19, 2012 rspnse you stated
that my trial attorney Mr Sanders had filed motions
for DNA testing but was denied by the Court. This is
one of the targets in my collateral challenge regarding
failure to have DNA examined in this case. This information
should be in your possession at this time.

I DEMAND ALL THIS DISCOVERY FROM YOU NOW! Please.

6) After on or about May 24, 2017 your office
filed response briefs to a P.C. § 1405 motion I filed
for DNA testing. The Court appointed counsel Stuart
O'Melveny to prepare a brief. You provided information
to this counsel, or filed opposing breifs for this
motion. This information should be in your possession.

I DEMAND THIS DISCOVERY FROM YOU AS WELL
AS ALL COMMUNICATIONS BETWEEN YOU AND Mr O'Melveny
PLEASE!

7) , you stated in the habeas briefing
to the superiro Court judge, that Detective Robert
Alexander did not states a specific "RESPONSE" with
regards to whether he seen a fingerprint report, "DENYING
THAT ONE EXISTED". Can you provide me transcripts to
why you stated he did not deny their existance ?

I DEMAND THIS DISCOVERY FROM YOU, PLEASE!

DFISCOVERY FROM FERGUSON-2

1 8) Furthermore, with regards to any and all police
2 reports, investigations and [other] informations in
3 your possession which indicate my involvement with this
4 murder I am now requesting that you provide to me in
5 paper form which indicate I was in the residence of
6 Mrs Rita Mabel Cobb at the time she had been killed.

7 This would include but not limited to statements,
8 informants, tangible records, interviews, expert witnesses,
9 forensics data collected at [any] time regarding my
10 involvement with this case.

11 I DEMAND THIS INFORMATION FROM YOU NOW, PLEASE!

12 9) With regards to any prior bad acts reports,
13 investigations, special investigations which include
14 interviews with, recordings of statements that would
15 indicate Evidence code §§ 1101, 1102, 1103, 1105, 1106,
16 1108. That proof of acts committed by myself upon another
17 with regards to violence in [any] nature to include
18 but not limited to sexual acts, attacks on others,
19 physical harm upon another at any time in any state
20 or country. These informations should be in your possession
21 and should be made available.

22 I DEMAND THIS INFORMATION FROM YOU NOW, PLEASE!

23 10) Last but not the least, any and all letters,
24 e-mails, text messages, or [other] communications between
25 yourself and trial counsel David Sanders, Hal Smith
26 post trial counsel, Stuart O'Melveny post trial counsel,
27 detective Robert Alexander, Detective Greg Myler,
28 DDA John Thomas. ANY communications between yourself
and these parties at [any] time with regards to this
case in [any] nature with regards to facts, evidences,
informations, discoveries which should be in your possession
at this time.

I DEMAND THESE INFORMATIONS NOW, PLEASE!

THESE REQUESTS ARE NOT A FISHING EXPEDITION!!

21 P.C. § 1054.9 (a) Upon the prosecution of a post conviction
22 writ of habeas corpus in a case which the defendant had been sent
23 enced to Life without the possibility of parole, and on showing
24 of good faith efforts to obtain these records from trial counsel
25 were made and were unsuccessful, the Court shall, except as provided
26 in sub(c) order that the defendant be provided reasonable access
27 to any of the materials described in sub(d).

28 The findings in STEELE were that good faith efforts
were to be made with trial counsel. (Id at p.690) Furthermore
under the language of STEELE the prosecutor, law enforcement are
obligated to releasing these discoveries. (Id at p.696)

- 1 A) On March 11, 2009 I demanded from Geoffery Canty all
2 the discovery to this case.(HE PROVIDED NONE)
Canty was appointed as trial counsel
- 3 B) On May 2009 I ddemanded from newly appointed trial
4 counsel David Sander all the discovery to this case.
In June 2009 David Sanders provided me with 300 pages
5 telling that was all the discovery to this case.
WITHOLDING OVER 4700 PAGES
- 6 C) At the end of trial and after seeing there was over
7 5000 pages to this case, and during marsden hearing I
8 demanded the release of the entire file. On or about
9 March 2011 and after trial David Sanders provided me
10 another 1300 pages to this case.
WITHOLDIING OVER 3400 pages
- 11 D) After P.C. 1054.9 demands processed through state bar
12 complaints, David Sanders provided me another 1600 pages
13 in June 2014 stating that this was the states entire
14 file.
STILL WITHOLDING OVER 1800 PAGES
- 15 E) On January 2016 and five years after the trial and
16 seven years after the first demand for states entire
17 file, Hal Smith provided me with 5400 pages along with
18 a compact disc of audio informations as states exhibit
19 49, a recoridng of an interrogation created on 3/8/09

20 Because there had been numerous requests, and numerous
21 releases, all telling me that was all there is, when there was
22 more, I am forced into believing that full disclosure was impossible.

23 Then your arguments with habeas briefings as well as
24 other writings/ communications, this request herein is required
25 due to the [repeated] deceptive behaviors by trial counsel who
26 stated "THAT BATCH" was all there was, knowing "THERE WAS MORE".

27 "AND GROSS MISTATEMENTS OF FACTS BY YOURSELF, WITHOUT SUPPORT."
28 THIS DEMAND IS REASONABLE
DECLARATION

29 I am not the Killer of Rita Mabel Cobb. I was not in
30 the residence of Rita Mabel Cobb between September 18, 1985 and
31 todays current date. At the time Rita Mabel Cobb was killed I
32 was in the residence of Thomas and June Mullin who lived in Downey
33 Caliofornia from September 18, 1985 through September 23, 1985
34 at a famuily gathering. At this gathering Linda Mitchell , Joy
35 Mitchell, June Mullin, Thomas Mulling, Holly Yablonsky, as well
36 as several other in-laws seen my presence at this home between
37 the dates listed above. I did not kill Rita Mabel Cobb, nor do
38 I have any knowledge of who killed her, other than the discovery
information provided me by trial counsel which indicate Joseph
Saunders may have been involve, Gregory randolph may have been
involved, as well as about half a dozen other suspects outlined
by police reports made over the years. My relationship with Rita
Mabel Cobb was private, non violent, and sexual in nature where
all acts between her and I was consensual. I John Henry Yablonsky
an adult over the age of censent swear this under penatly of perjury.

1 I further declare that I was made to beg for discovery
2 from trial counsel who promised the papers he released was all
3 the discvoery to this case, knowing that he witheld thousands
4 of pages to this case over a period of five years from the date
5 I was first charged and asked to see the states entire file. I
6 further declare that I have been diligently trying to develop
7 this case from the date of the conviction while being incarcerated
8 within state ran facilities with minimal access to resources to
9 learn, study law in order to defend rights that were wrongly taken
10 away from me in this case. If called to testify, will state the
11 same in a court of law, according to belief and knowledge.

12 May 22, 2020

13 John Henry Yablonsky.

14 MY CURRENT ARGUMENTS FOR THIS CASE

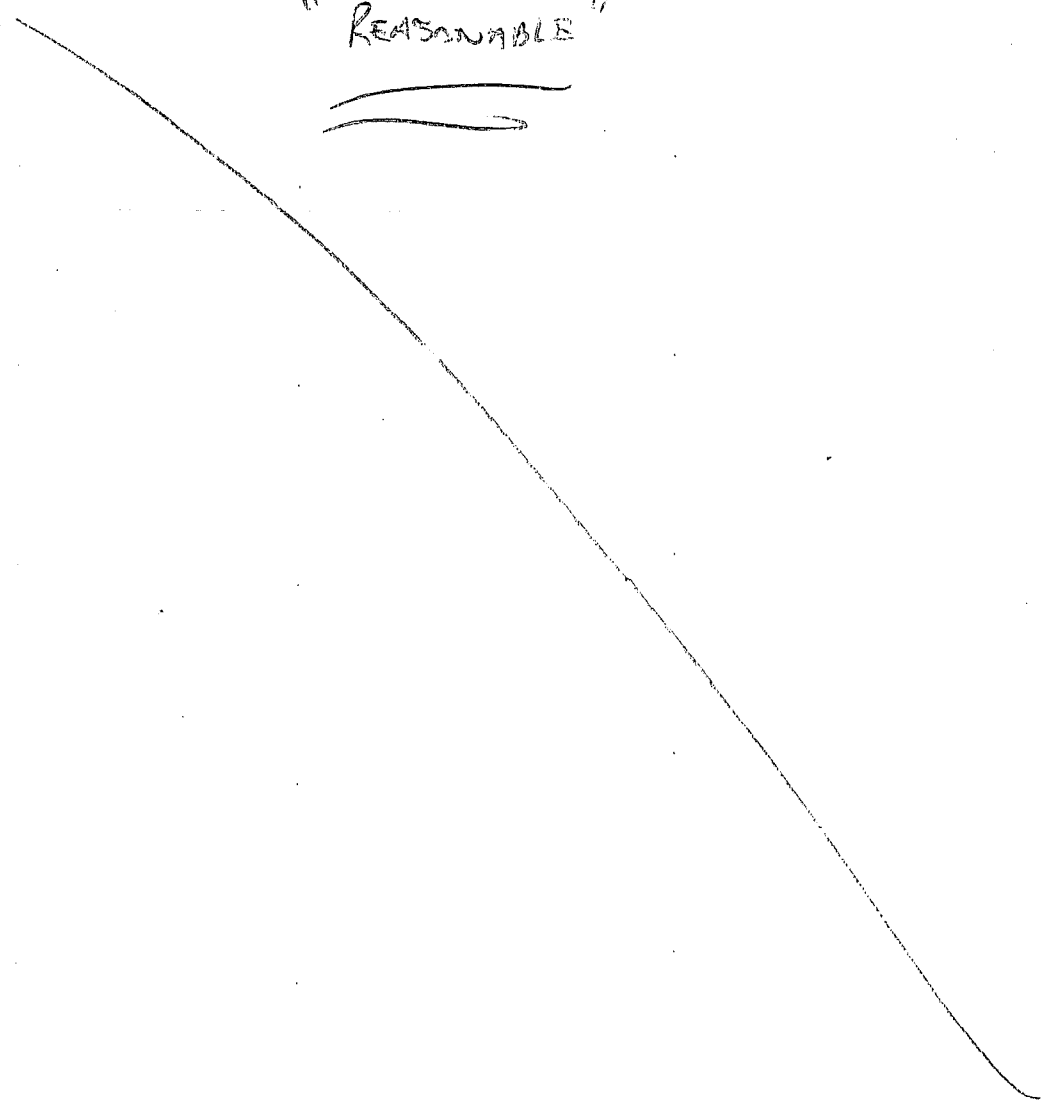
- 15 1) The prosecutor violated due process roights when
16 Robert Alexander, DDA John Thomas altered evidnece
17 which they chose to use to coerse jurors
- 18 2) The prosecutor violated due process when he used
19 unreliable witnesses Robert Alexander, Bruce Nash,
20 John Sullivan to coerse a verdict, knowingly using
21 witnesses who perjured themselves.
- 22 3) Trial counsel failed to file impeaching motions, object-
23 ions to witnesses that gave unreliable testimony
- 24 4) Trial counsel failed to file suppression motions
25 with regards to states exhibit 49 and 49A which had
26 been a) illegally obtained b) Altered by changing
27 answers from one to another, te create elements
28 c) Used against petitioners fith amendment right
to be free from compulsory witness against self
- 29 5) Trial counsel refused to request funding for expert
30 witnesses for DNA examination of evidence directly
31 related to the murder of Rita Mabel Cobb
- 32 6) The Court violated due process rights when the Court
33 sentenced petition to life without parole when this
34 case was committed at the time petitioner was 21,
35 a juvenile offender, violating eighth amendment
- 36 7) Petitioner is factually innocent, his DNA clears
37 his presence at the crime scene by the mimimum of
38 one and a half days to several days before the murder
was committed on or about September 20, 1985.
(see experts testimony/ evidnece RT 347, 490)

CONCLUSION

1
2 Because I am laymen at law, and have been restricted
3 from acces to knowledge, and resources which would have provided
4 knolwedge, and after numerous deceptive responses by trial counsel
5 I am forced into requesting these records from a prosecuting
6 district attorney familiar to this case, and had written briefs
7 on behalf of the state of California, and "should' have these
8 records in his possession ,~~an~~ making this "informal" request

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" REASONABLE "



May 22, 2020

Respectfully requesting;
John Henry Yablonsky
an innocent man

EXHIBIT A
28 PAGE BRIEF
BY FERGUSON



COUNTY OF SAN BERNARDINO
Office of the District Attorney
Appellate Services Unit

CHIEF TRIAL COUNSEL
PLEASE
SEE PAGES

#1, #2, #5, #6, #7
#8, #9, #10, #11, #12
#13, #14, #15, #16, #17, #18
#19, #20, #21, #22
#23, #24, #25, #26, #27

October 19, 2012

The Hon. Kyle S. Brodie
Department S-24
San Bernardino County Superior Court
351 North Arrowhead Avenue
San Bernardino, California, 92415-0240

Re: *In re John Henry Yablonsky*
WHCSS1200311
(Case No. FVI900518)

Your Honor:

In 2011, a Victorville jury convicted Petitioner of the 1985 murder of Rita Mabel Cobb in Lucerne Valley. After his motion for a new trial was denied, Mr. Yablonsky was sentenced in February 2012 to life in state prison without the possibility of parole.

Wasting little time, Mr. Yablonsky filed both an appeal of his conviction at trial and the instant petition for Writ of Habeas Corpus. As the former is far from resolution, and indeed the Appellant's Opening Brief has only very recently been filed, this Court indicated that it lacked the ability to fully evaluate each of the claims brought forth here. Accordingly, Your Honor sought an informal response addressing only a limited number of the issues Mr. Yablonsky has raised.

None of his claims are adequately supported, and most are plainly false. The following should illustrate that the great majority of Petitioner's arguments depend on exaggerations or plain mischaracterizations of the actual case history. In reality, the trial record broadly demonstrates that Petitioner was treated fairly and his rights well-protected throughout, including by the efforts of the attorney he now challenges for competence,

(A)

Entered for
DISMISSED
AND TO WIT
REFUSED AT
HABEAS
LEVEL

David Sanders. He was not convicted of murder on the basis of a conspiracy, a lie or a whim, but rather by the overwhelming impact of DNA evidence that linked him directly to the crime scene, and which he failed entirely to explain when interviewed by police.

Petitioner has, accordingly, not supported his claims with evidence, clearly because no such evidence exists. His petition should therefore be denied.

I REG OR DISCOVERY YOU DENIED ACCESS

FACTUAL AND PROCEDURAL HISTORY¹

Rita Cobb was found murdered in her home in desert community of Lucerne Valley on September 23, 1985. Though many suspects were apparently identified and investigated, the crime went unsolved until 2009, when a DNA "hit" linked Petitioner directly to the crime. He was contacted, interviewed and arrested on March 8, 2009, and charged by complaint and information with first-degree murder, with the special circumstance that the killing took place during a rape.

After various failed motions, including an attempt to recuse the district attorney's office, trial commenced in Victorville in January 2011. On Feb. 3, 2011, the jury convicted Mr. Yablonsky as charged. Before sentencing, Petitioner brought an unsuccessful Marsden motion, then a motion for a new trial alleging that his trial attorney, Deputy Public Defender Dave Sanders, had been ineffective. The motion was denied, and Mr. Yablonsky was eventually sentenced to life without the possibility of parole on Feb. 24, 2012.

Petitioner timely filed an appeal, now pending in the Court of Appeal, Fourth District, Division 2 under case no. E055840. The Appellant's Opening Brief, prepared by appointed attorney Richard A. Levy, was filed October 9, 2012.²

Meanwhile, Petitioner filed the instant petition *in pro per* on June 21, 2012. He subsequently delivered a second, very similar petition on August

¹ We respectfully ask that the court take judicial notice of its file and all relevant documents it may contain, including the minute orders generated in this case, and of the various documents provided as exhibits to Mr. Yablonsky's Petition(s) to the extent we make reference to them.

² We have received a copy of that brief and can provide it to the court if desired. We did not attach it as an exhibit due to its length (some 142 pages) and general lack of overlap with this Petition. (See Discussion, § II, *post*.)

(B)
THIS IS FAR
CONTACTED AND
WAS LINKED TO FILE
MARSDEN WAS
CONVICTED AND
LINKED TO FILE
MARSDEN
(C)

(RT 490) YABLONSKY DNA 1 1/2 DAYS
(RT 317) YABLONSKY DNA SEVERAL DAYS
OLDER THAN CRIME
OLDER THAN CRIME
MURDER, IN CERTAIN
THAT
MURDER
CORONER + PATHOLOGIST TESTIFIED
THERE WAS NO PHYSICAL OR SCIENTIFIC EVIDENCE OF RAPE
DEFENDANT DNA WAS SEVERAL DAYS
OLDER THAN MURDER, IN CERTAIN
THAT
MURDER
DEFENDANT DNA AS MUCH AS 1 1/2 DAYS
OLDER THAN
MURDER

9, 2012, but Your Honor determined that it should not be considered with the first one pending, and also declined to view it as a proper amendment. That petition has therefore been categorized as "received," but not "filed."

Following review of the June 21 petition, the court by order of August 20, 2012, sought the People's informal response to the allegations made in five specific arguments for relief. The court specifically expressed that the remaining "Grounds" (seven of the 12 contained in the petition) were either procedurally barred or, in the court's judgment, did not state a *prima facie* case for relief under habeas corpus even if proved.

Your Honor kindly granted the People's request for an extension of time to respond, setting a new deadline of October 19, 2012.

SUMMARY OF TRIAL PROCEEDINGS

Motions in limine. As further detailed *post*, the court addressed several major issues in pretrial motions.

First, it generally excluded the defense's proposed evidence of third-party liability, most notably a 1988 "We-Tip" (anonymous phone call) report to law enforcement that a man named George Randolph, aka William Backhoff, had at that time recently bragged of committing the murder of Rita Cobb. (See generally Reporter's Transcript [hereafter RT], 8-25.) In the course of the same discussion, the court also curtailed the proposed use of statements by now-deceased persons relating to the victim's alleged drinking habits and sexual character. (RT 7-13, 16-24.) Finally, after extensive discussion, Judge Tomberlin ruled that the People were entitled to bring in evidence of two prior claimed, but uncharged, sexual offenses, which had taken place in 1982 and 1996. (RT 77-96.) DDA John Thomas had earlier indicated that he did not intend to use this evidence in his case in chief, but rather in rebuttal if Mr. Yablonsky were to testify. (RT 27.)

Trial evidence. The victim's son, Daryl Kraemer (in places spelled as Darryl), recounted that he and his mother were originally from Canada. He stated that they had a good relationship, though he acknowledged they had occasional bad times and arguments. (RT 104.) He had lived with her in Lucerne Valley at one point in time. (*Id.*) He stated that he had not seen his mother for approximately one to one-and-a-half months before her death. He seemed to recall that she had left him a telephone message that somewhat alarmed him, and said he had tried to reach her by telephone all weekend prior to discovering her body. (RT 108-109, 142.) On Monday (September 23, 1985) he learned that she had not come to work, so he drove

to her Lucerne Valley home from his residence in Phelan. He was accompanied by girlfriend and future wife, Marta. (RT 109.)

Inside Kraemer quickly discovered that the home was extremely warm, which was explained by the fact that the heater was on. The drapes were closed, which was unusual, and an awful odor filled the home. (RT 113-114.) He entered his mother's bedroom and discovered her body. She appeared to have been dead for "a period of time." He stated that he then went into shock and broke down crying, believing she had killed herself, because she had been lonely and despondent. (RT 118-120.) After Marta briefly viewed the body, however, she told him it was "more than that," and that it looked like "somebody had been there." (RT 121.) The house did not appear to be ransacked or otherwise disturbed. (RT 125-126.) Kraemer was not familiar with Petitioner, but said he had known his father, George Yablonsky, some years before the murder.

On cross-examination he acknowledged that on the last occasion he had seen his mother, they had argued. He had stayed away from her for a time as a result. (RT 141-142.) He identified a previous boyfriend of his mother's as Fred Bidard. (RT 149.) The court sustained an objection to defense questioning about his knowledge of other men she might have dated, though when the question was later rephrased he stated that the only boyfriend he recalled was Bidard. (RT 150-152.) Kraemer agreed that his mother "liked to date," but he was unsure how regularly she did so. (RT 152.)

Marta Kraemer also testified that the house was very warm and the drapes were shut, which she had never seen before. The unpleasant odor was overpowering, such that she could scarcely notice anything else. (RT 169-170.) Though Darryl assumed suicide, she recalled seeing the position of the body and being sure that Rita had not killed herself. (RT 175-177.) She observed Rita's dentures on the pillow. (RT 178.) She called the authorities as Darryl went to try to locate the victim's friend John Sullivan. (RT 183-186.) The room did not show any signs of an altercation having occurred. (RT 191.)

On defense questioning Marta said she felt from the positioning of the body that "someone had sex with her." (RT 195.) She had no personal recall of Mr. Yablonsky or his father. She related to police that Rita had had a boyfriend named Fred. (RT 197.) The court sustained objections to questioning about other possible boyfriends. (RT 198.)

Lucerne Valley resident Diane Flagg testified that she had "known of" the victim and had stopped by the property after seeing numerous police

cars on the day Rita's body was discovered. (RT 200-201.) She stated that she had seen a hitchhiker near Rita's property around that time, and described him. (RT 201-202.) She further indicated that she had seen many cars at the property on previous occasions, including a Ford Pinto. Though she reported at the time it was silver, it was "a possibility" that it was actually a different color. (RT 204.) *DIANNE FLAG NEVER STATED THE CAR WAS A DIFFERENT COLOR.*

Retired San Bernardino County Sheriff sergeant Roger McCoy testified that he had responded to the scene as a homicide detective. There he "did the crime scene," which involved evidence recovery and various physical measurements and diagrams. (RT 215-217.) Among other items of evidence, he found two bloodstains in the hallway. (RT 228.) He then observed the victim's nude body, which showed moderate decomposition, and noted a white cloth that was covering the victim's face and could possibly have been used as a gag. (RT 232-233.) He agreed that the house, while somewhat disorganized, did not appear to have been ransacked. (RT 237-238.) There was a wire coat hanger wrapped tightly around the victim's neck, which was the apparent murder weapon. (RT 238.) The victim was wearing a bracelet and a watch. There were no signs of forced entry to the premises, nor of theft or burglary. (RT 242.)

Marshall Franey, a retired deputy coroner, also responded to the murder scene. He likewise described finding the body completely nude, laying at an angle with legs wide apart. He found tissue paper and shorts around the face and mouth. (RT 438.) Based on his training and experience with decomposition, he testified that the body had been there at least two days, and possibly three or longer, based on "average" conditions, though excess heat could possibly cause faster-than-usual decomposition. (RT 440.) This estimate was consistent with a Friday-night time of death.

Franey further testified that heat is the biggest factor in decomposition, and that during decomposition items stuffed in a victim's mouth would be pushed outward by the various gases associated with the bloating of the body. (RT 448.) He described a discoloration to the victim's knee, which might have been bruising from a hand. (RT 443.) The wire coathanger was wrapped tightly around the victim's neck. He otherwise saw no injuries. (RT 445-446.) Fluids present on the bedding were consistent with the body having been there for a "period of time," which was another indication the corpse had not been moved after death. (RT 447.)

Forensic pathologist Dr. George Saukel conducted Rita Cobb's autopsy. Based in part on entomological analysis, he concluded Rita had probably been dead "at least two days" before being found. (RT 464.) She died of some type of strangulation, mostly or entirely by ligature, as

illustrated by injuries to the hyoid, the upper and lower cornu, and the cricoid cartilage. (RT 475-477.) The length of struggle would be hard to determine.

(E)

(E)

Saukel observed no genital injuries, but agreed that the lack of such injuries does not rule out the possibility of sexual assault. (RT 467, 470.) His analysis of the vaginal swab confirmed that Rita had engaged in sex prior to death, but he could not say whether it took place immediately before she died, or some earlier point. (RT 471.) However, he confirmed that the quantity of sperm in the vagina would decline over time, particularly if the woman were to walk around. Due to simple gravity, semen should "commonly," though not "necessarily," appear in the underwear in that situation. (RT 473, 486.)

(E)

Saukel further determined that if the body had not been in the position where it was found at time of death, it had been placed there within an hour or two of death. He opined that the sex had taken place "within a day to a day and a half" of Rita's death, and indeed could have been "post-mortem." (RT 489-491.)

NOT COLLECTED OR EXAMINED

Criminalist Donald Jones described the process of DNA analysis by polymerase chain reaction (PCR), which he said enables the use of very small samples. (RT 249.) Jones, who had also responded to the crime scene, described numerous items found there, including a watchband pin found near the victim's head and a pair of panties on the floor, and described taking a "vaginal swab" from the victim for purposes of analysis. (RT 254-260.) He also collected and swabbed the bloodstains in the hallway.

(F)

He testified that the sheriff's crime lab began criminal DNA analysis in 1992, and that in 1999³ he revisited the samples he had taken at the scene and analyzed them using PCR. (RT 265-266.) He determined through this process that the blood in question was almost certainly the victim's own. (RT 266-267.) He then analyzed the vaginal swabs and found "sperm cells," indicating a male donor, as well as non-sperm cells almost certainly associated with the victim. Jones was then able to separate the "sperm" and "non-sperm" portions of the sample for later analysis. (RT 267-270.) He also collected and tested samples cut from a felt pad that had been underneath the victim's body, and again found and separated "sperm" and "non-sperm" fractions. (RT 283-284.) Jones also testified that the recovered panties contained no semen. (RT 287.)

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³ Jones also refers at points in his testimony to having conducted portions of the analysis in 1997.

On cross-examination Jones discussed the possibility of "touch DNA" recovery from surfaces, noting that it tended to be pointless if the item was a common surface subject to touching by many people. (RT 291-292.) He confirmed that DNA may be retrievable from hair, skin cells, saliva or even sweat. (RT 292.) The watchband pin was not tested for DNA, and there were apparently no fingernail scrapings undertaken. (RT 297-298.)

He stated that it is best to collect sperm as soon as possible, when the victim is "not ambulatory," to minimize degradation of the sample. However, he could not estimate how long the sperm had been present, noting that sperm cells were "fairly hardy" and seemed to be able to survive some period of time. He noted that the sample contained a large quantity of sperm. (RT 306-309.)

Jones agreed that if a sexual assault victim is ambulatory, any semen deposited could easily drain out. (RT 310.) He testified that the lack of semen in the panties suggested they were **not** worn after sexual intercourse. (RT 311.) He said that the most significant and probative "marker" of a sex partner would be the vaginal sample. The presence of DNA in the sample will answer the question of whether a semen donor is present. (RT 312.) Hairs may also be analyzed, and particularly if a hair still has its "root structure." Otherwise they can only really be tested in comparison to a "known sample." (RT 313.) One will not automatically get foreign DNA on the hands simply because a struggle took place. (RT 314.) Jones acknowledged that he could not determine the sperm count of the donor from the sample, nor could he pinpoint how long prior to death the victim might have had sex, though he was fairly certain it was "less than days." He also could not say whether the sex was consensual or otherwise. (RT 317.)

On redirect examination Jones confirmed that he had been provided some 16 reference samples of blood from various individuals over the course of the investigation, and none were a match for the blood in the hallway (which matched the victim) or the sperm fractions of the semen. He further confirmed that none of the samples he had been provided at that time were from Petitioner. (RT 318-319.)

Criminalist Monica Siewertsen explained the nature of DNA and its methods of analysis to the jury. (RT 324-327; 330-337.) She testified that she analyzed the previously-extracted vaginal swab DNA and obtained "full" DNA profiles from both the sperm and non-sperm fractions. (RT 338.) The sperm fraction came from a single male donor, and constituted a "very rare" typing profile, with a random-match probability of roughly one in 1.9 quadrillion (1.9 followed by fourteen zeroes) among Caucasians. (RT 346-

LIAR
(RT 317-18)
DNA
CRIMINALIST STATED DEFENDANT WAS SEVERAL DAYS OLDER THAN THE MURDERER, ADDING HE WAS CERTAIN OF THAT

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RED HAIR
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347.) Siewertsen confirmed on cross-examination that there was no sign of any other male profile in the sample. (RT 351.)

Criminalist Susan Anderson said she served as the crime laboratory's coordinator for CODIS, the DNA database maintained by the FBI. (RT 355.) Anderson explained that the vaginal-swab sample profile had been added to CODIS in 2003, and that at some point she was advised of a "hit" within the CODIS system to a profile from John Yablonsky. (RT 381.) This apparently occurred in late 2008. (RT 378.) Her laboratory then asked for a second "reference sample" from him, which was obtained following his arrest on March 8, 2009. This was done to confirm that the "hit" was accurate. (RT 381.) She analyzed this sample compared the result to the profiles obtained from two locations on the felt pad and the sperm fraction of the vaginal swab. Yablonsky's sample matched the sperm fraction across all locations, with random-match odds of trillions to one against. (RT 362-371.) She also confirmed that the "non-sperm fraction" matched Rita Cobb. The presence of female DNA in the semen stain on the felt pad required either that the female had first deposited DNA and the semen had happened to land atop it, or that the semen had been deposited in the female and then drained out. (RT 373.) Anderson said there had been approximately 1.1 million profiles in CODIS in late 2008, and Yablonsky's was the only "hit" as a match.

Francesca Drake (later Sullivan) and John Sullivan had hosted a small get-together at their home on Friday, September 20. Rita was present and drinking. Other attendees included Francesca's brother Bruce Nash, his girlfriend Cynthia, and, apparently, an individual named Joe Saunders. Francesca recalled Rita leaving somewhere between 10 and 11 o'clock, but agreed that her original interview estimate of 11:30 p.m. would likely have been more reliable. (RT 398-399.)

John Sullivan confirmed the party had been on Friday night, not Saturday night as once reported. Rita had attended, and he recalled her bringing and consuming a partial bottle of bourbon. He recalled her arriving around 8:00 p.m. and staying at least two or two-and-a-half hours, leaving somewhere in the 10:00-10:30 range. (RT 426-428.) He said he himself had drunk just a couple of beers, but that Rita had finished the bourbon and asked what else he had, at which time he provided her some "white lightning" that he had been given by a friend. (RT 432-433.)

Sullivan recalled Rita leaving in her own vehicle, but that Bruce Nash and Cynthia helped her reach home. He asserted that a statement in original police reports saying he had gone to bed was inaccurate, and that he was in fact still awake when they left. (RT 427-428.) Under cross-examination he said that he "knew" Bruce had driven Rita home, with

I
THIS IS
INCORRECT

THIS IS A
15. DRINKER POLICE
REPORT STATED RITA
LEFT AT 11:30 PM SATURDAY

SULLIVAN
LIED

LIAR
NASH STATED
HE SEEN NASH
HE SEEN HER

THIS TOO IS
FALSE DNA
RECORDS INDICATE "BEARAGE"

HE ADMITS
HE DRANK
WHITE LIGHTNING

I

J

L

K

O

M

THIS IS ODD BECAUSE
NASH STATE HE DID
"NOT DRIVE RITA HOME"
SULLIVAN IS A LIAR

Cynthia following, because he believed he had seen them get in their cars. He did not recall Joe Saunders being present. (RT 432.)

Bruce Nash recalled attending the small party and seeing Rita. He apparently arrived between 7:30 and 7:45. Though he did not himself drink, he recalled that Francesca, John and Rita were all drinking hard liquor. In 1985 he recalled that Rita drank Jim Beam bourbon that night. (RT 408-411.) Rita appeared "fairly intoxicated," as were John and Francesca. In 1985 he told the police he and Cynthia had left about 9:45. He indicated that today he could not recall whether Rita had left before or after he departed. He recalled offering Rita a ride home, but said she declined it. (RT 412-413.)

THE POLICE SULLIVAN LIED

STENS
SULLIVAN
LIED ABOUT
WHAT HE
DRANK

On cross-examination Nash indicated that he remembered Joe Saunders, but had no recall of him being at the gathering. (RT 414.) He said he offered Rita a ride because he didn't think it was safe for her to drive. She seemed to be "more intoxicated than usual." (RT 415.) Defense counsel then sought to elicit a reported statement by Rita that she intended to go to a bar, but the court barred this as unreliable hearsay. (RT 415-416.) Nash said he did not remember whether he discussed the possibility of following her home. (RT 416-417.) On redirect, he naturally agreed that his recall of the details in 1985 was superior to his recollection when interviewed by police in 2009, and the details he provided in 1985 were likely more accurate. (RT 418-419.)

N

Finally, Detective Robert Alexander testified that he and his partner, Det. Greg Myler, had contacted and interviewed Petitioner on March 8, 2009, following the DNA "hit" linking him to the murder. The jury then heard and saw the interview.

A TRANSCRIPT WHICH IS NOT AVAILABLE AND
DOES NOT MATCH STATES EXHIBIT 49 OR 49A

*

In the interview, which was recorded partially by audio and partially in video, Mr. Yablonsky acknowledged familiarity with Rita Cobb, telling the detectives he had rented the "back house" on her property earlier in 1985. (Interview Transcript [IT] 4.) He had heard she was murdered, and mentioned her contacts with a family of "trouble-makers," implying that one of two brothers could be the guilty party. He said that after he and his wife moved out of the residence, he saw Rita periodically in the area, and he came over to her residence occasionally to do repairs. (IT 9.) He described Rita as "very polite, proper." (IT 12.) He said he "heard so many things about how she had gotten killed," and thought she'd been killed "with a nylon or something." (IT 15.)

Petitioner denied any closer contact with Rita, saying he "didn't party with her." (IT 27-28.) He said he thought Rita and his father, George

Yablonsky, had "traveled in the same circle." (IT 32.) He agreed that Rita did drink and go to bars, but denied he drank with her. (IT 33.) Here, and on many later occasions, he denied any sexual contact with Rita. (IT 40.) He also denied any physical altercations, kissing, or other contact. (IT 43-44.) He acknowledged having a key to Rita's house. (IT 44.) Asked about vehicles, he cited a Toyota pickup truck, then admitted he also possessed a "dark blue" Ford Pinto. Later he explained that he bought the vehicle to please his wife, and sold it when they split up. (IT 29-30, 85-86.)

At the detectives' urging, Mr. Yablonsky accompanied them from his home to the Signal Hill police station, where the interview continued. (IT 51.) At that point he perceived that he was a suspect in the crime, and soon stated that he was "scared to death here." (IT 51, 59.) He indicated he had heard from his father that Rita's son (Daryl Kraemer) had been arrested for the murder, but the detectives explained that was untrue. (IT 60.)

After providing much of his life history, including some years in the U.S. Army, Petitioner described coming to live on Rita's property with his wife. (The two were subsequently divorced.) However, he had moved from the property about April of that year to another nearby location. (IT 79-82.) He again said Rita was very nice, and that maybe she drank but he was not really sure. (IT 82.) He stated eventually that he had been in Rita's house only to pay rent, and on a couple of occasions to fix things. (IT 97.) At length the detectives made clear to him they suspected him of the murder, and implied they had his fingerprints. Although he had repeatedly denied any relationship, he ultimately stated that he was "not saying I wasn't around this lady," but denied that he killed her. (IT 110.) He continued to deny any involvement after being confronted with the DNA link. (IT 112-113.) The interview ended with Petitioner's arrest for the murder.

Alexander acknowledged that he had told various falsehoods to Mr. Yablonsky during the interview, consistent with standard techniques. (RT 508, 512-513.) In cross-examination he confirmed that he did not in fact have evidence of Petitioner's fingerprints at the scene, then stated that he was "not sure if there were any fingerprints developed" from the house. Responding to a followup question, he stated that he had probably read the fingerprint report, but did not "remember all the names." (RT 518.)

Notable court rulings. As noted, the trial court consistently declined to permit evidence of the victim's dating and lifestyle habits, and vague evidence of possible third-party involvement. The latter issue returned during a break in the testimony by criminalist Jones, when DDA Thomas placed on the record that he had taken note of another unsolved murder, of a 63-year-old woman named Helen Brooks. That murder featured a DNA

STATE'S STATEMENT IS BASED ON WITNESSES' EVIDENCE AND FACTS I NEVER SAID I HAD A KEY

I WAS FORCED TO POLICE STATION REAL TIME RECORDING

O
P

MY PRINTS NOT DEVELOPED

ALEXANDER ADMITS LIED

P

SPEAKING FOR JAMES W. JONES, DDA THOMAS NOT VAGUE

TRIAL TRANSCRIPT ADDED AFTER TRIAL COMPLETE TO PROSECUTOR COUNSEL STATE "NO FINGERPRINT EVIDENCE USE IN THIS CASE"

1

profile different from John Yablonsky's (see further discussion, § III(B)(2), post) but it had occurred fairly near in time and location to Rita Cobb's murder. Accordingly, Thomas told the court that he had opened his office's file on the case to the defense, and that Sanders had spent substantial time reviewing it.

Sanders then noted that the cases had some similarities, and that the sheriff's department had initially viewed them as likely committed by the same person. (RT 273-275.) He went on to indicate that because of those similarities, he wished to cross-examine the criminalist and others regarding Brooks's case. The People opposed, maintaining that nothing tangible linked the two cases and that Evidence Code 352 should bar evidence of the Brooks murder. The court agreed and excluded the evidence. (RT 275-276.)

The following day Sanders raised the topic of third-party liability again, based on the Brooks case. DDA Thomas continued to oppose all such evidence, noting that mere motive and opportunity was not enough. The court again excluded it under § 352. (RT 277-278.) Attorney Sanders then sought again to bring out evidence of "third party male guests" at the home. DDA Thomas opposed it as improper character evidence, and the court agreed. (RT 279.)

Following the playing of the interview with Mr. Yablonsky, attorney Sanders asked for a jury instruction to disregard a portion in which the detectives told Petitioner they could "see how it tore his stomach up" to look at a picture of Rita Cobb. Sanders indicated that he and DDA Thomas had agreed to remove that as a part of the redactions of the interview, but that was the sole change than had not been made. Judge Tomberlin declined to give the instruction, indicating that he himself would not have insisted on redacting that portion of the conversation, since the jury would already be aware the detectives were not entirely truthful in their comments to Mr. Yablonsky. Attorney Sanders stated that the redactions were otherwise "very well done." (RT 527-530.)

Arguments. Both sides made detailed and articulate closing arguments. DDA Thomas emphasized that the DNA proved Mr. Yablonsky had in fact had sexual relations with Ms. Cobb, that the other facts pointed to the murder being concurrent with that sex, and that his failure to acknowledge the sexual contact showed consciousness of his own guilt. Mr. Sanders emphasized the circumstantial nature of the case, questioned why some further items of evidence were not tested for DNA, and proposed numerous alternative scenarios that could account for the evidence, including Petitioner's denial of having sex with Rita Cobb. However, he stated that he was not contending that Mr. Yablonsky's DNA was not at the

THERE WERE
NO FBI AS
WELL AS
VICKAR
MATCHING
THESE CASES
AS BEING
SERVING BY
SAME KILLER

MY DNA
ELDER THAN
AIME
TO SEVERAL
DAYS

R

S

HALL
PROSECUTION SHOULD INCLUDE
AS WELL AS MOTIVE
AND OPPORTUNITY
CONFESSION IS
CIRCUMSTANTIAL
OF THE MURDER
DIRECT TO BROTHER

T

ADMIT
SANDERS DID
NOT EXAMINE
EVIDENCE BY
EXPERTS

THE COURT OF APPEAL DISMISSED W/O
TRIAL COURT FINDING ON THIS ISSUE

ADMIT HE HELDED PROSECUTOR FOR A WHILE
HAD ORIGINAL AUTHENTICATED WHICH WOULD HAVE
SHOWN EVIDENCE

~~STREPTON~~
A
SAUNDERS
EDWARDS
RANDOLPH
3RD PARTY
CULPABILITY
SUSPECTS

scene. It might have been, he allowed, but "that doesn't mean he killed her." He went on to suggest that Joe Saunders was the culpable person, even though no evidence to that effect had been allowed at trial. Mr. Thomas responded in rebuttal that the defense sought to demand the case be proved beyond all possible doubt, rather than reasonable doubt, and emphasized the unreasonable aspects of these alternative explanations.

After 2-3 days of deliberation, the jury indicated it had reached a deadlock. In conversation with the court, however, the jury foreman indicated that the positions of the jurors had been shifting by the day, and rejected the suggestion that further discussion was hopeless. (RT 668-673.) Accordingly, Judge Tomberlin ordered the group to adjourn for the day, but return the next morning for more deliberations. That next afternoon, the jury reached its verdict, finding Petitioner guilty of first-degree murder and the special circumstance true.

Petitioner subsequently brought and lost a post-conviction Marsden motion. He followed with a motion for new trial, put forth by a new attorney, alleging ineffective assistance of counsel. That was denied by the trial court. After further delays, he was sentenced to a life term on Feb. 24, 2012.

TAKE IN THE
MOTION
REASONABLE
POSSIBLE
DOUBT

SHOWS THE
CASE WAS
CLOSE TO IT
"NO EVIDENCE"

THIS IS
UNUSUAL
THAT COUNSEL
WOULD CHANGE
INDICATING VERDICT
WAS NOT
POSSIBLE

DISCUSSION

I.

A HABEAS CORPUS PETITIONER MUST PLEAD AND PROVE SPECIFIC GROUNDS FOR RELIEF

One who petitions for habeas corpus relief has a two-part obligation: he or she must first plead, and then prove with evidence, the existence of specific grounds for relief. (*In re Martinez* (2009) 46 Cal.4th 945, 955; *People v. Duvall* (1995) 9 Cal.4th 464, 474 [original italics].) Such a petition has the effect of attacking an otherwise-final judgment, and all presumptions favor the truth, accuracy and fairness of the conviction and sentence. These presumptions protect the strong social interest in the finality of judgments, and do not offend due process. (*People v. Gonzalez* (1990) 51 Cal.3d 1179, 1260.) One seeking the writ thus carries the burden of alleging and proving all the facts upon which he or she relies in attempting to overturn the judgment. (*In re Lawler* (1979) 23 Cal.3d 190, 195.)

The petition must first state a *prima facie* case for relief. This must be grounded in *specific facts*, rather than mere claims and assertions. (*People v. Karis* (1988) 46 Cal.3d 612, 656; *In re Swain* (1949) 34 Cal. 2d 300; see also *People v. Cooper* (1992) 7 Cal.App.4th 593, 597.) Then a petitioner must

prove the alleged facts by a preponderance of the evidence. (*In re Viscotti* (1996) 14 Cal.4th 325, 351; *see also People v. Cudjo* (1999) 20 Cal.4th 673, 687.) If these burdens go unmet, the petition must be denied.

II.
THE PETITION IS TIMELY, AND GENERALLY AVOIDS DUPLICATING
ISSUES RAISED ON APPEAL

We first note that this petition easily meets the requirements of timeliness, having been filed less than six months after judgment was finally pronounced. Having now had the opportunity to read the Appellant's Opening Brief in his pending appeal, we can also affirm that Mr. Yablonsky has for the most part properly avoided duplication of issues. Many general topics are the subject of argument both here and on appeal, but overall the appeal is targeted much more narrowly to legal arguments arising from specific court rulings and trial events. The appeal does not raise claims of ineffective assistance of counsel, appropriately leaving that question for resolution here.

III.
PETITIONER HAS PROVEN NONE OF THE CLAIMS IN ISSUE, AND THUS
HAS NO BASIS FOR HABEAS RELIEF

Your Honor sought responses pertaining to five of the twelve Grounds, or Claims, advanced in the habeas corpus petition. Each claim fails entirely to support his demand for relief. We will address them in turn.

A. THE DISTRICT ATTORNEY DID USE MR. YABLONSKY'S NAME
AND LIKENESS FOR CAMPAIGN PURPOSES. HOWEVER, THIS ISSUE
AND ANY POTENTIAL PREJUDICE WAS FULLY CONSIDERED AND
ADDRESSED BEFORE TRIAL BEGAN.

In Ground 1 (Claim One) of the Petition, Mr. Yablonsky seeks relief on the grounds of "[p]rosecutor misconduct," due process, jury tampering and the 14th Amendment to the U.S. Constitution because the county's elected district attorney, Michael Ramos, "used my case, name and photo 49 days till my trial in his reelection campaign sent 3 sets to every address in the county within a 7-day time period."

The court asked us to determine 1) whether Petitioner's name and likeness were in fact used in campaign materials shortly before his trial began, and 2) whether, if so, the potential impact of this usage was addressed. We

V

THIS IS FALSE.
THE REUSAL MOTION BEFORE
TRIAL AT TRIAL JUDGES
ADMITTED PREJUDICE

MISIDENTIFICATION OF FACTS
ACCUSE PUBLICLY SAYING HE IS A
IF MURDER CRIMINALS OR HIGHLY
MAY BE A LIE
IF TRIAL JUDGE IS MISAPPOINTED
IF COURT HAS
P.C. AND OTHER
X ANOTHER JUDGE STATES THAT BECAUSE
THE STATE TO HAVE ENOUGH EVIDENCE
HE WOULD SEND HIM TO PRISON

readily confirm that Mr. Yablonsky's image and name were indeed used as he describes, but the potential impact was, indeed, fully addressed.

Exhibit A, as attached to the Petition,⁴ appears to be a poorly duplicated but accurate copy of a campaign mailer produced by Mr. Ramos's reelection campaign in 2010, which invoked this case as an example of the office's diligence toward unsolved crimes. (A clearer copy of the document appears on page 398 of the Clerk's Transcript on Appeal.) As the court can see, it does identify Mr. Yablonsky and the murder victim Rita Cobb, and refers to "closure" for the family members of the victim. However, it also clarifies that Petitioner was merely **charged** with the murder, and had not yet gone to trial.

LIAR
Any potential effects were completely addressed at and prior to trial, in two ways. First, **the issues in question were fully litigated in a pre-trial motion to recuse the district attorney's office**, which was based entirely on the potential prejudicial effects of that flyer of Mr. Yablonsky's rights. The People's written opposition to the motion also directly addressed the mailer, arguing at length that it did not prejudice Mr. Yablonsky's rights or violate any professional norms, and further that since the campaign and election were already some months in the past, the mailer was surely fading from the memories of those persons who had seen it.

LIAR
NUMEROUS JUDGES ADMITTED
PREJUDICE

W

The motion was denied by the trial judge, the Hon. John M. Tomberlin, on October 8, 2010. As the mailer was the sole source of contention, that decision necessarily reflects the judge's assessment of its potential importance, and his determination that it created no constitutional problem in the trial to come.

LIAR
THERE WAS
NO EVIDENCE
DOUGLAS LAW
SUIT STILL
PENDING

LIAR NO DISCUSSION BY COURT ABOUT FLYER.
Second, **the topic was discussed during jury selection.** In response to defense attorney Sanders mentioning the campaign mailer, one potential juror stated that she recalled receiving it, but discarded it immediately and remembered nothing of the details. (Voir Dire Transcript [VDT] at pp. 113-114.) A later juror also recalled the mailer and expressed the sense that Mr. Yablonsky thought he was being "shafted," but indicated she could be fair to both sides. (VDT at pp. 165-166.) In response to the court, none of the ONE JUDGE STATED WHEN THINGS THAT MUCH SMOKE THERE MUST BE FIRE.

⁴ As earlier noted, Mr. Yablonsky sought to file a second, possibly revised petition soon after the instant petition. Per the court's directive we do not concern ourselves with its content, but do note that this second petition contained many more supporting materials than the instant petition. Since it would seem Petitioner has relied on many of these materials for his factual assertions, we thought it would assist the court's resolution of the issues if we considered and noted these sources, even though Mr. Yablonsky has rarely made direct citation to them. By so doing, of course, we do not imply that we are considering the second petition on its substance.

remaining prospective jurors called forward for questioning reported having seen the mailer, and neither of the two individuals who did recall the mailer served on the jury. *A LIBR ONE WHO COMMENTED WAS ON PANEL*

The court's denial of recusal, and the topic's brief mention during *voir dire*, is among the trial issues being raised on appeal. For purposes of this petition, however, it is clear that any potential negative impact on Petitioner's rights was indeed "addressed" by the trial judge well before petitioner was placed in jeopardy here.

B. PETITIONER'S ATTORNEY WAS NOT INEFFECTIVE IN REGARD TO THE DNA EVIDENCE PRESENTED, AND HE ATTEMPTED TO USE THE BACKHOFF "CONFESSION" BUT WAS DENIED PERMISSION BY THE COURT.

Under Ground 3 (Claim 3) of the Petition, Mr. Yablonsky argues that his lawyer "failed to investigate all areas of case in support of a defense, test evidence or submit reports in support of defense." Claiming there "was several DNAs from this crime scene and several suspects," he contends that his attorney "failed to question, test or investigate into 'any' defense, strategies or case preparations." He goes to allege that "[t]here was a confession with that person's DNA on the crime scene as well as another's [sic] scene. But Sanders failed to motion or submit to hire specialist to test these DNA's or even defendant's [sic] DNA. There was a red hair with a root which holds DNA possibilities of yet another suspect . . . Defendant's hair is blonde. The red hair was found on body and man that confessed his DNA at scene his hair was red."

This court sought a response to two questions: 1) whether or not Mr. Sanders' effectiveness regarding the issue of DNA testing was "addressed by the trial court," and 2) whether or not the alleged confession of a "William Back[h]off" (or any other person) to the murder of Rita Cobb was addressed.

1. COUNSEL'S TREATMENT OF THE DNA EVIDENCE WAS ENTIRELY REASONABLE THROUGHOUT TRIAL.

A defendant carries the burden of proving a claim that he was ineffectively assisted by counsel. This requires him to meet the well-established two-part test outlined in *Strickland v. Washington* (1984) 466 U.S. 668, and adopted by state law: a defendant must establish **deficient performance** and **prejudice**. (*People v. Williams* (1988) 44 Cal.3d 883, 937.)

The defendant must first show that his attorney committed mistakes so severe that he or she was, in essence, not functioning as the "counsel" guaranteed by the Sixth Amendment. (*Strickland, supra*, at p. 687.) Second, he

must demonstrate that it is reasonably probable a more favorable result would have been obtained in the absence of counsel's failings – that is, that he was prejudiced by the errors. (*Strickland, supra*, 466 U.S. at pp. 691-694; *People v. Thompson* (2010) 49 Cal.4th 79, 122; see also *People v. Duncan* (1991) 53 Cal.3d 955, 966.)

Regarding the first element, defendant must overcome the “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” (*Strickland, supra*, 466 U.S. at p. 689; see also *People v. Makabali* (1993) 14 Cal.App.4th 847, 853.) It is not required that a defense attorney take any action simply because there is “nothing to lose,” or that s/he raise “every available non-frivolous defense.” (*Knowles v. Mirzayance* (2009) 556 U.S. 111, 121-122, 127.)

We are slightly uncertain of the meaning of the first question. If the court asks whether the specific issue of Mr. Sanders’s effectiveness in regard to the general topic of DNA testing became at any time a point of conversation during the trial itself, the clear answer is that it did not. Indeed, as we further outline below, Mr. Sanders’ performance throughout the trial was unmistakably reasonable and on-point, and no question was raised by the court about his effectiveness, his methods or any other aspect of his advocacy for Petitioner.

If the court instead seeks illustration of Mr. Sanders’ specific actions at trial in regard to the DNA evidence, we can summarize it as follows.

As explained above, the People introduced the vital DNA evidence through witnesses Donald Jones, Monica Siewertsen and Susan Anderson, all employed at the time of analysis by the San Bernardino County Sheriff’s Department.⁵ Jones obtained the vaginal swabs from the victim, as well as pieces of felt pad containing semen, at the crime scene. He retained and preserved them as evidence. Many years later, following the advent of DNA analysis in the county, he analyzed the swabs and discovered the presence of sperm cells, as well as the victim’s own DNA. He indicated that the sample was thereby separated into “sperm” and non-sperm” portions for further future analysis.

Siewertsen testified that she later reanalyzed the preserved samples and developed a “full profile” from both the sperm and non-sperm portions. She then gave statistical estimates of the possibility of random matches to these full profiles, which were on the order of trillions or more to one against. Finally, Anderson testified that she compared each of the these profiles from the

⁵ Siewertsen had since taken a similar position with the Washoe County Sheriff’s Department in Reno, Nevada.

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X
HAC MOTION
BY HAC SMITH
ADDRESSED
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FBI
NOT
EXAMINED
MIT

recovered samples to a sample provided years later by Yablonsky after an unrelated arrest, and confirmed that they were a perfect match.

LIAR
SEVERAL DISCREPANCIES

Attorney Sanders cross-examined criminalist Jones in great detail, with his questions and their answers covering some 25 pages of the trial transcript. This included numerous questions about the viability of obtaining DNA from specific surfaces, collection techniques, and which crime scene items and areas were or were not tested. He went on to inquire at some length about the procedures for retaining and transporting items potentially carrying DNA, the factors that cause a risk of degradation of a sample, and about the relative "hardness" of sperm cells as opposed to other cells.

These efforts clearly show an engaged and effective attorney, but also illustrate a longer-term plan, wherein Mr. Sanders argued during his closing statement that the police were derelict or worse for failing to obtain DNA from various other items and sources at the scene, including the murder weapon and the watch-pin. This chain of actions certainly does not amount to ineffective assistance of counsel.

WITNESS
MURDER WEAPON
ANY DISCREPANCY
IS
INCOMPETENT

HE ADMITS FAILURE OF POLICE TO INVESTIGATE SO HE COULD NOT INVESTIGATE AS WELL ON A MURDER CASE? SCRAM INCOMPETENT.

Sanders cross-examined Siewertsen more briefly, but the bulk of her evidence was a foundational explanation of DNA testing in general, and there was nothing to suggest anything controversial about her methods or process of analysis. Finally, he cross-examined Susan Anderson quickly but with strong purpose, seeking to cast doubt on the Crime Lab's methodology and reliance upon a computerized statistical analysis. (RT at pp. 374-376.) In no sense did his questioning lack direction or relevance, and in neither case did an evidentiary conflict or ambiguity appear.

Petitioner further suggests that he received ineffective assistance because the public defender's office declined to hire its own DNA expert. Per the Motion for New Trial filed by attorney N. Charles Smith on Mr. Yablonsky's behalf, Mr. Sanders and his office did consider calling such a witness, but declined upon learning it would cost an estimated \$3,300. Attorney Smith then contends that because the potential sentence was so severe, the public defender's office should have treated the cost as reasonable and hired Mr. Kern.

That claim was tacitly rejected by the court when the new trial motion was denied, and correctly so. While a court may direct the county, through its public defender, to pay for the hiring of an expert witness under appropriate circumstances (Government Code § 29602), counsel is constitutionally ineffective only when a defendant is prejudiced by deficient performance. DNA science is firmly established, and each expert testified that the tests were performed in accord with proper procedure and without abnormality or complication. (RT 282, 329-330, 362.)

WATCH BAND
PIN
RED HAIR
MURDER WEAPON
VIC. BLOOD
SUSAN ANDERSON
HANDS
MURDER WEAPON
CRIME LAB

FAILED TO
REASONABLY
EXAMINATION
THE P.D.
OFFICE DOES
NOT HAVE
EXAMINATION THE
COURT DOES
RT 11

This shows that there was no apparent point of fact that any expert had a likelihood of countermanding, and thus no reason to expect a different outcome if a defense DNA expert were to testify. And while the public defender was certainly free to ask the court to bear the cost, Petitioner provides nothing to suggest any such attempt had a serious chance of success.

2. COUNSEL ATTEMPTED TO OFFER EVIDENCE OF "WILLIAM BACKHOFF"'S CONFESSION, BUT IT WAS EXCLUDED BY THE COURT; PETITIONER HAS NOT SHOWN THAT HIS ATTORNEY ARGUED INADEQUATELY FOR ITS ADMISSION.

By way of pretrial motion, Attorney Sanders did indeed seek to introduce evidence, in the form of a "We-Tip" report made anonymously to law enforcement in 1988, that a man calling himself William Backhoff had publicly boasted that he had murdered Rita Cobb.

According to a 2005 police report by Sgt. T. Bradford of the San Bernardino County Sheriff's Department, provided by Mr. Yablonsky (see footnote 3, *supra*), William Backhoff was the pseudonym of an individual named George Randolph, who worked in the capacity of Deputy Coroner for San Bernardino County. Backhoff had demonstrated occasional "bizarre" behavior at some crime scenes, and was rumored to have a disturbing interest in postmortem photographs of murdered women. That report indicates that Backhoff had been considered as a suspect in both the Rita Cobb and Helen Brooks murders. An earlier report (Exhibit C-1 of the instant petition) indicated that Randolph, as "Backhoff," contacted police soon after the murder and acknowledged knowing Rita Cobb and having seen her within a few days of her murder, but denied any further knowledge of the crime. Three years later, around the time when the WeTip report appeared, Randolph was apparently re-interviewed by police and again denied involvement.

The 2005 report established that Randolph had died in 1999. At an autopsy following his death (which may have been by suicide), a blood sample was taken for further analysis. Testing then confirmed that Randolph/Backhoff was not the source of the sperm found at *either* murder scene.

OTHER SOURCES OF DNA - CIGARETTE BUTTS AT SCENE

Additionally, as DDA Thomas pointed out, Backhoff's statement had indicators of unreliability. First, he supposedly claimed that he "mutilated" Rita Cobb, committing "other crimes" against her after she was dead. To the extent it could still detect abnormalities, the physical examination and autopsy of the body yielded no sign of any such trauma, sexual or otherwise. Also, "Backhoff" claimed that he had picked up Rita Cobb at a local bar, the Zodiac, yet the bartender there, who was familiar with Rita, was interviewed at the time and

Y
RED
HAIR ON
BODY, BLEND
SUSPECT
SCREENS
ATTENTION
CRIMES OR
INACCURATE
SCREENS
ATTENTION

*BACKHOFF/RANDOLPH DNA AT
THE SCENE CIGARETTE BUTTS*

*EV. 2, 1290 CONFESSION LED TO
INVESTIGATION AND ARREST*

*CONFESION
WAS AT
CORNER*

*THE COURT OF APPEAL STATED BACKHOFF/RANDOLPH
SHOULD HAVE BEEN USED*

CONFESSION LED TO ARREST, INVESTIGATION
- ADMISION HE MET HER AT
THE FACT SAME PLACE RITA
SAID SHE WAS GOING

denied seeing her in the bar on either the Friday or Saturday night of the weekend when she died. Moreover, he specifically claimed to have raped Ms. Cobb, yet it was Petitioner's semen, and not his own, that was retrieved from her body and the scene.

RAPE DOES NOT LEAVE SEMEN IF CONDOM USED
"COUNTY CORONER WOULD KNOW THIS"

The motion to introduce the "We-Tip" statement was fully considered by the Court, and rejected. Judge Tomberlin found that although it was not necessarily barred by the hearsay rule, the offered evidence did not have sufficient foundation under a framework outlined by the U.S. Ninth Circuit Court of Appeals. (See generally RT 8-25.) In no way, however, was this outcome attributable to poor work by attorney Sanders, who argued persistently for the statement's relevance.

Z

Moreover, Mr. Yablonsky cannot show prejudice from the outcome. While Backhoff's reported statement was incriminating, no apparent physical evidence linked him to the murder scene, and the claimed DNA connection is not substantiated by the information Petitioner provides.

LIAR
BACKHOFF
RANDOLPH
DNA AT
SCENE

Per the 2009 report by Det. Greg Myler, as excerpted by Mr. Yablonsky, a number of potential DNA sources had been recovered at the murder scene, including item B4F, a "standard head hair"; item B4D, a "standard pubic hair"; item A18, a "possible pubic hair from felt pad"; item A17, a "hair from gag"; item A16, "1, 2, 3 hair"; item A5 "1-8 and 1 hair with root"; item A4, "7 slides with hair"; and item A1, "8 slides - 1 with root."

SUPPOSES DNA WAS NEVER EXAMINED

No reference to any of these items appears in the trial transcript, and there is no evidence any were tested for DNA. It is therefore unknown whether any matched Backhoff/Randolph, but in any case Petitioner has not shown that obtaining testing would have altered the outcome of his trial.

First, he asserts that a specific hair found "on the body" was red, and that this matched Backhoff. However, he offers no useful support for either claim. From the record and the exhibits provided, we see no confirmation that the hair was red,⁶ or that this was Backhoff/Randolph's hair color. Additionally, and

LIAR
FIDELITY'S
SHOWS THE
HAIR WAS RED

⁶ The Clerk's Transcript on Appeal does include an entirely handwritten and unsigned report, the final page of "Exhibit C" to the Motion for New Trial prepared by attorney H. Charles Smith, which appears to be a comparison of two reddish-brown hairs, apparently under items A-1 and A-5/A-6. These may be the "standard head hair" and "standard pubic hair" recovered as items B4F and B4D. This report appears to have played no role in the trial whatsoever. Interestingly, however, the unsigned analyst of the hairs concluded they could not be linked by that analysis, though both were indeed described as reddish

LIAR
SEE FORENSIC REPORTS
CIGARETTE BUTTS

A

despite Petitioner's suggestions, we see no other evidentiary reference to Backhoff's DNA being present in any form at the murder scene.

LIAR
FBI
PROFILE

A

Second, no such link to Backhoff, or any other third-party suspect, could reasonably overcome the force of the DNA evidence linking *Petitioner* to Ms. Cobb's death. It having been determined that Mr. Yablonsky left his own semen in and around Ms. Cobb's body, and that all signs pointed to a sex-related killing, the defense was surely under no obligation to test every other piece of physical evidence found at the scene.

3. NO OTHER "CONFESSIONS" WERE MADE IN THE CASE, BUT SANDERS DID SEEK TO RAISE AND EXPLORE THE EVIDENCE AGAINST JOE SAUNDERS.

LIAR
SANDERS
UNDERSTAND
SANDERS

A

As far as we can determine from the trial record and additional material provided, "Backhoff" was the only third party who made anything resembling a confession to the crime, and attorney Sanders tried and failed to persuade the court to allow evidence of his statement.

AD-AD-AD
SEEN HIM AT
PARTY

However, as Petitioner rightly notes, the police reports portray strange statements and behavior by Joe Saunders, another apparent attendee of the Friday night gathering at the Sullivan residence. Partial police reports among the exhibits attached to the second, un-filed petition (August 9, 2012), and recounted in the Motion for New Trial filed by attorney H. Charles Smith, show that Saunders was interviewed the day the body was found, acknowledged being acquainted with Rita and stated that he had been in her home earlier on Friday, drinking a glass of water. The latent fingerprint report confirmed that Saunders' fingerprint was on a glass. PROVED A LATENT FINGERPRINT (LISTED)

More suggestively, Saunders was re-interviewed the following day, became extremely emotional, and made seemingly odd statements about his relationship with Rita. It is not clear whether he was directly asked whether he had any hand in her death, but he again acknowledged that he had been inside the home. Four months later (Exhibit D-5) Saunders committed suicide.

Attorney Sanders took note of Saunders as a possible alternative suspect, and sought to introduce evidence against him at trial. By motion in limine he raised the fact that his fingerprints were at the scene, and apparently sought to use his statements of his actions that night against him. However, the court found itself unable to see a way to impute enough veracity to his statement to

brown. (We note also that "reddish-brown" is less than a synonym for "red," as Petitioner describes the hair he considers to be important.)

allow it despite hearsay rules, but permit impeachment of it at the same time. (RT 23-24.)

Nonetheless, Sanders *did* elicit testimony that Saunders had been at the Friday-night gathering, and went to argue in closing, at some length, that he could have been the real killer. (RT 623-626.) While we do not see that the presence of his fingerprint on the glass was brought out in evidence, attorney Sanders could reasonably have believed that the court's rulings on the motions in limine had barred him from bringing this fact out. Moreover, any such evidence paled by comparison to the DNA evidence that Mr. Yablonsky, alone, left evidence of sexual contact at the scene. MY DNA CLOSER THAN MURDER

4. SANDERS ALSO TRIED UNSUCCESSFULLY TO OFFER OTHER EVIDENCE OF THIRD-PARTY CULPABILITY.

We must also again emphasize that attorney Sanders made *several* efforts to introduce third-party evidence. Although he indicated to the court that he lacked evidence of the involvement of any *specific* third person other than Backhoff (RT at p. 15), he tried repeatedly to bring in evidence implying that the killer could have been a different sex partner, largely by offering evidence that Cobb many male acquaintances, "dated" regularly, and may have been sexually promiscuous. The court repeatedly denied the defense permission to explore this area. (RT at 13-24, 197, 279-280.) Sanders also sought, without success, to use the statement of a now-deceased bartender, Barbara O'Roark (or O'Rourke), concerning a past confrontation between the victim and a male named Sam. (RT 9-10.)

Indeed, as the court noted, the defense actually proposed a remarkably wide circle of suspects in this case. (RT 16-17.) Unfortunately for Mr. Yablonsky, that diversity is no help to him here, because it is his own DNA - and only his - that was left at the scene of the killing. Whether he wishes to implicate the late George Randolph, the late Joseph Saunders, the victim's son Daryl Kraemer, the unknown killer of Helen Brooks, the victim's ex-boyfriend Bruce, the mysterious "Sam," or others, the tangible must defeat the hypothetical. The person who actually had sex with Ms. Cobb, at the very spot where her nude dead body was found, was Mr. Yablonsky. Speculation about the wide range of people who may have had contact or disputes with the victim, and even occasional suggestive facts, cannot overcome that critical connection. * YOUR A LIAR, MY DNA BEING CLOSER IMPLIES AN ENTIRE UNIVERSE OF POSSIBILITIES 1/2 TO SEVERAL DAYS

In sum, Mr. Sanders was not constitutionally ineffective for any of the reasons given under "Ground 3."

FURTHERMORE THE DESK BLOTTER WOULD IMPLICATE THE LAST SEXUAL CONTACT WAS ON THE DESK! BECAUSE THE FELT DESK BLOTTER WAS NOT UNDER BED SUGGEST IT WAS ON THE DESK AT SOME POINT 1/2 TO SEVERAL DAYS EARLIER.

SEE LIAR
CUMMETS
BUT REVER
RED HAIR
DEFENDING
BLONDE

LIAR
MY DNA
CLOSER
THAN
MURDER
1/2 TO SEVERAL
DAYS

[Handwritten mark]

*BECAUSE DISCOVERY WITHHELD WHICH
SEVERAL ADDITIONAL POLICE REPORTS
SUPPORTS PERJURY OCCURRED*

C. NONE OF THE DOCUMENTS PROVIDED UNDER "EXHIBIT D" OF THIS PETITION WERE INTRODUCED AT TRIAL, AND ONLY ONE IS PART OF THE RECORD ON APPEAL.

As "Ground 4" ("Claim 4") of the Petition, Mr. Yablonsky asserts prosecutorial misconduct, alleging that four People's witnesses "submitted false testimony." He claims that this act was intentional (presumably on the part of DDA Thomas) and violated due process and attorney ethics.

The testimony of these four witnesses is discussed in detail below and *supra*. Here, the court asked merely that we determine whether the various documents Petitioner provided as "Exhibit D, 1-5" were "submitted to the trial court or are otherwise included in the record of petitioner's pending appeal."

These documents are six in number: a portion of a police report by a Det. Woods making reference to an interview with witness Ronald Kobs at the Zodiac Bar and dated 9-26-85 (D(1)), a 1987 sheriff's department memo referencing this case in conjunction with the murder of Helen Brooks (see further discussion, *post*) (D(2)), a partial e-mail from Det. Robert Alexander (D(3)), a latent fingerprint report from the murder scene (two pages, separately denoted as D(4)(a) and (b), a partial police report discussing the suicide of Joseph Saunders (D(5)) and a partial police report from 9-27-85 detailing an interview with Bruce Nash (unnumbered).

Per our review of the trial transcript and the list of exhibits, the only one of the six items presented to the jury in any form is the latent fingerprint report, which as detailed *supra* was the subject of a brief exchange between attorney Sanders and Det. Alexander. The various police reports were, as per usual, not offered into evidence, and none of the other documents appears to have been mentioned.

FINGERPRINT REPORTS NEVER STATED TO JURORS NOR ITS CONTENT

The fingerprint report is, correspondingly, the only one of the documents contained within the Clerk's Transcript on Appeal. (Clerk's Transcript at pp. 370-371.) Its potential appellate significance is not clear.

D. THE ONLY TRANSCRIPT USED AT TRIAL WAS THAT OF THE DEFENDANT'S STATEMENT TO POLICE, AND THERE IS NO REASON TO BELIEVE IT WAS WRONGFULLY ALTERED.

As "Ground 7" (Claim 7) of his Petition, Mr. Yablonsky maintains that throughout the period of representation by Mr. Sanders, he advised Sanders repeatedly that "all transcripts were altered, phone, interrogation [sic] were erased and changed." He goes on to claim that Mr. Sanders assured him that

[Handwritten mark]

TRIAL TRANSCRIPT ALTERED, INTERROGATION TRANSCRIPT ALTERED

verbatim transcripts were to be used in trial. However, he claims, during trial he told Sanders that 26 pages were missing from transcripts. He claims that, among other things, this absence "eliminat[ed] the fact that detectives knew defendant's Pinto was blue, but state presented witness that saw Silver Pinto, that Defendant offered non-custodial destination, but no Mirandas were offered, violating Defendants right to impeach witness and proves that Fourth Amendment was violated. Sanders (atty) offered no motion to preserve, test, or verify these missing portions of the interrogation, which were crucial to defense of defendant's right through trial, nor was objection offered."

The court asks that, "at a minimum," we address 1) how transcripts were used at trial; 2) whether Mr. Sanders had raised any transcript-related objections; 3) whether the court made any statements or rulings on transcripts; and 4) whether the jury was given transcript instructions.

These questions have straightforward answers. The only transcript utilized at trial was that of Mr. Yablonsky's interview with detectives Alexander and Myler. This was shown to the jurors by way of the overhead projector during playback of the interview, and a hard copy was provided to assist the jurors during deliberation. Though not formally admitted into evidence, it was designated as Exhibit 49(a), and appears as such in the Clerk's Transcript.

EXHIBIT
49 A) IS
FALSE. THIS
WAS NOT USED
IN TRIAL

AUDIO +
TEXT
EXHIBIT
49 x 49A
DO NOT MENTION

There was no objection to the use of the transcript. Rather, it appears the parties viewed it as a routine device to relieve the court reporter and assist the jury during the presentation of obviously admissible evidence, Petitioner's crucial conversation with the police. DDA Thomas and DPD Sanders seem to have conferred at some point early in trial and reached a general agreement on material which would properly be redacted from the statement, and they then cleared the procedure with the court. Attorney Sanders indicated to the court that most of the redacted statements would be by the officers, but that some would statements by Mr. Yablonsky. (RT 454-456.) The parties stipulated, per normal court procedure, that the transcript could be used to relieve the court reporter of duties during the playing of the interview. (RT 499-500.)

THEY
ACCEPTED
BY SANDERS
THIS IS ILLEGAL

AUDIO + TEXT

The only small point of disagreement, as noted *supra*, derived from a single statement that attorney Sanders had sought to redact, but which had remained in the final version. The court found this disagreement inconsequential, noting that it saw no reason redaction of that small portion of the interview was necessary in the first place. By so doing, Judge Tomberlin rejected a request for a jury instruction that jurors disregard that brief statement, and this appears to have been the only substantive ruling the court made in regard to the transcript.

LIAR THE COURT STATED
IT WAS THE ORIGINAL
EVIDENCE,

Finally, the court indeed provided specific instruction to the jury on the use of the transcript before the recordings were played. Jurors were advised that this transcript was a form of secondary evidence, provided only to help them understand the taped conversation, which was the actual evidence. The court properly added that if any conflict between the transcript and recording seemed to arise, jurors should rely upon the recording. (RT 509.)

SHOWS ALTERED EVIDENCE WAS USED

THE RECORD SHOWS ALTERED ANSWERS

It seems necessary to go a step further, however, and observe that Petitioner's specific claims have no support. We see absolutely no reference anywhere in the record to any missing pages of material in the transcript, and note that Petitioner's clearest allegation is entirely false: the transcript played and submitted to the jury as Exhibit 49(a) **does** contain not one, but two full exchanges between the detectives and Mr. Yablonsky about his Pinto - and its color, which in both exchanges is confirmed as dark blue. (RT 29-30, 85-86.)

LIAR YOU KNEW THERE WAS A

EXHIBIT 49A WAS NOT USED IN TRIAL

His further complaints are cryptic. We do not, to be sure, see any reference in the transcript to Petitioner "offering a non-custodial destination," but it certainly does contain a full recounting of the exchange in which he was persuaded to accompany the detectives to Signal Hill police station. It is surely Petitioner's task to render his claims understandable, but even if we are to guess and decide it is an assertion that he offered to go a different location with the detectives, and that they rejected it, he does not explain how this might have affected the outcome. Indeed, if anything Mr. Yablonsky might have felt a greater freedom to provide information in such an atmosphere.

34 6 TRANSCRIPT 23 PAGES ARE TAKEN OUT

BECAUSE IT WAS ALTERED / ERASED / REMOVED FROM TRIAL

He also fails to explain when, and where, Miranda warnings should have been but were not made. The initial conversational setting was within Mr. Yablonsky's own home, and bears every hallmark of consensual contact. Petitioner came to the police station willingly, and upon arrival was advised that although the detectives were grateful he had accompanied them, he was not under arrest, and was free to leave at any point. (IT 60.) The transcript ends at the point of his formal arrest, more than 50 pages later. We cannot doubt that detectives Alexander and Myler advised him of Miranda at that time, but in any case Mr. Yablonsky made no further statements after that point. While Miranda issues may be raised at any juncture, there is nothing here to suggest that either 1) the officers wrongly failed to advise him, or 2) that any Miranda-related discussion was improperly removed from the transcript.

ARREST WARRANT ISSUED ON 3-4-09 INTERVIEW

LIAR I WAS FORCED TO STAY

LIAR 7

In sum, no issue of improper transcript alteration appears in the record of this case at all, and Petitioner certainly does not support his petition for writ of habeas corpus by invoking such claims.

ON 3-8-09 NO MIRANDA EVER BEFORE OR AFTER



earlier. (Exhibit D(1), police report by Detective Woods dated 9/26/85.) This claim is also frivolous.

As earlier described, Kraemer's actual testimony was that he and his mother had a good relationship, but that it included occasional disputes and arguments. He acknowledged that he had not seen his mother for approximately one to one-and-a-half months before her death, and that this had been the result of an argument. The dispute observed by Kobs fell precisely within that time frame. *A THAT KOBBS SEEN KRAEMER ATTACK RITA AT HER HOME*

Moreover, as the police report affirms, the witness did not observe actual physical violence on Daryl Kraemer's part, merely him grabbing her shirt and calling his mother "dirty names," and the witness added that Rita Cobb "was not acting as if she was all there either." (Exhibit D(1).) *THIS IS NOT INDICATIVE OF HAVING A GOOD RELATIONSHIP*

Attorney Sanders extensively cross-examined Kraemer, and **specifically asked about that incident.**

- Q. Sometimes you guys would have arguments?
A. Yes.
Q. And I believe that the last time you had seen her, you and she had a pretty good argument?
A. Yes.

(RT 141-142.)

This response by Kraemer left nothing to impeach, as it would not be contradicted by the statement of witness Kobs. And while nothing would have prevented Sanders from exploring the details of that argument, or even attempting to confront Kraemer with specifics from the report, it is easy to discern a tactical reason for choosing not to do so: such a tack might easily have struck the jury as a gratuitous and unfeeling treatment of a man whose mother had been a murder victim, and who was forced to relive the painful details of their last moments together. Under the well-established *Strickland* framework, this is a choice far within the bounds of reasonable trial strategy, and it therefore cannot be ineffective assistance of counsel. *ATTACKING US - A GOOD RELATIONSHIP. THIS DEPENDS ON WHAT ONE CONSIDERS "GOOD" SOCIETY SUCCESSFUL AS DESERVING "BAD"*

John Sullivan. Petitioner claims his lawyer should have done more to impeach a single inconsistency: that Sullivan had been quoted in earlier reports as saying he had gone to bed before Rita Cobb departed his house, but testified on the stand that he had been awake. *WTF EXTREME INCONSISTENCY*

ONE. HE WAS ASLEEP BEFORE COBB LEFT. TWO = SEEN NASH DRIVE COBB HOME, WHEN NASH STATED HE DID NOT TAKE ALTA HOME
Petitioner does not seem to have attached the previous reports in question, but John Sullivan himself pointed out this inconsistency. Having *YOU HAD THEM YET CHOSE TO WITHHOLD THEM*

HOW DO YOU REMEMBER BETTER 25 YEARS LATER
THAN 2 DAYS LATER
"IMPOSSIBLE" "IMPEACHMENT"

been asked to review a prior report for another purpose, he stated that "I don't know where they got that I went to bed because I was still awake" when Rita Cobb departed. (RT 429.) He later confirmed that, as he now remembered it, he had been awake and "believed" he had seen Rita Cobb, Bruce Nash and Bruce's girlfriend Cynthia get in cars and depart. (RT 432.)

THIS PROVED HE COULD NOT RECALL ANYTHING NASH JUST TESTIFIED HE DID NOT DRIVE RITA HOME.

Since the disparity had already been brought into the open, there was, again, no reason for Sanders to emphasize the point. But more fundamentally, Sullivan's testimony was uncontroversial, and the details of how and when the murder victim left his home did nothing whatsoever to implicate Mr. Yablonsky. Indeed, testimony that Bruce Nash offered to assist her home, perhaps making him the last known person to see her alive, could even have served to deflect some degree of suspicion onto him, and away from Petitioner. This obviously demonstrates that Sanders was not ineffective in regard to Sullivan's testimony.

SULLIVAN WAS A DRUNKEN DICT

SULLIVAN TESTIMONY CONTRADICTED NASH TESTIMONY "CONTROVERSIAL"

Det. Alexander. Finally, Petitioner blames his attorney for not confronting Det. Robert Alexander, whom he claims "testified there [were] no fingerprint results," and provides the report as Exhibit D(4)(a) and (b). As previously quoted, Alexander did not testify to that effect. Rather, he said first that he was "not sure if there were any fingerprints developed," then moments later agreed that he had probably read such a report, but did not remember details. (RT 518.) Since Petitioner's argument rests on flawed recall of the actual testimony, his claim has no basis.

TRIAL TRANSCRIPT ACTED

REPORT AND ACCURACY OF TRANSCRIPT CITATION

Confession evidence. Lastly, the court asked us to (further) discuss whether there had been a third-party confession to the crime.

As we outlined in sections (III)(A)(2) and (3), the only purported confession to the crime that appears in the trial record or the exhibits offered here is that of George Randolph, aka William Backhoff, and attorney Sanders tried but failed to introduce it as evidence. Petitioner does make a further reference to a confession "investigated by Detective Carr of S.B.S.D.," but does not provide any supporting documentation, and leaves unclear whether this is a further reference to Backhoff. This leaves his claim not only implausible, but entirely without evidence to support it.

THIS SUPPOSED C.V.C 81256 IS APPLICABLE EXCEPTION TO HENNING

"THE RESULTS OF CONFESSION - INVESTIGATION"

F. COUNSEL'S PERFORMANCE WAS ALSO HIGHLY COMPETENT IN ALL OTHER RESPECTS.

Finally, though Petitioner has not shown ineffective assistance by attorney Sanders in any event, we think it bears noting how competent and energetic counsel's performance actually was. Far beyond providing the minimum degree necessary to protect Mr. Yablonsky's constitutional rights,

THIS IS A MISCHARACTERIZATION
BECAUSE SULLIVAN STATED HE SEEN
NASH PAUSE RITAS CAR WHILE CYNTHIA
FOLLOWED (I.E. THE CAR) THIS LATER HEARD

YOU WITBEND INVESTIGATION
NEARBY
DNA
RECORDS
CRIMINAL BUTS

In re John H. Yablonsky

Letter Response to Petition for Writ of Habeas Corpus

WHCSS1200311/FVI900518

October 19, 2012

page 28

A A MOUTH PIECE IN A LAMP CASE
WHERE NO EXPENSE HIRED, NO EVIDENCE
EXAMINED
SCREAMS INCOMPETENCE WHEN CLIENT
SCREAMS INNOCENCE - CASE WITH
"A CHALLENGE IS NEARLY THAN
INCOMPETENT

Mr. Sanders was a thoughtful and engaged advocate for him throughout the trial. His cross-examinations, while varying in length from brief to extensive, were invariably on-point and reasonable.

At a break in the testimony of the first witness, Sanders moved for a mistrial on the grounds that DDA Thomas had improperly made reference to Petitioner's statements in his closing argument. This was denied. (RT 136-137.) At several different points in trial he sought to raise or renew issues of major importance to the outcome, including the key question of third-party liability, and he did so with a suitable balance of persistence and respect for the court's views and indicated rulings. Finally, attorney Sanders put forth a detailed and forceful closing argument on behalf of Mr. Yablonsky, aggressively proposing various alternative scenarios in which another could have committed the murder. There is **no** basis for the suggestion that he was inadequately assisted by his lawyer at any point in the proceedings.

CONCLUSION

Not only can Petitioner not prove his claims, the actual trial record largely provides proof to the contrary. His attorney was unquestionably professional, prepared and effective on his behalf. The witnesses against him did not commit perjury, he was not prejudiced by any alteration of a transcript, and he was not convicted because of a campaign mailer. Rather, he was convicted because he left his DNA in the vagina of the murder victim.

His petition is unsupported, and must be denied.

Respectfully submitted,

Eric M. Ferguson
Deputy District Attorney
Appellate Services Unit

**SAN BERNARDINO COUNTY
OFFICE OF THE DISTRICT ATTORNEY**

PROOF OF SERVICE BY UNITED STATES MAIL

STATE OF CALIFORNIA	)		IN RE JOHN YABLONSKY
	)	ss.	WHCSS1200311
COUNTY OF SAN BERNARDINO	)		FSB900518

Belinda Johnson says:

That I am a citizen of the United States and employed in San Bernardino County, over eighteen years of age and not a party to the within action; that my business address is 412 W. Hospitality Lane, San Bernardino, California 92415-0042.

That I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

That on October 19, 2012, I served the within:

INFORMAL RESPONSE

on the interested parties below by depositing a copy thereof, enclosed in a sealed envelope for collection and mailing on that date following ordinary business practice at San Bernardino, California, addressed as follows:

John H. Yablonsky
#AL0373
North Kern State Prison
FD B5 214
Box 5005
Delano, CA 93216

David Sanders
Deputy Public Defender
Office of the Public Defender
14344 Cajon Ave., Suite 201
Victorville, CA 92392

I certify under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at San Bernardino, California, on October 19, 2012.

Belinda Johnson

EXHIBIT B
6 PAGE BRIEF
BY FERGAN



COUNTY OF SAN BERNARDINO
Office of the District Attorney
Appellate Services Unit

May 1, 2013

The Hon. Kyle S. Brodie
Department S-24
San Bernardino County Superior Court
351 North Arrowhead Avenue
San Bernardino, California, 92415-0240

Re: *In re John Henry Yablonsky*
WHCSS1200311
(Case No. FVI900518)

Your Honor:

Petitioner is serving life without parole for the 1985 murder of Rita Mabel Cobb. With his direct appeal in progress, he filed a concurrent habeas corpus petition, reciting some twelve constitutional claims. After finding seven claims procedurally barred or inadequate, Your Honor sought our informal response to the remaining five, raising specific questions as to each.

We filed that informal opposition on October 19, 2012, and Petitioner has since replied with numerous further documents and pleadings. Having deferred its ruling, the court now asks us brief the question of whether the Petition should be **stayed** pending the resolution of Petitioner's appeal.¹

¹ Mr. Yablonsky has already filed his brief in response. It appears to consist almost entirely of further argument on the merits, rather than the legal issue of whether or not a stay in proceedings is appropriate.

With apologies for not considering that question originally, we conclude that the Petition should *not* be stayed. Rather, we urge the court to *summarily* deny at least one of the five claims, and then to reach the merits and deny the rest. To properly support our view, however, we must ask the court's indulgence to exceed the two-page limit for this response.

Traditionally, a petitioner must exhaust other remedies before seeking habeas corpus, and an issue that could have been (or actually was) brought on appeal is not, as a rule, correctly raised in a habeas action. (*In re Harris* (1993) 5 Cal.4th 813, 828-829, citing *In re Dixon* (1953) 41 Cal.2d 756; *In re Waltreus* (1965) 62 Cal.2d 218, 225.) However, the "exhaustion" requirement is simply a discretionary policy rather than an iron-clad rule (*In re Wallace* (1970) 3 Cal.3d 289, 292), and when a claim of error is based on matters that fall *outside* the appellate record, a timely habeas corpus petition is appropriate. (*Harris* at p. 828 [fn. 7].) Moreover, under normal circumstances, it appears that the superior court may rule on a habeas petition even when the appeal has not yet been resolved.

In *In re Baker* (1988) 206 Cal.App.3d 493, the defendant was convicted of a sex crime and sentenced to six years in prison. On appeal, he raised an ineffective-assistance claim based on matters outside the appellate record, and then sought leave to file a habeas petition in the Fifth District of the Court of Appeal. That court, which was already hearing Petitioner's appeal, denied the motion to file a habeas petition, but did so without prejudice to Baker bringing the petition in the trial court, which he did.

Baker then reached a *de facto* plea bargain under which he received habeas relief, entered a new guilty plea and was sentenced to three years. However, the appellate court did not suspend proceedings, and affirmed the original conviction and sentence soon after the habeas resolution. The Attorney General then appealed the habeas outcome, arguing that the trial court had lacked jurisdiction and that the six-year sentence should stand.

The Court of Appeal disagreed, finding that its own decision to deny relief without prejudice had fully empowered the superior court to consider the merits of the claim. Drawing on *France v. Superior Court* (1927) 201 Cal. 122, it determined that appellate courts have exclusive jurisdiction of issues "appearing on the face of the record." But when the record is not sufficient to decide an issue, the appellate court may allow the superior court to address it. The Court thus found that the habeas proceedings in superior

court had effectively nullified the conviction it had “affirmed” soon afterward, and that the outcome of those proceedings should stand.²

This seems to mean that when considering a habeas petition while an appeal of conviction remains in progress, a superior court must first determine whether the habeas claims may be fully resolved by the appellate record. If so, all such claims should be summarily rejected as matters that could have been brought on appeal. If not, the court can examine the merits and apply the reasoning of *Baker*.³

Here it appears that Claim One can be fully resolved by the appellate record, and should therefore be dismissed as improperly brought, while others arguably depend on extrinsic evidence and thus may warrant review on their merits. We urge the court to do so, as we see no merit to any claim.

Claim One. The first issue in question, pertaining to the “mailer” featuring Petitioner’s likeness, requires nothing beyond the appellate record to resolve. The mailer is reproduced in the Certified Transcript, and its significance and all related issues were litigated at length by the parties. Moreover, the mailer is already a topic on appeal (see Appellant’s Opening

² By contrast, when the appeal is of a habeas corpus ruling itself, rather than the original conviction, the Court of Appeal’s assumption of jurisdiction over the appeal bars the lower court from entering *any* further orders on the merits of the case. (*People v. Tulare County Superior Court* (2005) 129 Cal.App.4th 324.)

³ *Baker* differs slightly from this case in that it does not appear that the Court of Appeal has taken any hand in causing the current petition to be brought in superior court. The Court of Appeal’s online records indicate that Mr. Yablonsky appealed the denial of an earlier habeas corpus petition (Case No. WHCSS1100559) to that court, which summarily denied it on February 14, 2012. That Petition was on unrelated grounds, and was opposed by San Bernardino County Counsel. Petitioner then brought a followup Petition to the Court of Appeal (case no. E055675) on February 23, 2012, which was again summarily denied within days. The Court’s dismissal order does not appear to have contained the “without prejudice” language provided in *Baker*, and in any case there is no representation by Mr. Yablonsky that this is a renewal of that Petition. However, the superior court does have inherent original jurisdiction over habeas corpus petitions, and we read *Baker* for the broader principle that when a habeas petition and an appeal are both correctly brought and will not *interfere* with each other, they may concurrently proceed to resolution.

Brief, pp. 113-132). The issue is not properly the subject of habeas corpus. **The court should therefore deny Claim 1 as procedurally barred.**

Claim Three. Petitioner's "Claim Three" makes broad allegations of ineffective assistance against his trial lawyer, David Sanders. The court's targeted questions about this claim both relate to the record of what actually took place in court, and thus could be resolved within the appellate record. We note, though, that Mr. Yablonsky's actual claims are broader than the issues identified by the court, and could be interpreted as requiring non-record evidence for proof, which in turn would make habeas consideration appropriate.

While habeas corpus is indeed the more common forum for resolving ineffective-assistance claims, Petitioner *did* here raise the question of ineffective assistance in his direct appeal, but in the limited context of whether his attorney should have sought a change of venue. He further alleges IAC here in Claims Three, Seven and Nine. Assuming the court sees each as properly raised by habeas petition, a ruling on the merits should **not** impermissibly interfere with the resolution of the ineffective-assistance claim on appeal - especially because, as the record fully illustrates, it is clear that Mr. Yablonsky was ably represented throughout the case.

Claim Four. Here Petitioner claims misconduct by the prosecutor, suggesting that he obtained false testimony from several witnesses. On the surface the claim can be adjudged by the trial record alone, and indeed it relates directly to Claim Nine, *post*, which depends entirely on that record. So viewed, it is a claim that should have been brought as part of the appeal.

However, the court's response was to ask our assistance in determining whether certain documents were ever actually introduced into the trial record, and we determined that most were not. This does suggest that a full resolution of the claim may require the court to go beyond the appellate record, making it appropriate to reach the merits now, and we urge the court to do so. As explained in the earlier Response, Petitioner has not accurately recited or remembered either the facts or the testimony of the witnesses, and his arguments have no basis.

Claim Seven. Petitioner alleges that transcripts of certain proceedings, including his crucial interview with police, were altered from their original form, and that portions were omitted. He then accuses attorney Sanders of ineffectiveness for failing to object to these "changes."

THIS WAS NOT DONE

TRIAL TRANSCRIPTS ALTERED AFTER TRIAL (ALEXANDER)

Much like Claim Three, above, this claim invokes "evidence" outside the record, yet the court's questions to us are confined to matters that do appear in the transcript of trial. So narrowed, the question becomes one that should be brought under appeal, but it seems to us that as *asked* it was of broader scale. If the court does not find it procedurally barred, we again urge the court to reach the merits, such as they are, and to deny the claim: there is nothing to substantiate any claim of false or erroneous transcripts, and, correspondingly, no basis for finding Mr. Sanders ineffective.

Claim Nine. This last claim in dispute generally restates Claim Four as an ineffective-assistance argument. To that extent, as we have previously outlined, it is flatly refuted by the record, and the court need look no farther. Moreover, since the allegation depends in large part on the appellate record, it might well have been better raised on appeal.

If so, the court should find this claim procedurally barred. Absent such a finding, though, Your Honor should not "stay" consideration, but rather should reach the merits and deny the claim, because it is entirely unfounded: the witnesses in question simply did not testify as Mr. Yablonsky describes, and his attorney's cross-examinations were obviously competent.

ALTERED TRANSCRIPT (ALEXANDER TESTIMONY)
COMPARE TO PROSECUTOR'S CLOSING STATEMENTS
EMPHASIS

CONCLUSION

We now urge the court to **summarily deny** the Petition as to Claim One, and possibly to Claim Nine, as procedurally barred. Grounds Three, Four and Seven **may or may not** be appropriately raised under habeas, but under *Baker* it appears to us that the court is free to rule. Because for the reasons outlined in our earlier response each claim is plainly unsupported, we urge Your Honor to do so, and to deny the Petition in full.

Respectfully submitted,

Eric M. Ferguson
Deputy District Attorney
Appellate Services Unit

**SAN BERNARDINO COUNTY
OFFICE OF THE DISTRICT ATTORNEY**

PROOF OF SERVICE BY UNITED STATES MAIL

STATE OF CALIFORNIA	)		IN RE JOHN YABLONSKY
	)	ss.	WHCSS1200311
COUNTY OF SAN BERNARDINO	)		FSB900518

Sheila Walker says:

That I am a citizen of the United States and employed in San Bernardino County, over eighteen years of age and not a party to the within action; that my business address is 412 W. Hospitality Lane, San Bernardino, California 92415-0042.

That I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

That on May 1, 2013, I served the within:

SUPPLEMENTAL INFORMAL RESPONSE

on the interested parties below by depositing a copy thereof, enclosed in a sealed envelope for collection and mailing on that date following ordinary business practice at San Bernardino, California, addressed as follows:

John H. Yablonsky, #AL0373
North Kern State Prison
FD B5 214
Box 5005
Delano, CA 93216

David Sanders
Deputy Public Defender
Office of the Public Defender
14344 Cajon Ave., Suite 201
Victorville, CA 92392

I certify under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at San Bernardino, California, on May 1, 2013.

Sheila Walker

EXHIBIT C
BRIEF BY
O'MELWENTY
P.C. 1405

Stuart O'Melveny, Attorney At Law

225 W. Hospitality Lane., #201 I, San Bernardino, CA 92408 | Ph.: 909-521-7173 |
Email: omelveny@earthlink.net

May 7, 2020

John Henry Yablonsky
Unit AL-0373
Richard Donovan Correctional Facility
480 Alta Road
San Diego, CA 92179

Re : Response to letter

Dear Mr. Yablonsky:

I was appointed by the court to look into the merits on your request for DNA testing. The appointment occurred on November 8, 2016.

The Public Defender's office provided me with discovery on your case, which was contained in a flash drive.

The District Attorney provided me with the enclosed memorandums. The first memorandum is dated October 19, 2012 and the second memorandum is dated May 1, 2013. You should have both copies.

The court appointed Charles Smith to write a motion for a new trial. Smith has since passed away. Enclosed is a copy of his motion.

I've enclosed a copy of the memorandum that I prepared pursuant to my appointment. You should have a copy.

Sincerely,



Stuart O'Melveny

Encl./SO'M

John Henry Yablonsky #AL0373
18-147
480 Alta. rd
Sandiego,ca,92179

March 3,2020

RE: FVI900518
P.C. § 1405 MOTION FILED BY YOUR OFFICE ON MAY 24, 2017

Dear Mr. O'Melveny;

You represented my interests with regards to a motion filed where I asked for specific DNA examinations. The Court granted conflict appointment of your office on the DNA demand I made.

An important issue demands your attention at this time. You stated in your motion, that the district attorney DDA Ferguson responded to the motion you filed. Pursuant to P.C. § 1054.9 that filing must be released to me, especially if she served you a copy. On May 24, 2017 you filed your motion, suggesting she filed her response afterwards.

I am making a formal demand for that response filed by DDA Ferguson, or "ANY OTHER" responding party for this case at that specific time in defense of the motion you filed. I have employed an investigator which demands this records, and pursuant to (1054.9) you are obligated to providing me that paper. GOVERNMENT CODE § 6068(m) supports this demand.

There are other developments which indicate false statements were made during briefing stages, which will require full disclosure and transparency. All responses, notes, e-mails and other methods of correspondence between your office and the county of Sanbernardion, representatives, district attorney;s, public defenders, Courts are a matter of work product, which belongs to me.

I am demanding these papers be produced immediately without delay, and will give your office 10 days to respond and comply, before I will file complaints with the state bar regarding this demand.

People v Sanchez 63 C4th 665(2016)

People v Davis 226 CA4th 1353(2014)

In Re Steel 32 C4th 682(2004)

Respectfully;

John Henry Yablonsky

1 Stuart O'Melveny, Attorney
2 High Desert Defenders
3 1221 N. Vineyard Avenue, No. 87
4 Ontario, California 91764

5 Phone : (760) 955-1700

6 Appointed by Superior Court of San Bernardino County

7 SUPERIOR COURT OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO – VICTORVILLE DISTRICT

9 THE PEOPLE OF THE STATE OF
10 CALIFORNIA,

11 Plaintiff,

12 vs.

13 JOHN YABLONSKY,

14 Defendant.

15) Case No.: FVI900518

16) MEMORANDUM

17) YABLONSKY'S REQUEST FOR
18) DNA TESTING

19) **PENAL CODE § 1405(a)**

20) Date : 7/21/17
21) Dept. : V-2

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People vs. Yablonsky

Memorandum: Yablonsky's Motion for DNA Testing

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7 SUPERIOR COURT OF CALIFORNIA
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9 THE PEOPLE OF THE STATE OF
10 CALIFORNIA,

11 Plaintiff,

12 vs.

13 JOHN HENRY YABLONSKY,
14 Defendant.
15
16

) Case No.: FVI900518

) MEMORANDUM

) PENAL CODE § 1405(a)

) Date : 7/21/17
) Dept. : V-2

17
18 INTRODUCTION

19 John Yablonsky is serving a life sentence after a jury convicted him of raping and
20 murdering Rita Mabel Cobb. The jury reached their verdict on February 3, 2011.

21 The Court of Appeal upheld the jury's decision in an unpublished opinion on December
22 4, 2013.

23 Yablonsky asked the state's Supreme Court to review his case. They declined to hear it.

24 Yablonsky has since filed two writ of habeas corpus petitions in the state court and one
25 writ of habeas corpus in the federal court, all of which, have been denied.

26 On October 17, 2016, Yablonsky filed a 44-page motion, requesting the performance of
27 DNA testing in connection with certain items found at the crime scene. The motion, titled as
28

1 'Writ of Mandate PC 1405,' is a request to the court for an order to perform DNA testing on
2 certain items found at the crime scene. Yablonsky lists the items on page 44. Among them is the
3 murder weapon - a wire hanger that was used to strangle Cobb; a watchband pin; blood smears in
4 the hallway and on the door; a felt pad underneath the bed where Cobb's body was found; red
5 hairs on or near Cobb's body; and a collection of cigarette butts.

6 On November 10, 2016, he would supplement the motion by arguing that his conviction
7 came as a result of unethical conduct by the prosecutor and his trial attorney. He writes about
8 perjured testimony from the state's witnesses and prosecutor; the introduction of false evidence;
9 the ineffective assistance of counsel; and discovery withheld from him by his attorney and by the
10 prosecutor. He makes reference to a writ of habeas corpus that he had filed in the federal district
11 court,¹ and he is asking the court to consider these arguments in conjunction with his motion
12 under Penal Code § 1405.

13 STATEMENT OF FACTS²

14 Rita Cobb was murdered around September 20, 1985. Her son, Daryl Kraemer and his
15 girlfriend, found Cobb's body in the bedroom at her Lucerne Valley home at 11:30 in the
16 morning on September 23, 1985. A pair of white shorts covered her face and a wire hanger was
17 wrapped tightly around her neck. A sheriff deputy arrived around 2 o'clock in the afternoon. He
18 found two bloodstains in the hallway. He described the home as disorganized but not 'ransacked.'
19 There was no evidence of forced entry (Reporter's Transcript ("RT") 242).

20 Near the time of the murder, an acquaintance of Cobb named Diane Flagg remembers
21 seeing a silver Ford Pinto parked near Cobb's home. When questioned in trial, she testified that it
22 was possible the car could have been a different color.

23 Forensic experts had estimated the time of death to be two days before Kraemer found
24

25 ¹ Yablonsky vs. Montgomery EDCV 14-01877-PA (DTB).

26 ² The author adopts the facts as recited by the Court of Appeal, Fourth
27 District, in People vs. Yablonsky, Case No. E055840, and in the report
28 written by U.S. Magistrate Judge David Bristow in Yablonsky vs. Montgomery,
EDCU 14-01877-PA (DTB).

1 Cobb. The county's forensic pathologist, Dr. George Saukel, found the cause of death to be
2 'manual and ligature strangulation' (RT 464). He also found that Cobb had engaged in sexual
3 intercourse a day and one-half before her death. He said it was possible sexual activity could
4 have taken place 'postmortem' (RT 489-491).

5 Dr. Saukel supported his conclusion based on the presence of sperm cells located in the
6 victim's vagina.

7 Criminalist Donald Jones, who was present at the crime scene, collected blood stains in
8 the hallway and on the door. He tested the blood and he confirmed that it belonged to Cobb (RT
9 266-267).

10 He also found sperm cells from a felt pad that was located underneath Cobb's body. He
11 collected and tested samples that were cut from felt pad located underneath the victim's body
12 and he was able to separate 'sperm' and non-sperm fractions.

13 The victim's ^{RT 317 (DEFENDANT) DNA SEVERAL DAYS OLDER THAN CRIME} panties were found in the bedroom. It contained no semen.

14 Jones did a more complete and thorough DNA analysis in 1999. He compared DNA from
15 sperm cells to other DNA from 16 blood samples taken from the crime scene, and he obtained
16 blood samples from other known donors. These comparisons did not produce a match, and none
17 of the blood samples came from Yablonsky (RT 318-319).

18 Jones did, however, find the sperm cells belonging to a single donor.

19 In 2003, another DNA analysis took place. A criminalist named Monica Siewertsen, who
20 was employed by the San Bernardino County Sheriff's Dept., analyzed sperm and semen
21 contained in the vaginal swab from the victim. The analysis produced a complete DNA profile of
22 13 markers. Another criminalist, Susan Anderson, entered Cobb's vaginal-swab profile into a
23 nationwide database known by its acronym as 'CODIS'.¹³

24 Towards the end of 2008, Anderson received information from CODIS on a 'hit' from
25 Cobb's profile to DNA belonging to John Henry Yablonsky.

26
27 ³ CODIS: Combined DNA Index System.
28

THERE IS A BIG DIFFERENCE 2/21/12

1 With this information, San Bernardino Sheriff Detectives Rod Alexander and Greg Myler
2 went to Yablonsky's home to interview him. It took place on March 8, 2009. The interview
3 would soon carry over to the Signal Hill police station.

ARREST NARRATIVE ISSUE ON 3.4.09 BEFORE INTERROGATION

4 At the station, the detectives confronted Yablonsky about the presence of his DNA found
5 on Cobb. Yablonsky admitted he knew Cobb. He said he did household repairs for her, but he
6 denied having sexual relations with her. He also admitted that he and his then wife had rented a
7 room in back of Cobbs' home and he had access to the house key. As to the type of car he was
8 driving at the time, Yablonsky said it was a Ford Pinto. The car's color was navy blue.
9 Yablonsky told the detective that he and his wife left Cobb's home in April 1985.

LIAR I NEVER SAID THAT ALTER EVIDENCE

10 The detectives continued interrogating and accusing Yablonsky on having a sexual
11 relationship with Cobb. Det. Alexander used an interrogation trick: He told Yablonsky a lie. He
12 said his fingerprints were in the home and in the bedroom.

13 Yablonsky remained unmoved. He continued denying that he had a sexual relationship
14 with Cobb. The detectives would arrest him, anyway, for raping and murdering Rita Cobb.

15 Once Yablonsky was in custody, the detectives obtained a buccal swab from his mouth
16 and from inside his cheek. They gave the samples to the criminalist, Susan Anderson, who would
17 use the samples to confirm the accuracy of the CODIS' hit. Anderson said the buccal sample
18 matched the sperm found at the crime scene, as well as, the non-sperm fraction belonging to
19 Cobb (RT 362-371). At trial, Anderson testified to the presence of female DNA located on the
20 felt pad (RT 373).

21 **PROCEDURAL HISTORY**

22 **A. Jury Finds Yablonsky Guilty Of Rape And Murder**

23 The People formally charged Yablonsky with the murder and rape of Rita Cobb on
24 March 10, 2009.

25 The trial began on January 18, 2011 and ended on February 3, 2011 with the jury
26 rendering guilty verdicts of murder and rape. Before rendering their verdict, the 12-person jury
27 had been deadlocked. Eight jurors voted for guilty, while the remaining four voted for an
28

1 acquittal. The trial court instructed them to continue deliberating after hearing from the jury
2 foreman that they'll try to reach a resolution or a decision.

3 After the verdict, the court denied Yablonsky's motion for a new trial and the court
4 sentenced him to serve life in prison without the possibility of parole.

5 Yablonsky raised numerous issues in his appeal, including the failure to receive effective
6 assistance of counsel and the right to present evidence of 'third party culpability.' He refers to
7 Joseph Sanders and William Backhoff as the likely suspects.

8 In its investigation, sheriff deputies questioned Sanders and Backhoff. They took
9 Sanders' DNA and compared it with the semen found on Cobb. It did not match.

10 As to Backhoff (also known as George Randolph), deputies conducted a DNA test on
11 him and found his DNA was 'consistent with' two of the cigarette butts found in Cobb's home.⁴

12 Sanders and Backhoff would later commit suicide. The suicides occurred at different
13 times and places.

14 **B. Helen Brooks' 1988 Murder/Third Party Culpability**

15 Yablonsky makes reference to the murder of Helen Brooks, which took place in 1988 and
16 was carried out in a similar fashion as Cobb's murder. Yablonsky's DNA was not present at the
17 scene. His attorney wanted to use this fact as evidence that another person murdered Cobb and
18 Brooks. The trial court rejected the argument and refused to allow him to present evidence on
19 Helen Brooks.

20 In addition, Yablonsky argues that the court's pre-trial and trial rulings in excluding the
21 theory of third-party culpability deprived Yablonsky of his constitutional, due process right in
22 receiving a fair trial. He also complained of counsel's failure in hiring a DNA expert to challenge
23 the People's case.

24 The Court of Appeal rejected Yablonsky's arguments. On third party culpability, the

25 THE COA ARGUES T.P.C. SHOULD HAVE BEEN
26 ALLOWED IN

27 ⁴ Yablonsky's motion for new trial, 2/14/12, pg. 13. Clerk's Transcript: 13.
28

YABLONSKY
SANDERS
DOWNS AT SCENE

VICAP
+ FBI TYPED
SERIAL
TO
COBB/
BROOKS

1 court noted that even though the trial court sustained the prosecutor's objections, Yablonsky's
2 attorney still brought up the issue through effective cross examination on the People's witnesses
3 and in his closing argument.

4 As to counsel not hiring a DNA expert, the court believed an expert would only confirm
5 the People's findings on Yablonsky's DNA matching the sperm and semen found on Cobb. An
6 expert would've hurt, not helped, Yablonsky.

7 On the other hand, the court had no evidence from Yablonsky's attorney or his
8 replacement for not calling an expert. The court had no evidence to go on as to why an expert
9 was not called. Absent such evidence, the court would make no finding on the claim for
10 ineffective assistance of counsel.

11 There were additional claims Yablonsky brought forth in his appeal: the court's denial of
12 a change of venue; the failure of the prosecutor to recuse himself; and the court compelling the
13 jury to return to their deliberations after receiving word they were deadlock. The appellate court
14 rejected all of these claims.

15 Yablonsky sought a review of the appellate decision to the state's Supreme Court. The
16 Supreme Court denied reviewing the case.

17 **C. Yablonsky Files Three Writs of Habeas Corpus**

18 Yablonsky filed two writ of habeas corpus petitions in the state court on January 14, 2014
19 and on May 1, 2014. Both have been denied.

20 Yablonsky then filed a writ of habeas corpus in the federal court on September 4, 2014.
21 In his federal writ, Yablonsky alleges 31 claims of error made by the trial court. The errors
22 consisted of prosecutorial misconduct, ineffective assistance of counsel, false testimony,
23 conspiracy to alter evidence, violations on Miranda and the Confrontation Clause, the exclusion
24 of third-party culpability and evidence of Cobb's promiscuous character.

25 U.S. District Judge Percy Anderson referred the matter to U.S. Magistrate David Bistow
26 for purposes of submitting a report and recommendation on Yablonsky's writ of habeas corpus.
27 The referral was made pursuant to **28 U.S.C. § 636** and **General Order 05-07** of the United
28

1 States District Court.⁵

2 On January 14, 2016, Judge Bistow submitted his report and recommendation. He
3 declined to issue a writ. Judge Anderson approved the report and signed off on it.

4 Yablonsky then submitted a writ of certiorari to the U.S. Supreme Court. A decision on
5 whether to accept the writ is expected this summer.

6 **YABLONSKY'S MOTION FOR DNA TESTING⁶**

7 On October 17, 2016, John Yablonsky submitted a 44-page document requesting certain
8 items of evidence be tested for DNA. The request comes from Penal Code § 1405, which states
9 the following:

10 "A person who was convicted of a felony and is currently serving a term of
11 imprisonment may make a written motion, pursuant to subdivision (d), before the
12 trial court that enter the judgment of conviction in his or her case, for performance
of forensic deoxyribonucleic acid (DNA) testing."

13 **Penal Code § 1405(a).**

14 Yablonsky specifies the items he wants tested under the section titled 'Prayer' on page
15 44:

16 "Red hair w/ roots; Watchband pin for examination; H2, h3, a20 cigarette butts
17 A23 blood smears; Ct 380-381 fingerprint lifting; A18 felt pad located under quilt
18 Item a6 tape liftings for examination and dna reports; A17 white short from v's
19 mouth; A18 pillow case."⁷

20 Yablonsky provides a sworn declaration of innocence where he admits to having sex with
21 Cobb on September 18th or 19th. He also admits to lying to the detectives.

22 Continuing with his declaration, Yablonsky writes another person was present during his
23 encounter with Cobb. He described the person as a blonde female. Yablonsky writes that the
24 blonde female and Cobb were engaged in a physical, intimate act. Yablonsky participated in their
25 activity. Yablonsky doesn't know the name of the blonde or her relationship with Cobb. The
26 blonde female told Yablonsky that her husband would soon arrive. When Yablonsky left Cobb's

26 ⁵ General Order 05-07 allows a U.S. Magistrate Judge to have the power
27 equivalent to a U.S. District judge in issuing writs of habeas corpus.

27 ⁶ Yablonsky's refers to the motion as a writ of mandate.

28 ⁷Yablonsky's Writ of Mandate (PC 1405), pg. 44.

1 home, he writes 'Rita was alive, the blonde was alive, and the husband had not yet arrived.'⁸

2 Yablonsky admits to lying to the police. He justifies the lie because he believed having a
3 relationship with Cobb wasn't a crime and he didn't want to embarrass his wife and children.

4 On other matters, Yablonsky writes about how his trial attorney was ineffective; how
5 transcripts of his interrogation had been altered; how Cobb's alcoholism had been excluded; and
6 how Sanders and Backhoff should have been targeted as the likely suspects where either one of
7 them could have committed this crime.

8 STATEMENT OF LAW

9 I. COURT MUST APPOINT COUNSEL FOR THE PURPOSE OF 10 INVESTIGATING THE APPROPRIATENESS OF DNA TESTING.

11 In In Re Kinnamon, the Court of Appeal, Second District, held that, upon receipt of a
12 1405 motion from a convicted inmate, the trial court must appoint counsel for purposes of
13 investigating the appropriateness of DNA testing, and, if such testing is appropriate, file a motion
14 for DNA testing. In Re Kinnamon (2005) 133 Cal.App.4d 316, 326, 34 Cal.Rptr.3d 802.

15 The trial court has no discretion when receiving the application from a convicted inmate. Ibid. at
16 326.

17 "In the rare case where DNA evidence may exonerate a prisoner or reduce the prisoner's
18 sentence, it is not too much to ask that he or she make some showing to that effect before counsel
19 is appointed." Ibid. at 325.

20 John Yablonsky has submitted a 44-page document titled 'Petition for Writ of Mandate
21 PC 1405.' He is indigent and he is incarcerated for life. As a result, the trial court has to appoint
22 counsel for purposes of investigating the petition and making a recommendation on the
23 appropriateness of filing a motion for DNA testing.

24 Though the court has no discretion in making the appointment, the court in In Re
25 Kinnamon cautioned that a 1405 motion is not intended to continue litigation endlessly.

26
27 ⁸ Yablonsky's Write of Mandate (PC 1405), pg. 38-39.

1 "We have elaborated on our prior opinion to illustrate that the instant request is
2 the start of a 'wild goose chase' that will, in all probability, lead to absolutely
3 nothing. In another context, we have said: 'Somewhere along the line, litigation
4 must cease.' (Citation) Petitioner's judgment is long final and there is something
5 to be said for the sanctity of final judgments. The State of California has a
6 powerful interest in the finality of its judgments. This interest is particularly
7 strong in criminal cases for 'without finality, the criminal law is deprived of much
8 of its deterrent effect (Citation)."

9 **Ibid. at 325.**

10 The Court of Appeal has upheld the jury's verdict, as well as, Yablonsky's life sentence.
11 The state's Supreme Court declined to review the decision. Nevertheless, Yablonsky has filed
12 three writs of habeas corpus, including a writ to the U.S. District Court where Judge Bristow
13 wrote a 108-page decision, rejecting Yablonsky's request for a new trial or to set aside the
14 verdict.

15 The trial court appointed counsel to investigate and make a recommendation on
16 Yablonsky's request. It is counsel's recommendation for the court to deny his motion for DNA
17 testing.

18 **II. PETITIONER IS USING SECTION 1405 AS A MEANS OF RE-**
19 **LITIGATING ISSUES THAT HAVE ALREADY BEEN DECIDED.**

20 Under 1405, the proceeding may not be used for 'a post-conviction collateral proceeding'
21 or to set a precedent for any such right. Penal Code § 1405(b)(4).

22 Yablonsky continues to bring up issues that have been decided. Yablonsky mentions his
23 former attorney's deficiency, his incompetence, and his ethics. The issue of ineffective assistance
24 counsel has been litigated and decided by the state court and by U.S. Magistrate Judge Bistow.
25 Yablonsky's argument is not relevant under 1405.

26 Yablonsky also mentions his inability to raise a third-party defense. This argument has
27 also been litigated and decided. The Court of Appeal wrote extensively on the subject, indicating
28 that it was a 'close call', but, in the end, the appellate court sided with the trial court. They agreed
29 with court's ruling that evidence of third-party culpability amounted to inadmissible hearsay and

30 DO NOT ARGUE CONFESSION WAS EXCEPTION TO HEARSAY
31 EVIDENCE

1 speculation.

2 On other matters, Yablonsky writes about the prosecutor's unethical behavior in
3 misleading the jury and in changing the wording of the transcripts. U.S. Judge Bistow covered
4 this topic and found no violation. *BASED ON FRAUD AND WITHHOLDING EVIDENCE THAT "NON" EXISTS*

5 More importantly, these arguments have no relevancy as to whether Yablonsky is entitled
6 to have a DNA testing on items found at the crime scene.

7 Yablonsky's writ (petition) appears to be an attempt to argue issues that have been
8 decided by the appellate court and by Judge Bistow.

9 Section 1405 is limited to making a request only for DNA testing. It cannot be used as a
10 way to circumvent the statute and present the petition as a way for requesting a new trial.

11 **III. YABLONSKY CAN NOT MAKE OUT A PRIMA FACIE CASE FOR**
12 **THE PERFORMANCE OF DNA TESTING.**

13 Yablonsky must prove four elements in order for the trial court to grant him DNA testing.

14 Penal Code § 1405(d)(1)(A)-(D). The elements are the following:

- 15 "(A) A statement that he is innocent and not the perpetrator of the crime.
- 16 (B) Explain why the identity of the perpetrator was, or should have been, a significant
17 issue in the case.
- 18 (C) Make every reasonable attempt to identify both the evidence that should be tested
19 and the specific type of DNA testing sought.
- 20 (D) Explain, in light of all the evidence, how the requested DNA testing would raise a
21 reasonable probability that the convicted person's verdict or sentence would be
22 more favorable if the results of DNA testing had been available at the time of
conviction."

23 Penal Code 1405(d)(1)(A)-(D).

24 Yablonsky has satisfied elements A, B, and C. He says he's innocent. He lists the items
25 he wants tested. He mentions Joseph Sanders, Bruce Nash, William Backhoff (Gregory
26 Randolph), and an unidentified male as suspects.

27 However, Yablonsky must prove a reasonable probability that, if DNA testing had
28

1 been done, the verdict would have been more favorable to him.

2 In Richardson vs. Superior Court, the court defined reasonable probability as '(A)
3 probability sufficient to undermine confidence in the outcome.'

4 "(T)o prevail on a section 1405 motion, the defendant must demonstrate that, had the
5 DNA testing been available, in light of all of the evidence, there is a reasonable probability – that
6 is, a reasonable chance and not merely an abstract possibility that the defendant would have
7 obtained a more favorable result." Richardson vs. Superior Court (2008) 43 Cal.4d 1040,
8 1051, 77 Cal.Rptr.3d 226.

9 Yablonsky admits to having sex with Cobb. He said it occurred at least two days before
10 Kraemer found her body. Yablonsky, thus, concedes that sperm and semen found on the vaginal
11 swab from Cobb belongs to him. We have the person's identity.

12 In addition, the People had other evidence to convict Yablonsky. Yablonsky knew Cobb.

13 He knew where she lived. He had access to the house key. He and his wife rented a room from
14 her. Though he told the detectives he had left in April of 1985, the record contains no
15 information to support the claim. A witness, Dianne Flag, observed a Ford Pinto around the time
16 of the murder. She said the color was silver, but she also said it's possible the car's color could
17 have been different. The People can rightly argue that Yablonsky was in the area at the time of
18 the killing. Yablonsky doesn't have an alibi.

19 This is probative evidence that must be weighed against 'reasonable probability.' The
20 court can not engage in speculation when determining if Yablonsky can satisfy element D. The
21 evidence cannot be abstract; it must be solid enough to reach the threshold of reasonableness.

22 **IV. THE FACTS IN YABLONSKY'S CASE FALLS IN LINE WITH**
23 **THE DECISION IN RICHARDSON.**

24 In Richardson vs. Superior Court, the court analyzed the phrase 'reasonable probability
25 of a more favorable verdict' to have the same meaning as it does when arguing ineffective
26 assistance of counsel. Strickland vs. Washington (1984) 466 U.S. 668, 104 S.Ct. 2052, 80
27 L.E.2d 674; People vs. Watson (1956) 46 Cal.2d 818, 299 P.2d 243.

NO OTHER EVIDENCE
FIRST EVIDENCE COMMITTED THIS CRIME
LIAR

LIAR IDENTIFY TO
SPERM NOT MURDER

I NEVER
SAID I
HAD A
KEY
FRAUD

1 “We agree that in the context of section 1405, the term ‘reasonable probability’
2 has the same meaning that it has in the Strickland and Watson contexts. Seizing
3 upon part of the Strickland formulation – ‘a probability sufficient to undermine
4 confidence in the outcome.’ . . . To establish that ineffective assistance of counsel
5 violates the Sixth Amendment, for example, a defendant must show a ‘reasonable
6 probability that, but for counsel’s unprofessional errors, the result of the
7 proceeding would have been different.’”

8 **Richardson vs. Superior Court (2008) 43 Cal.4d 1040, 1051, 77 Cal.Rptr.3d 226.**

9 The evidence must also be ‘material’ when it comes to the identity of the perpetrator.

10 **Penal Code § 1405(g)(4).**

11 In Richardson, the victim was found dead in the bathtub of a home she lived in with her
12 mother and sister. Hairs were found in the bathtub that resembled Richardson’s hair. A jury
13 would subsequently convict Richardson of rape, murder, burglary, and lewd acts on a child.

14 Richardson filed a 1405 motion, requesting DNA testing for the four pubic hairs. In
15 denying his request, the court pointed out additional and more probative evidence linking
16 Richardson as the perpetrator. Richardson knew the victim was alone on the night she was
17 murder; he made incriminating statements to the police; and he fled the scene.

18 The prosecutor argued that ‘materiality had not been made’ because “if the pubic hairs
19 were tested and found not to have the petitioner’s DNA, that fact alone does not prove innocence
20 because of a vast array of *other evidence linking him to murder*. If DNA analysis reveals the
21 defendant as the DNA donor on public hairs, it will further inculcate him. If DNA excludes him,
22 it will provide no new information.” Ibid. at 1045.

23 The court’s analysis is similar to this case. A DNA analysis of the items requested will
24 add nothing new. Yablonsky knew Cobb. He had access to her home; he lied to the detectives;
25 and he admitted to physical, sexual activity with Cobb just prior to her death. We have the
26 person’s identity. Comparing DNA on the items requested by Yablonsky will add nothing new.
27 The information might inculcate Yablonsky if his DNA is found on the items, but it still will not
28 exonerate him. The People have additional evidence linking him to the murder.

THIS IS A LIE, I DID NOT
COMMIT THIS CRIME THE ONLY EVIDENCE
AVAILABLE CLEARS ME OR WAS MANUFACTURED

PERSON TO
DNA/NOT
MURDER

1 V. THE FACTS IN YABLONSKY'S CASE ARE DIFFERENT
2 FROM THE FACTS IN JOINTER AND ROSE.

3 Yablonsky cites People vs. Jointer and Rose vs. Rose⁹ as examples of having DNA
4 exonerate the wrongfully accused.

5 In People vs. Jointer, the identity of the robber was a central issue. The robber had
6 purchased a bottle of water and placed the bottle on the counter. He then walked over to
7 customer service where money was kept, displayed his gun, told the clerk to put money in the
8 bag, and left the store. Witnesses saw the robber buy the water bottle, take a drink from it, and
9 then meet up with the clerk.

10 The police were able to preserve the water bottle. They lifted prints off of it, and the
11 prints matched the defendant's. However, no DNA testing was done.

12 A jury convicted Jointer for robbing the store.

13 After his conviction, Jointer filed a 1405 motion for a DNA test on the water bottle. The
14 court granted it.

15 "The sole physical evidence linking defendant to the crime was the water bottle with the
16 fingerprints. . . . The evidence showed the robber drank from the water bottle, and thus the water
17 bottle possibly contains the robber's DNA. (A)ssuming the DNA test came back favorable for
18 the defendant, there is a reasonable probability of a more favorable verdict for the defendant."

19 People vs. Jointer (2013) 217 Cal.App.4d 759, 765, 158 Cal.Rptr.3d 778.

20 This case, however, is different. Yablonsky admits to having a sexual encounter with
21 Cobb. He admits he knows her. His DNA is on her. Unlike Jointer, identity has been established.
22 It is Yablonsky's sperm and semen on the vaginal swab from Cobb. It was Yablonsky who was
23
24

25
26 ⁹ Rose vs. Hudson (2007) 153 Cal.App.4d 641, 63 Cal.Rptr.3d 248. The case of
27 Rose vs. Hudson is a legal malpractice case. The author uses the facts from
28 the law review article, Anatomy of a Miscarriage of Justice: The Wrongful
Conviction of Peter J. Rose, 37 Golden Gate U. (2010).

1 on the bed where the presence of sperm and non-sperm were present on the felt pad. Further
2 DNA testing on the items requested will not add anything new. We have the
3 perpetrator. It is Yablonsky.

4 In the Peter Rose case, a 13-year old girl was raped her from behind. The suspect fled the
5 scene. Semen and foreign pubic hair were found in the girl's underwear. The criminalists
6 testified for the prosecution and said Peter Rose could have been the donor of the pubic hair. The
7 other criminalist testified results of serology test were 'inconclusive.' The defense attorney made
8 no effort to exclude the 'junk' science.

9 The prosecutor contributed to the miscarriage of justice by not turning over exculpatory
10 information about the perpetrator's blood type on the semen. The blood didn't belong to Rose.
11 The non-disclosure appeared to have violated the holding in Brady vs. Maryland.¹⁰

12 In 2004, a more sophisticated use of DNA excluded Rose as the donor.

13 In this case, Yablonsky admits to having sex with Cobb. He admits he was in her home at
14 least two days before her body was found. He admits he lied to the detectives. He was the
15 perpetrator when it comes to engaging in physical, sexual activity with Cobb. Unlike the facts in
16 Rose vs. Hudson, the People had a full DNA profile of the person who had sex with Cobb. The
17 sperm came from a single donor with a random-match probability of one in 1.9 quadrillion (RT
18 346-347). The case with Yablonsky was not a situation where junk science existed or the People
19 hid exculpatory evidence from the defense. *LAR ALTER TRANSCRIPTS, RED HAIR
BLONDE SUSPECT*

20 **VI. THE JURY CONSIDERED YABLONSKY HAVING NO**
21 **FINGERPRINTS ON THE WIRE HANGER AND THE**
22 **WATCHBAND PIN.**

23 Yablonsky's fingerprints were not in the bedroom, nor were his fingerprints present
24 throughout the house. As a result, Yablonsky's fingerprints were not on the murder weapon or on
25

26 ¹⁰ Brady vs. Maryland (1963) 373 U.S. 83, 83 S.Ct. 1194. Prosecutors are
27 obligated to turn over all exculpatory evidence to the defense.
28

1 the watchband pin. Traces of his blood were not on the walls or on the doorway.

2 These facts were not lost on Yablonsky's attorney. He reminded law enforcement and the
3 forensic team about the absence of this evidence. He reminded the jury, as well, in his closing
4 argument.

5 There was evidence regarding Saunders' DNA and attempting to match it with the sperm
6 and semen found on Cobb. Saunders' DNA did not produce a match. There was also the cigarette
7 butts and how the DNA from this item is consistent with Backhoff's DNA.

8 The jury also heard evidence pointing to Yablonsky's guilt. His DNA was on Cobb. He
9 had a sexual encounter with her. He was familiar with her home. He was around the area when
10 the killing took place.

11 The jury heard all of the evidence that it needed to hear in making a decision. It wasn't
12 easy. They were deadlock. The foreman told the court that they were willing to continue
13 deliberating. Eventually, they came to a decision. They reached a verdict in consideration of all
14 the evidence presented to them. An order to test certain items for DNA will not add anything
15 new.

16 CONCLUSION

17 John Yablonsky must satisfy the four elements set out under 1405. He must prove to the
18 court that he would have received a more favorable verdict if DNA testing was done on certain
19 items.

20 At the same time, the motion also requires Yablonsky to declare his innocence.
21 Yablonsky admits to having a sexual encounter with Rita Cobb at least two days before her
22 death. The admission confirms his DNA on Cobb and it provides an inference of Yablonsky
23 having the means and opportunity to commit the crime of rape and murder.

24 In addition, the People had other evidence to suggest means and opportunity. Yablonsky
25 knew Cobb. He knew where she lived. He had access to a key to her home. He did repairs inside
26 her home so he knew the home's layout. He and his wife rented a room the back of her house. He
27 drove a car that was similar to a car a witness saw that was parked in front of Cobb's house at the
28

IN
NOT
ON
THERE IS
A DIFFERENCE

1 time of the murder. The element of 'reasonable probability of a more favorable result' cannot be
2 satisfied. Yablonsky's motion should be denied.

3
4 Dated : May 24, 2017

5 Stuart O'Melveny, Attorney,
6 High Desert Defender Attorney
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1 **PROOF OF SERVICE**

2 I am employed in the County of San Bernardino, State of California. I am over the age of
3 18 and not a party to the action. My business address is 1221 N. Vineyard, No. 87, Ontario, CA
4 91764.

5 On May 24, 2017, I served a copy of the foregoing document
6 described as -

7 **MEMORANDUM TO THE COURT**

8 on the interested parties at

9 **SEE ATTACHMENT**

10 By placing copies in a sealed envelope addressed as stated above.

11 BY MAIL: I deposited the envelope in the mail at San Bernardino, California. The
12 envelope was mailed with postage affixed thereon fully prepaid. I am readily familiar
13 with my practice of collecting and processing the mail.

14 BY PERSONAL SERVICE: I delivered such envelope by hand to counsel listed above
15 and/or on the attached personal service list.

16 BY FAX: I sent by fax the above referenced document to the number listed above.

17 BY FEDERAL EXPRESS: I caused such envelope to be delivered by air courier, with
18 next day service.

19 BY ELECTRONIC MAIL: I caused the document to be delivered by electronic mail.

20 STATE : I declare under penalty of perjury under the laws of the State of
21 California that the above is true and correct.

22 Dated : May 24, 2017

23
24 STUART O'MELVENY, Attorney

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ATTACHMENT

**TO THE CLERK FOR THE HONORABLE JOHN TOMBERLIN
VICTORVILLE SUPERIOR COURT, DEPT. V-2
14455 CIVIC DRIVE
VICTORVILLE, CA 92392**

**JOHN YABLONSKY, AL-0373
RICHARD DONOVAN CORRECTIONAL FACILITY
480 ALTA ROAD
SAN DIEGO, CA 92179**

**DDA ERIC FERGUSON
APPELLATE UNIT
SAN BERNARDINO DISTRICT ATTORNEY
303 W 3RD ST FL 5
SAN BERNARDINO, CA 92415**

EXHIBIT D
MOTION NEW TRIAL
HAZ SMITH 17 PAGES

ORIGINAL

12

H. CHARLES SMITH #86494
ATTORNEY AT LAW
550 ORANGE ST., SUITE B
REDLANDS, CA 92374
909-307-9913
FAX 307-9916

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
VICTORVILLE DISTRICT

FEB 15 2012

BY [Signature] DEPUTY

Attorney for John Yablonsky

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO
VICTORVILLE DIVISION

9	People of the State of California,	) Case No.: FVI900518
10)
11	Plaintiff,	) NOTICE OF MOTION
12		) FOR NEW TRIAL
13	vs.	) (Penal Code Section 1181)
14	John Yablonsky,	) Date: <u>2/24/12</u>
15		) Time: 8:30 a.m.
16	Defendant	) Place: V2
17)


TO THE DISTRICT ATTORNEY OF SAN BERNARDINO COUNTY AND/OR HIS
OR HER REPRESENTATIVE:

PLEASE TAKE NOTICE that on 2/24/12 at the hour of 8:30 a.m., or as
soon thereafter as the matter can be heard in the courtroom of department V2 of the above-
entitled court, the defendant will move for an order granting a new trial in the above-entitled
case. The motion will be made on the ground that Mr. Yablonsky's rights to due process were
violated during the trial; and on the ground stated under Penal Code Section 1181 sub-sections 5;

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The motion will be based on this notice of motion, on the attached memorandum of points and authorities served and filed herewith, on all evidence presented at the trial of this matter, on all the papers and records in this action and on such oral and documentary evidence as may be presented at the hearing of the motion.

Dated: 2-14-12



H. CHARLES SMITH,
Attorney for John Yablonsky

1 H. CHARLES SMITH #86494
2 ATTORNEY AT LAW
3 550 ORANGE ST., SUITE B
4 REDLANDS, CA 92374
5 909-307-9913
6 FAX 307-9916

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO
9 VICTORVILLE DIVISION

10	People of the State of California,	)	Case No.: FVI900518
11	Plaintiff,	)	POINTS AND
12	vs.	)	AUTHORITIES
13	John Yablonsky,	)	IN SUPPORT
14	Defendant	)	OF MOTION
		)	FOR NEW TRIAL

15
16 Defendant submits the following points and authorities in support of the motion for new
17 trial:

18 IV

19 A MOTION FOR NEW TRIAL IS APPROPRIATE
20 WHERE THE PERFORMANCE OF TRIAL COUNSEL IS AT ISSUE

21
22 The standards and rules relating to proving ineffective assistance of counsel are well
23 established. As recently restated by Justice Benke in *People v. Montoya* (2007) 149 Cal.App.4th
24 1139, 1146-1148:
25

1 An appellant claiming ineffective assistance of counsel has the burden to show: (1)
2 counsel's performance was deficient, falling below an objective standard of
3 reasonableness under prevailing professional norms; and (2) the deficient performance
4 resulted in prejudice. (*Strickland v. Washington* (1984) 466 U.S. 668, 688 [104 S.Ct.
5 2052] (*Strickland*); *People v. Ledesma* (1987) 43 Cal.3d 171, 216, 218 (*Ledesma*)). The
6 same standard applies to retained and appointed counsel. (*Cuyler v. Sullivan* (1980) 446
7 U.S. 335, 344-345.)

8
9 To establish prejudice, "[t]he defendant must show that there is a reasonable probability
10 that, but for counsel's unprofessional errors, the result of the proceedings would have
11 been different," (*Strickland, supra*, 466 U.S. at p. 694; *Ledesma, supra*, 43 Cal.3d at pp.
12 217-218.) "A reasonable probability is a probability sufficient to undermine confidence
13 in the outcome." (*Strickland, supra*, 466 U.S. at p. 694.) In demonstrating prejudice, the
14 appellant "must carry his burden of proving prejudice as a 'demonstrable reality,' not
15 simply speculation as to the effect of the errors or omissions of counsel." (*People v.*
16 *Williams* (1988) 44 Cal.3d 833, 937.)

17
18 In determining whether counsel's performance was deficient, we exercise deferential
19 scrutiny. (*Strickland, supra*, 466 U.S. at p. 689; *Ledesma, supra*, 43 Cal.3d at p. 216.)
20 The appellant must affirmatively show counsel's deficiency involved a crucial issue and
21 cannot be explained on the basis of any knowledgeable choice of tactics. (*People v.*
22 *Jackson* (1980) 28 Cal.3d 264, 289, disapproved on other grounds in *People v. Cromer*
23 (2001) 24 Cal.4th 889, 901, fn. 3.)

1 Our Supreme Court recently reiterated the obligations of appellate courts in reviewing
2 claims of ineffective assistance of counsel: “Reviewing courts defer to counsel’s reasonable
3 tactical decisions in examining a claim of ineffective assistance of counsel [citation], and there is
4 a strong presumption that counsel’s conduct falls within the wide range of professional
5 assistance,” [Citation.] “[W]e accord great deference to counsel’s tactical decision” [citation],
6 and we have explained that “courts should not second-guess reasonable, if difficult, tactical
7 decisions in the harsh light of hindsight” [citation]. “Tactical errors are generally not deemed
8 reversible, and counsel’s decision making must be evaluated in the context of the available
9 facts.” [Citation.]” (*People v. Stanley* (2006) 39 Cal.4th 913, 954, citing *People v. Weaver*
10 (2001) 26 Cal.4th 876, 925-926.)

11 “Competent counsel is not required to make all conceivable motions or to leave an
12 exhaustive paper trail for the sake of the record. Rather, competent counsel should realistically
13 examine the case, the evidence, and the issues, and pursue those avenues of defense that, to their
14 best and reasonable professional judgment, seem appropriate under the circumstances. (See
15 generally, *People v. Eckstrom* (1974) 43 Cal.App.3d 1002, 1003.)” (*People v. Freeman* (1994)
16 8 Cal.4th 450, 509.)

17 Defendant’s burden is difficult to carry on direct appeal. We reverse on the ground of
18 inadequate assistance on appeal only if the record affirmatively discloses no rational tactical
19 purpose for counsel’s act or omission. (*People v. Lucas* (1995) 12 Cal.4th 415, 436-437; *People*
20 *v. Osband* (1996) 13 Cal.4th 622, 700-701)

21 Thus, in appropriate circumstances justice will be expedited by avoiding appellate
22 review, or habeas corpus proceedings, in favor of presenting the issue of counsel’s
23 ineffectiveness to the trial court as a basis of a motion for new trial.” *Fosselman* at p. 582
24
25

1 On November 2, 2009, Mr. Sanders wrote a letter to Blain Kern of Human Identification
2 Technologies, asking to discuss the possibility of retaining his services in helping to represent
3 John Yablonsky. Mr. Sanders states in the letter that he needed an estimate of the costs of
4 employing the services of Human Identification Technologies, and he attached some of the labs
5 reports for review. (See Exhibit A)

6 On November 10, 2009, Blain Kern responded with a letter stating that based on his
7 review of the laboratory reports, it was his estimate that 11-14 hours would be required to
8 thoroughly review all of the laboratory notes, data, statistics, reports, protocols, procedures and
9 guidelines associated with the case. The cost would be \$250 to \$300 per hour depending on the
10 turnaround time needed. It would seem that the expenditure of approximately \$3,300.00 was not
11 too much to ask in an LWOP case. (See Exhibit B)

12 After reviewing all of the discovery in this case that was turned over by Mr. Sanders,
13 there was no DNA retesting done, or any review of the methodology used, and no follow through
14 with Human Identification Technologies. This was absolutely essential for the proper
15 representation of Mr. Yablonsky. Furthermore there was no motion made by Mr. Sanders for the
16 court to pay for the examination both as to methodology and results. Likewise there is no
17 indication in the reports that any effort was made to procure the funds necessary through the
18 Public Defender's Office, and in fact no tests were ever done, nor evidence presented at trial.

19 Considering the nature of the case, the age of the case, and the overwhelming power of
20 the DNA evidence being used against Mr. Yablonsky, this was in and of itself incompetency of
21 counsel.

22 Due to the fact that there was no apparent struggle during the alleged rape, and nothing
23 was taken from the residence after the murder, it is possible that Rita Cobb had consensual sex
24 prior to her murder at some point and the actual person who committed the murder could have
25

1 worn a condom. This is where the rare blood ABO B non secretor was important to establish
2 reasonable doubt.

3 John Yablonsky, during that time was a methamphetamine user and a thief, which as we
4 know go hand in hand. He had even stolen from his father and brother around this time. Would
5 there have been anything of value left in that house had he been the actual person who
6 committed this crime? Probably not.

7 We have no way of knowing whether or not Rita Cobb had sex with anybody else
8 possibly using a condom which would have prevented other DNA from being found.

9 In addition to the vaginal swabs for the DNA, there was hairs recovered at the scene on
10 the body and the bed, including a reddish brown hair, one to two inches long including a root.

11 On January 14, 2009, evidence was reviewed and photographed including microscopic
12 slide box - Item B4F - Standard head hair, Item B4D - Standard pubic hair, Item A18 - Possible
13 pubic hair from felt pad, Item A17 - Hair from gag, Item A16 - 1,2,3 hair, Item A5 - 1-8 and 1
14 hair with root, Item A4 - 7 slides with hair, Item A1 - 8 slides, 1 with root.

15 (See Exhibit C).

16 There is no indication that this hair was retested using the new methods applied to the
17 DNA analysis. A new profile could have been developed establishing another individual as the
18 donor of the particular hair. The hair was retained, and it contained a hair root, which at the
19 time of the murder was not suitable for testing but under today's methods it would have been
20 using the same methods used for the DNA from the seminal fluid.

21 This was essential due to the fact that it is completely different, color wise and length
22 wise as to Mr. Yablonskys' hair type. This also could have resulted in a different DNA profile
23 being developed and compared to other possible suspects.

24

25

1 This added to the rare blood type of both Mr. Yablonsky and the perpetrator of the Helen
2 Brooks murder, would add reasonable doubt to the guilt of Mr. Yablonsky. Even if the court
3 disallowed the inclusion of this evidence, it would have created an issue for appeal, which is now
4 waived forever.

5 In reviewing the files of Mr. Sanders, there is no information contained therein indicating
6 any effort to pursue this evidence, or this line of questioning at trial.

7 Although Mr. Sanders made an attempt to have the court allow him to go into this, there
8 was no evidence offered at trial to bolster the argument for the purposes of trial as well as to
9 establish that the effort had been made, and then denied by the court for the purpose of the
10 appeal should Mr. Yablonsky have been convicted. There was no argument made at the 402
11 Hearing to establish similarities in the ABO B non secretor on the record. All of these may have
12 been a factor to consider for appeal issues. This is especially important due to the fact that the
13 DNA evidence was so overwhelmingly important to the prosecution's case. Not to mention there
14 was no defense presented at trial on this or any other issue.

15
16 Ms. Cobb's Promiscuity and Demeanor When Intoxicated

17
18 In the Motion to Dismiss the Information in Violation of Due Process filed by Mr.
19 Sanders (See Exhibit D) , he lays out the complexities of the case, and this motion was very well
20 done. I was very surprised and disappointed that the facts laid out in the motion were not
21 pursued nor the evidence presented, or any attempt made to acquire evidence of the victim's
22 disposition for promiscuity.

23 Mr. Sanders, in his statement of anticipated facts lays out the details of the Cobb murder
24 in great detail, including the names of potential witnesses both alive and dead, as well as
25 numerous statements concerning the victims reputation in the community for both promiscuity as

1 well as, to quote her son Daryl Kraemer "as having a Jekyll and Hyde personality when she
2 drank." (See Exhibit E) These facts of the could have been and should have been pursued in
3 cross examination of the Ms. Cobb's son, Daryl Kraemer, who had been estranged due to victim's
4 Jekyll and Hyde disposition that was well known in the community.

5 In the interview with Don Stowe a neighbor, Mr. Stowe is quoted as describing "Ms.
6 Cobb as a real ball buster." (See Exhibit F) Her personality is described as not only being an
7 alcoholic but also has having a tendency to being involved with numerous men of all ages. In
8 the interview with Francis Drake who lived with John Sullivan, it was said that Rita Cobb had a
9 very caustic nature when she would drink. (See Exhibit G)

10 This would tend to indicate that due to her propensity to drink, as well as being very
11 caustic when drinking, that she was most likely to have created numerous enemies in the area. In
12 fact these tendencies caused her to be estranged from her own' son Daryl due to a very intense
13 argument. Mr. Sanders should have pursued this line of questioning in cross examination, but
14 failed to do so. Due to his failure, this appellate issue is waived forever.

15 In the Motion to Dismiss, Mr. Sanders lays out individuals who would have been
16 witnesses to the above, including 5 witnesses who may or may not be in the area, including Doris
17 Jackson, Fred Holbrook, Dawn Dismore, Rebecca Townsend and Diane Flagg. It was incumbent
18 upon the Defense to contact, or at least an exhaustive attempt to contact, these individuals to
19 make a determination, at the very least, upon their recollection of Mrs. Cobb's nature, especially
20 when intoxicated.

21

22 Potential Defendants or Witnesses

23

24 In the original interview with Diane Flagg, she indicated that on 09/20/1985 between the
25 hours of 5:00 - 6:00 she saw several cars parked in front of Rita Cobb's house, including a silver

1 Pinto. The relevance of the Pinto was questionable in as much as Mr. Yablonsky owned a blue
2 pinto, not a silver pinto. The relevancy of this is that numerous people had been at the Cobb
3 residence on the last day she was seen alive. (See Exhibit H)

4
5 Joseph Saunders

6
7 Joseph Saunders was interviewed at the scene on 09/23/1985, and states that he was an
8 acquaintance of Rita Cobb's, and he stated he had stopped by her home on Friday, 09/20/1985.
9 He went inside for awhile, had a glass of water, wherein Rita Cobb invited him to meet her at
10 John Sullivan's home to pick pistachios after she changed clothes.

11 They met at John & Pinky Sullivan's house about a half hour before sunset. After they
12 finished picking pistachios, Joe Saunders stayed at the Sullivan's for about another half an hour.,
13 and then went home where he states he remained for the rest of the night. He saw Rita drinking
14 bourbon and water. (See Exhibit I)

15 Joseph Saunders was interviewed again on 09/24/1985, where he started crying violently.
16 Wherein he stated that he, Rita Cobb, John Sullivan, and Pinky, picked pistachios for about 20 to
17 30 minutes, and during that time he noticed that Rita, John and Pinky were drinking beer. They
18 went inside the residence and sat for awhile. Joseph Saunders then said he had to go and went
19 home. However, he back tracked and stated that as soon as he walked out to his vehicle to drive
20 home that Rita followed him out. He stated that Rita was acting somewhat nervously and made
21 the statement to him that she would not object to a platonic relationship, and if he wanted to stop
22 by. Joseph Saunders stated that he did not comply, however, got in his vehicle and went home,
23 and believes it was around 6:30 p.m. (See Exhibit J) When asked if his fingerprints would be
24 found in the house anywhere beside the water glass, Mr. Saunders said possibly on the table.
25 (See Exhibit K) At this point in time he started crying again.

1 Mr. Joseph Saunders committed suicide three months later. His DNA did not match the
2 semen found in Rita Cobb, but again he could have used a condom, or came in after she had
3 consensual sex and then passed out drunk and killed her. This should have been brought out
4 during the trial, as a person of interest in the investigation and allow the jury to be aware that the
5 victim had numerous involvements with a number of male individuals.

6
7 Robert Mark Edwards
8

9 A search was done by the police looking for similar murders that occurred around the
10 same time as the Rita Cobb and Helen Brooks' murders. Four similar murders in four separate
11 jurisdictions in that time frame were found, one having been committed on May 12, 1986 by
12 Robert Mark Edwards. Robert Mark Edwards was convicted for the murder of Majorie Deeble
13 in Los Alamitos, in 1998 and was sentenced to death, and he is currently on death row.

14 Investigator Witlow ran a records check on Robert Mark Edwards that showed he was
15 arrested and in custody at CDC on 12/10/1985. Detective Espinoza contacted CDC Statewide
16 Paroleee Locator Service on November 27, 2002, and spoke to Record's Clerk Scott Johnson.
17 Upon a review of their records, Johnson confirmed that Robert Edwards was incarcerated from
18 12/85 through 12/86. (See Exhibit L)

19 Detective Espinoza in his report states that based on this information Robert Mark
20 Edwards could not be a suspect in Rita Cobb's murder investigation because he was incarcerated
21 at the time of the murder. Rita Cobb was killed in September of 1985, how could Robert Mark
22 Edwards, who wasn't incarcerated until three months later in December 1985, not be a suspect in
23 her murder. This should have been investigated Mr. Sanders, and if appropriate brought up at
24 trial, at the very least to preserve appellate issues.
25

1 William Backoff

2
3 William Backoff, aka George Randolph, was a prime suspect for a substantial period of time due
4 to his familiarity with the victim Rita Cobb, his bizarre behavior at crime scenes where he
5 worked for the coroner's department, and the fact that he kept photos of naked dead women in
6 his home. When a comparison was done on cigarette butts that contained his DNA to cigarette
7 butts found at the crime scene, his DNA was "consistent with" two of those butts found. (See
8 Exhibit M)

9 A We-Tip was received on 08/06/1988, wherein Mr. Backoff was bragging that he had
10 strangled, raped and mutilated a victim by the name of Rita Cobb approximately 3 years ago. He
11 was laughing, and bragging about the crime at a party over the weekend. He said he had picked
12 up the victim at a bar called the Zodiac, and when the victim indicated that she was turned off
13 sexually to suspect, he bragged he had strangled her until victim "turned black." Then he
14 described other crimes against victim after victim was dead. (See Exhibit N)

15 This becomes especially important when the red brownish hair with root was found and
16 was never tested for DNA by the prosecution or defense, and when taken into consideration with
17 the above could very well have come back as a match to William Backoff.

18 On January 15, 2009, Detective Greg Mylar provided a list of evidence that was viewed
19 and photographed, including Item A5 - 1-8 and 1 hair with root. There is no reports indicating
20 that this item was ever processed for DNA using the current methodology that was used of the
21 re-analysis of the semen swab.

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The Alleged Prior Rape Victim's

Mr. Sanders on October 8, 2010, did a motion to compel the production of the addresses of two witnesses, Sun Kye and Lori Amaro, both alleged rape victims, in separate incidents that the prosecution intended to use as 1101(b) evidence. (See Exhibit O)

On January 13, 2011, Mr. Sanders received a transmittal from D.D.A John Thomas, concerning the two alleged victims of the alleged rapes with their contact information, those being, Kye S. Kwon, with an address of 517 SW 324th Street, Edgewood, WA. 98372, with a phone number of (253) 874-8336; and Lori Amaro, 315 Pearson Drive, Apt. #1, Porterville, Ca 93257, (559) 784-1919. (See Exhibit P)

In reviewing the discovery provided by Mr. Sanders, there is no indication anywhere that anyone attempted to contact these woman by the defense team. There are no reports of any contact, there are no reports of interviews, and in fact Mr. Sanders admits during the 402 hearing concerning the 1101(b) Penal Code, that he had not had the opportunity to follow up with these alleged victims. This is especially interesting considering the fact that a 1050 Motion was filed on January 5th, 2011, and the motion was granted and the trial continued to January 14th, 2011. (See Exhibit Q)

In as much as Mr. Sanders acquired the information on the alleged victims on January 13th, 2011, it would seem that additional time was needed to get the necessary interviews and reports completed for the purposes of making a determination of the viability of these witnesses testimony. Considering the importance of whether or not these individuals would affect the trial, especially considering the special allegations concerning the murder occurring during a rape, and this was a life without the possibility of parole case, and due to the devastating effect of Mr.

Police report of 10/8/10 and 10/13/10

1 Yablonskys' DNA being found in the victim, it was essential that Mr. Yablonsky have the
2 opportunity to testify that the sex was consensual. This was especially important because Mr.
3 Yablonsky wanted to testify, but was informed that if he did, the D.D.A. John Thomas would
4 call the alleged prior rape victims as witnesses. These two alleged victims refused to prosecute
5 back when these alleged incidents were said to have occurred, and did not want to press charges
6 against Mr. Yablonsky.

7 On page 254 of Volume 1 of the trial transcripts, Mr. Sanders indicates that he had not
8 received any interviews concerning what the witnesses statements would be at this time, that
9 would have been provided by the prosecution. On page 254 he indicated that he tried to contact
10 these witnesses using prior contact information but was unsuccessful. On line 6 of page 254, Mr.
11 Sanders states that he was provided with current addresses and phone numbers, but indicated that
12 that doesn't mean that they would talk to him. It would seem that prior to the trial beginning a
13 continuance was necessary for the purposes of acquiring the information of the witnesses he
14 requested. The trial started on January 18, 2011, and Mr. Sanders acquired the contact
15 information of the alleged rape victims on January 13, 2011.

16 It was essential that a motion to continue be filed once Mr. Sanders had acquired the
17 contact inform due to the fact of the extremely prejudicial nature of that evidence as summarized
18 in Mr. Sanders 402 motion. Failure to be properly prepared for trial is inconsistent with
19 answering ready for trial. Mr. Sanders failure to attempt to continue the case to contact these
20 individuals would appear to be incompetency of counsel. When taking into consideration the
21 nature of the charges and special allegations, there would be no possible way to present a proper
22 defense without further investigation into these individuals. Mr. Sanders answered ready on the
23 14th of January 2011, one day after acquiring the necessary contact information on the alleged
24 rape victims. How can Mr. Sanders be ready for trial if these witnesses hadn't been interviewed,
25

1 and they were the reason Mr. Yablonsky was going to be precluded from testifying due to the
2 1101(b) evidence.

3 A 1050 motion should have been filed on January 14th, 2011, the date of the assignment
4 calendar, for approximately 30 days to allow for an investigator to contact both victims, at least
5 to attempt to interview them to see what their testimony would have been. This was especially
6 true, because neither case was ever filed.

7 Change of Venue

8
9 There should have been a motion for change of venue filed considering the extensive
10 publicity, including the mass mailings by Mr. Ramos for his re-election propaganda, including a
11 colored picture of John Yablonsky, with a title saying "It's never a cold case." As well as
12 numerous newspaper articles that showed Mr. Yablonsky, and referred to the 1985 case as
13 having been solved before the trial even started. (See Exhibit R)

14 This case should never have been tried in San Bernardino County. Mr. Sanders, to his
15 credit attempted to have a motion granted to recuse the D.A.'s office, this created a potential
16 appellate issue. A motion for a change of venue would also have created a potential appellate
17 issue.

18 As I'm sure Mr. Sanders and the court knows, it is incumbent upon the defense to put
19 forth all effort to allow the defense to present evidence, even if the court were to deny that
20 evidence, a failure to do so is a complete waiver of the issue for appeal.

21 This is true not only to these issues but to all the issues mentioned above. By failing to
22 pursue the issues I have mentioned in this motion, to create a record of good faith attempt by the
23 defense to give Mr. Yablonsky a fair trial, Mr. Sanders effectively handcuffed the appellate
24 attorneys and limited their access to appellate issues.

1 During the trial Mr. Sanders did not present any evidence, called no witnesses, failed to
2 do numerous things as mentioned in this motion. His neglect to attempt to present the above-
3 referenced evidence, even if not allowed in by the court, would have preserved them for
4 appellate issues.

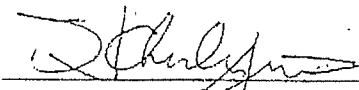
5 Even in his final argument Mr. Sanders restated the fact that the prosecution's evidence
6 was not sufficient on its face, as well as going into numerous issues about ancient English,
7 History, and common law.

8 In discussing this case with defendant Mr. Yablonsky, I was informed that the jury came
9 back hopelessly deadlocked 8 to 4, and it is foreseeable if the issues above were presented,
10 especially the DNA testing on the red hair, the jury could have hung or came back not guilty.

11 For the reasons contained herein, along with the points and authorities, the defendant is
12 requesting the court to set aside the jury verdict in this case, and grant the defendant a new trial.

13
14 Respectfully Submitted:

15
16
17
18
19 Dated: 2-14-12



H. Charles Smith,
Attorney for John Yablonsky

EXHIBIT E

2 PRIOR ALLEGATIONS
THAT WERE UNCHARGED
WERE PREJUDICIAL, BOTH
BEING INVESTIGATED, BOTH
BEING REJECTED OR
WITH DRAWN

EXHIBIT COVER PAGE

32

EXHIBIT

Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

Handwritten signature

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY

PERSON TO BE RESTRAINED NAME John Macdonald

ADDRESS

PERSON TO BE RESTRAINED NAME CERI ANNE

ND026697

6. a. Custody of the minor or over

	Child's name	Physical custody is awarded to specify name of parent or "joint"	Legal custody is awarded to specify name of parent or "joint"
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			

b. Parent with physical custody (name):
 (1) shall not have visitation
 (2) shall have visitation as follows (specify times and conditions, if any):

8. Fees for service of this order by law enforcement agencies are waived.

7. By the close of judicial business on the date of this order, a copy of this order shall be delivered by the protected person to the law enforcement agency having jurisdiction over the residence of the protected person, who shall provide information to assist in identifying the restrained person. Proof of service of this order on the restrained person shall also be provided to the law enforcement agency unless the order shows the restrained person was present in court. The law enforcement agency having jurisdiction over the plaintiff's residence is (name and address of agency):

9. A copy of this order shall be given to the additional law enforcement agencies listed below as follows:
 (1) Person to be protected shall deliver. (2) Person to be protected's attorney shall deliver.
 (3) The clerk of the court shall mail.

Law enforcement agency	Address
<u>Long Beach PD</u>	

8. Other orders (check): Defendant shall permit plaintiff to reclaim his personal property from Defendant's home upon 3 days notice

Date: 12-18-96

JUDGE OF THE SUPERIOR COURT
Frederick Chamberlen Pr. Tem

This order is effective when filed. It is enforceable anywhere in California by any law enforcement agency that has received the order. To show a copy of it, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

18342

CLERK'S CERTIFICATE
 I certify that the foregoing Restraining Order After Hearing (OLETS) is a true and correct copy of the original on file in the court.
 Date: _____ Clerk, by _____, Deputy

31-8
 48
 EXHIBIT 1
 (3)

John Yablonsky
3/21 E 7th St
L.B. Ca. 90804
432-943

FILED
LOS ANGELES SUPERIOR COURT

DEC 16 1990

JOHN A. CLARKE, CLERK

BY K. LANE, DEPUTY
PETITIONER/PLAINTIFF

RESPONDENT/DEFENDANT

PETITIONER/PLAINTIFF

RESPONDENT/DEFENDANT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
COURT ADDRESS: 415 W. OCEAN BLVD.
MAILING ADDRESS: ROOM 401
CITY AND ZIP CODE: LONG BEACH, CA 90802
BRANCH NAME: SCOTTS

PERSON TO BE PROTECTED: John Yablonsky

PERSON TO BE RESTRAINED: LOU ANARO

RESTRAINING ORDER AFTER HEARING (CLETS)
(Domestic Violence Prevention)

CASE NUMBER:
NDC26697

This form may be used in conjunction with the Findings and Order After Hearing form No. 1238.37 if the court makes additional orders.

- 1. This proceeding was heard on date: 12-13-90 at time: 8:30 AM in Dept: R Room: Judge Name: Frederick Chamberlain Temporary Judge
- 2. a. Petitioner/plaintiff and respondent/defendant were personally present at the court hearing. No additional proof of service of these restraining orders is required.
b. Petitioner/plaintiff was personally present and proof of service of the Order to Show Cause was provided.

THE COURT FINDS

3. a. The restrained person's name: LOU ANARO
Sex: M F Height: 5'11" Hair: Brown Eyes: Blue Complexion: Fair Race: White Age: 32 Date of Birth: 11-14-58

b. The protected person's name: John Yablonsky
c. The protected family and household members are named: Joseph, Kenneth & Amanda Yablonsky

THE COURT ORDERS

THIS ORDER, EXCEPT FOR ANY AWARD OF CHILD CUSTODY OR VISITATION, SHALL EXPIRE AT MIDNIGHT ON DATE: 12-17-90 12-17-90

- 4. The restrained person shall:
 - a. shall not contact, molest, stalk, harass, threaten, sexually assault, batter, telephone, or otherwise disturb the peace of the protected person and family or household members.
 - b. shall stay at least 100 yards away from the protected persons and:
 - (1) protected person's residence
 - (2) protected person's workplace
 - (3) protected person's children's school or child care
 - (4) other places, except for AA Club located at 5881 Cherry in L.B.
- 5. except as provided in item 5c (visitation)
- 6. shall immediately move from address: and take only personal clothing and effects.

- 7. Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both.
- 8. Any person subject to a restraining order is prohibited from obtaining or purchasing or attempting to purchase a firearm. Penal Code section 16601. Such conduct may be a felony and punishable by a \$1,000 fine and imprisonment.
- 9. Other violations of this order may also be felonies punishable by fines or imprisonment, or both.

Continued on reverse

31-7

EXHIBIT

117

BOOKING NO	BOOKING	OR BOOKING	STATE	Investigator - forward to Records			
STEE'S NAME (LAST, FIRST, MIDDLE)				ADDITIONAL NAME			
ADDRESS				CITY	STATE	ZIP	
SEX	DESC	HAR	EYES	HEIGHT	WEIGHT	BIRTHDATE	AGE
W	M	B	B	505	175	01/10/1967	27Y4
VEH LIC NO	STATE	RPT DIST	ANATOMY NAME	ADDITIONAL COPS TO BE CLEARED		NOTM	
BIRTHPLACE	D.B. NO.	ADDRESS					
CALIF	940107018 ✓						
AGY. OF DETAIL ARRESTING	DATE & TIME ARRESTED	TIME BND.					
1041	10-25-91 0730	0000					
LOCATION OF ARREST	TOTAL BAIL						
1881 CHERRY	50000.00						
CHARGE	WARR. COMM. NO.						
241(A)(2)(D) F BARE BY FIREWEAR							

LAW ENFORCEMENT ARREST DISPOSITION CODES

COMPLAINT FILED	CASE # _____	DATE ISSUED _____	BY DEPUTY _____
10 FELONY FILED	CHGS: #1 _____		<input type="checkbox"/>
20 MISDEMEANOR FILED BY DEPARTMENT, ARRESTEE ORIGINALLY ARRESTED FOR FELONY	#2 _____		<input type="checkbox"/>
21 MISDEMEANOR FILED, DISTRICT ATTORNEY DENIED FELONY COMPLAINT	#3 _____		<input type="checkbox"/>
22 MISDEMEANOR FILED			
RELEASED DATE <u>10-25-91, RNF</u>			
DISTRICT ATTORNEY DENIED COMPLAINT			
70 DIMINUS (WEIGHT AND QUANTITY OF EVIDENCE)	COMPLAINT NOT SOUGHT BY DEPARTMENT		
71 LACK OF CORPUS	80 PERSON ARRESTED FOR INTX ONLY NO FURTHER PROCEEDINGS ARE DESIRED (34883)		
72 DEFENDANT MENTALLY UNFIT FOR PROSECUTION	81 PERSON ARRESTED FOR BEING UNDER THE INFLUENCE OF A NARCOTO DRUG OR RESTRICTED DANGEROUS DRUG - SUIC - PERSON IS DELIVERED TO A FACILITY OR HOSPITAL FOR TREATMENT, NO FURTHER PROCEEDINGS ARE DESIRED (34883)		
73 LACK OF PROBABLE CAUSE	82 ARRESTEE TURNED OVER TO ANOTHER LAW ENFORCEMENT AGENCY FOR FURTHER INVESTIGATION OR ACTION		
74 INTEREST OF JUSTICE	83 ARRESTEE EXONERATED		
75 VICTIM UNAVAILABLE OR UNCOOPERATIVE	84 INSUFFICIENT EVIDENCE		
76 WITNESS UNAVAILABLE OR UNCOOPERATIVE	85 VICTIM OF COMPLAINT REFUSES TO PROSECUTE		
84 ALLEGED VIOLATION OF RIGHTS	86 DEFENDANT DECEASED		
87 OTHER DISCRETIONARY REFUSAL TO PROSECUTE	JUVENILE CODES		
88 DEFENDANT SERVING SENTENCE ON PREVIOUS CONVICTION	91 HANDLED WITHIN DEPARTMENT		
89 DEFENDANT ON TRIAL FOR MORE SERIOUS OFFENSE	92 DIVERSION		
90 DEFENDANT CANNOT BE EXTRADICTED	93 TURNED OVER TO PROBATION DEPARTMENT		
91 DEFENDANT CANNOT BE LOCATED OR IS OTHERWISE UNAVAILABLE	94 NON-DETAINED OR RELEASED PETITION FILED		
92 DEFENDANT NECESSARILY GRANTED IMMUNITY, TESTIMONY NECESSARY	95 DETAINED PETITION FILED		
PROS. REL. BY DEPUTY _____	96 EXONERATED & RELEASED		
DATE _____	97 RELEASED - INSUFFICIENT EVIDENCE		
	98 RELEASED TO ANOTHER LAW ENFORCEMENT AGENCY FOR FURTHER INVESTIGATION OR ACTION		

446808

CASE RE-ASSIGNED TO _____

NARRATIVE
VICT. REFUSES TO PROSECUTE + SIGNED A WAIVER ON
10-25-91. ABOVE SUPT. WAS RELEASED RNFH ON 10-25-91

INVESTIGATOR R. WATSON DETAIL SEX DATE 10/20/91

STATES CLEARED BY ARREST/COMPLAINT MUST BE FILED SUSPENDED DISPOSITION LETTER

OTHER MEANS (RELEASED WAIVER) UNFOUNDED

OR ORIGINAL TO RECORDS COPIES TO PROPERTY OFFICER Asst. 4330

H/6
37

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

CASE NO
 DR #1091008-07
 H #100-85
 REPORT #100

Page 1

Lucerne Valley, Ca.

CODE SECTION PC 187	CRIME MURDER	CLASSIFICATION Stabbing
VICTIM'S NAME - LAST NAME Cobb	FIRST NAME Rita	MIDDLE NAME
ADDRESS	RESIDENCE	PHONE

CONTACT: Victim #1 Long Beach Police Department, report #960239718

Information: During the investigation I ran a criminal history on John Yablonski and found he had two prior arrests for rape. The first arrest occurred in 1982, in El Paso Texas. I contacted the El Paso Police Department and obtained a copy of the police report. The second arrest occurred in 1995, in Long Beach California. I contacted the Long Beach Police Department and obtained a copy of the police report.

John was arrested for other crimes such as drugs and burglary and I attempted to obtain a copy of the burglary reports but found the reporting agency(s) had purged the reports.

Contact: After obtaining the rape reports I used police computer programs to search and locate the victims listed in each report.

On November 17, 2010, I spoke with Victim #1 via telephone and did not record the conversation. I explained I worked for the San Bernardino County Sheriff's Department, Cold Case Unit and was trying to locate Victim #1 who lived in Long Beach in the mid 1990's. Additionally, I was looking for someone who reported to the Long Beach Police Department she was the victim of a sexual crime.

Victim #1 confirmed she was the person I was looking for. She briefly dated a man named John Yablonski and broke off the relationship because he was violent and using drugs. We did not discuss the rape report or the facts of the rape report. I explained John Yablonski had been arrested for committing a murder in Lucerne Valley and was currently in jail awaiting trial.

I told Victim #1 during trial we would like to have victims of other sexual crimes committed by Yablonski, testify in court regarding what happened to them. Victim #1 said she understood and was willing to assist us if needed. I told her the trial could happen soon or be many months away.

After obtaining her current contact information, I ended the conversation.

WHERE ARE RECORDED TRANSCRIPTS
 DET. ALEXANDER HAS HISTORY OF ALTERING EVIDENCE AND LYING

REPORTING OFFICER: P. ALEXANDER	FA1672	DATE 11-18-2010	REVIEWED BY	TYPED BY	ROUTED BY	DATE
HER ACTION:	COPIES TO:	<input type="checkbox"/> Other	<input type="checkbox"/> EDPS	REMARKS		
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> Detective	<input type="checkbox"/> SA	<input type="checkbox"/> Other	(31-5)		
	<input type="checkbox"/> Det. A.D.	<input type="checkbox"/> P.I.				

THIS WAS MY EX FIANCÉ, I JUST MOVED OUT THAT DAY BEFORE

THIS WAS NEVER FILED, PURSUED BY INVESTIGATOR AND A PERMANENT RECORD WAS NEVER MADE TO BE RETRIEVED AGAINST YABLONSKI THROUGH COURTS, NO ATTEMPTS TO RETRIEVE THIS DATA IS MADE BY SANDERS. I TOLD HIM THE COURT

ON THE STATE ALL RECORDS ARE RECORDED
 IN THE STATE SYSTEM WHERE ARE THESE
 RECORDS KEPT IN THE STATE SYSTEM

EL PASO POLICE DEPARTMENT

MULTI-PURPOSE

class F

SUPPLEMENTARY REPORT 11/3/82 Offense Aggravated Respa Case No. 01-22045L
 SWORN SUPPLEMENT 5 Complainant Kye Sun Delgado
 WITNESS STATEMENT 10 Address 1901 Avalos #6

This STATEMENT was given voluntarily to _____
 of the EL PASO POLICE DEPARTMENT by _____
 Address _____ D.O.B. _____ Phone No. _____
 TIME 11:20 AM DATE November 3, 1982 PAGE 1 OF 1 PAGES

JOHN HENRY YARBONERY
 DOB: 9-30-53
 DOCKET #11117
 WARRANT #M82-3989 (Judge Willard)
 IN CUSTODY

Case was presented to Euse Resman, (DA's Office) and was DECLINED.

REASON:
 Code 1
 See case information sheet.
 Original warrant was dismissed.
 Case was returned to Sgo. S. Apodaca, for final disposition.

Det. E. Placencia, #17

EP/eb #3-132

THIS OFFENSE IS DECLARED
 UNBOUNDED
 CLEARED BY ARREST
 EXCEPTIONALLY CLEARED
 INACTIVE (NOT CLEARED)

Subscribed and sworn to before me,
 the undersigned authority, on this _____
 day of _____ 19____

LAW ENFORCEMENT AGENCY ONLY
 CERTAIN ELEMENTS OF THIS CASE ARE SUBJECT
 TO NONDISCLOSURE IN ACCORDANCE WITH THE
 TEXAS OPEN RECORDS ACT.
 DOCUMENTS CONFIDENTIAL BY LAW
 DATE _____ ET _____

(31-4)

E.P.P.D. #36-11-371

COMPARE ALEXANDER
TESTIMONY TO THOMAS
CLOSING STATEMENT

EXHIBIT F
THE LATENT REPORT
WAS NOT CONFUSING,
DIFFICULT SUPPORTING
ALEXANDER LIED,
OMMITTED FACTS

09/23/85, from "Tall drinking glass, clear, left side of counter top". This latent was compared to the #1 or right thumb of victim COBB and was a positive comparison.

LATENT #5:

This latent was lifted by Deputy Moody on 09/23/85, from "Red flowered drinking glass, left side of counter top, kitchen". This latent contained three images marked A, B, & C.

IMAGE A: This image was compared to the #2 or right index finger of victim COBB and was a positive comparison.

IMAGE B: This image was compared to the #8 or the left middle finger of subject SAUNDERS and was a positive comparison.

IMAGE C: This image does not contain enough minute ridge characteristics in order to make an identification.

LATENT #6:

This latent was lifted by Deputy Moody on 09/23/85, from "Red flowered drinking glass, left side of counter top, kitchen". This latent contained three images marked A, B, & C.

IMAGE A: This image was compared to the #6 or left thumb of subject SAUNDERS and was a positive comparison.

IMAGE B&C: These images do not contain enough minute ridge characteristics in order to make an identification.

LATENTS 7-13: These latents were lifted by Deputy Moody on 09/23/85 and (glasses) on 09/27/85. These latents do not contain enough minute ridge characteristics in order to make an identification.

LATENT #14: This latent was lifted by Deputy Moody on 09/23/85, from "Red flowered drinking glass, left side counter top, kitchen". This latent was compared to the #7 or left index finger of subject SAUNDERS, Joe, and was a positive comparison.

All comparisons were checked and verified by Forensic Specialist R. Luna. Evidence retained in Identification/Latent section files.

LGC/kc

233

San Bernardino Sheriff's Department
 Identification/Latent Print Section

68 SEP 25 PM 3:51

Case Number: 1331036-07
 Agency: VICTORVILLE
 Result Date: 08-09-88
 Agent:
 Victim: COBB, RITA
 Offense: PC 187
 Suspect: MALLAN, LLOYD J. 10/26/43
 Assigned: CORNS

08/09/88 Assigned L. G. Corns

At the request of case agents McPhail and Palacios, this case was reviewed and the results are listed below:

There are twenty-nine photographs of latent prints. Twenty-eight are not suitable for comparison. one is a palm latent and is not computer quality. This latent was compared to the submitted palm prints of the below listed subjects with negative results.

There are fourteen latent lifts. The results are listed below:

<u>PERSONS COMPARED</u>	<u>ROLLED BY</u>	<u>DATE</u>	<u>DOE</u>
1. COBB, Rita	Moody (SESD)	Victim	N/A
2. SAUNDERS, Joe	Baty (SBSD)	09/24/85	N/A
3. MALLAN, Lloyd	N/A	03/15/83	10/26/43
4. SIMBACH, Richard D.	Bellnap (SESD)	09/25/85	N/A
5. GAY, Howard A.	Hawaii PD	05/09/86	01/01/43
6. BACKHOFF, William R.	Rercaff	09/26/85	N/A

<u>BOOKING #</u>	<u>CAL-ID #</u>	<u>PALMS</u>
1. N/A	N/A	N/A
2. N/A	N/A	N/A
3. N/A	N/A	N/A
4. 722173	N/A	YES
5. N/A	N/A	YES
6. N/A	36147584	N/A

LATENT #1: This latent was lifted by Deputy Moody on 09/23/85, from "Tall, clear drinking glass, left side of counter kitchen". This latent was compared to the #1 or right thumb of victim COBB and was a positive comparison.

LATENT #2&3: These latents were not suitable for comparison.

LATENT #4: This latent was lifted by Deputy Moody on

1 Q He did that for, I think it was three or four
2 questions that were posed to him?

3 A There were many questions that he did that to,
4 but those particular ones, yes.

5 MR. THOMAS: Nothing further at this point.

6 THE COURT: Mr. Sanders.

7 CROSS-EXAMINATION

8 BY MR. SANDERS:

9 Q Detective Alexander, you were familiar with the
10 entire investigation that had been done up to 2009 when
11 you spoke to my client; correct?

12 A Yes.

13 Q All of the reports that had ever been generated
14 in this case were in your possession?

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

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

19 A No.

20 Q So when you spoke to my client, for example, I
21 don't remember if it was you or your partner that day
22 that was using the fingerprint example.

23 Was that you or your partner?

24 A That was probably me.

25 Q Okay. And you were making a point to my client
26 in the room about if you wipe a table clean and you put
27 your fingerprint on it, it's there; correct?

28 A That's correct.

1 Q And your point was that if someone examined
2 that table down at the Signal Hill Police Station, they
3 would know Mr. Yablonsky had been there because of his
4 fingerprint?

5 A Yes.

6 Q Just to be clear, you knew that there was no
7 evidence that my client's fingerprint was at Rita Cobb's
8 house? *NOT SAID IN TRIAL*

9 A That's correct. *NOT SAID IN TRIAL*

10 Q In fact, you already knew whose fingerprints
11 were at Rita Cobb's house? *NOT SAID IN TRIAL*

12 A I'm not sure if there were any fingerprints
13 developed. *NOT SAID IN TRIAL*

14 Q You didn't read the fingerprint reports?

15 A I probably did, but I don't remember all the
16 names. *NOT SAID IN TRIAL*

17 Q Do you remember one of the glasses in the
18 kitchen had a fingerprint on it?

19 A Yes.

20 MR. THOMAS: Objection. Calls for hearsay.

21 THE COURT: Sustained.

22 BY MR. SANDERS:

23 Q And you were aware of all of the blood-typing
24 matches that had been done?

25 MR. THOMAS: Objection. Calls for hearsay.

26 MR. SANDERS: I'm not asking him for a
27 result.

28 MR. THOMAS: Then I object on relevance.

ALTERED IRAC
TRANSCRIPTS

1 THE COURT: I don't know what the relevance
2 is. You want to approach so you can tell us?

3 MR. SANDERS: I'll withdraw the question,
4 your Honor.

5 THE COURT: Okay.

6 BY MR. SANDERS:

7 Q And you had -- at the time when you went to see
8 my client, you already had the DNA-hit information;
9 correct?

10 A Yes.

11 MR. SANDERS: Excuse me just a moment,
12 Detective. I have no further questions, your Honor,
13 on cross-examination.

14 THE COURT: Redirect.

15 REDIRECT EXAMINATION

16 BY MR. THOMAS:

17 Q When you and Detective Myler were asking
18 Mr. Yablonsky, I believe you did it on several
19 occasions, about whether or not he had any sexual
20 contact or any dating relationship with --

21 MR. SANDERS: Objection, your Honor. Beyond
22 the scope of cross-examination.

23 THE COURT: I think so.

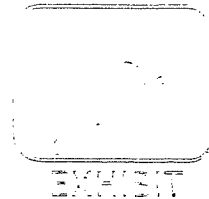
24 MR. THOMAS: I'll withdraw the question.
25 Nothing further.

26 THE COURT: Or you can move to reopen. I
27 don't care. I'm sure Mr. Sanders doesn't mind. If
28 you want to withdraw the question, fine.

EXHIBIT 6
DIAVE FLAG TESTIMONY
1985 STATEMENT

DOES NOT CONTRADICT

EXHIBIT COVER PAGE



Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY

INTERVIEW WITH JOHN YABLONSKIY

DR #1331036-07 / H #1965-100

(y) Rita Cobb

1 GM: Cause I think there is something in there about a Pinto?
2 JY: Yeah, I did as a matter of fact I had bought a Pinto from (inaudible).
3 GM: What kinda, what year, what color. . . .
4 JY: It was a blue Pinto. Yeah, it was a so she could a have transportation.
5 RA: Light blue? Dark blue?
6 JY: Blue, dark blue.
7 RA: Dark blue? Good car? Bad car?
8 JY: Well she kept the car you know but she didn't have a license she didn't know how
9 to drive you know it was. . . .
10 RA: I don't think I've seen a Pinto in years.
11 JY: Me neither you know it's been a long time.
12 RA: Their not around anymore.
13 JY: I don't know we split up and I sold it.
14 RA: She didn't take it with her.
15 JY: No she still didn't have a license.
16 RA: So you get, you still have that vehicle when you guys split up?
17 JY: Uh-huh.
18 RA: Wow, that's a long time. So are you, are you a mechanic you
19 JY: Yeah.
20 RA: work on cars too? (overlapping conversation) Let me throw a couple of names uh,
21 do you know Terry Radar (sp?)? She is someone that we should picked up we
22 could go talk to?
23 JY: Is it a lady?
24 RA: I don't know. How about Carol Tavass (sp?)? No? Ok, Daniel Cook?
25 GM: Wanna show him the photo's maybe, are you a face person or name person?
26 JY: I'm a face person.
27
28

28-3

27

PIFF'S DEPARTMENT
 County of San Bernardino
 California
 CA 03600

OR 1331035-07

REPORT AREA

SECTION P.C. 187	CRIME MURDER	CLASSIFICATION
VICTIM'S NAME - LAST NAME COBB,	FIRST NAME RITA	MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS 35435 Hwy. 18, Lucerne Valley	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ()

NEIGHBORHOOD CONTACT:

FLAGG, Diane
 DOB: 10/13/58
 Residence address: 7570 Fairlane Ave., Lucerne
 Residence phone: 7248-7818

Upon contact with Ms. Flagg at her residence, on 9/26/85, at approximately 1410 hrs., Ms. Flagg told me that on the previous Friday (9/20/85), between the hours of 5:00 and 6:00 p.m., she observed a WMA, described as being approximately 5'10-6" tall, average build, dark hair, with a beard and mustache and a large tattoo on his left arm, wearing blue jeans, hitchhiking along Highway 18 in the direction of Big Bear. Ms. Flagg said when she had seen the subject, he was in the general vicinity of Ms. Cobb's house. Ms. Flagg stated that the only other information she would have would be on either Friday or Saturday, 9/20 or 9/21, she had observed several cars parked in front of Ms. Cobb's house and the only cars that she remembers was a silver Pinto and Ms. Cobb's Cadillac.

Ms. Flagg could offer no further information and the interview was concluded.

REPORTING OFFICERS MC COY, Det. M-1384	DATE 9/27/85	REVIEWED BY	TYPED BY pk K-1179	ROUTED BY	DATE
<input type="checkbox"/> ACTION: <input type="checkbox"/> NO	COPIES TO: <input type="checkbox"/> Detective <input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> SD/PO <input type="checkbox"/> CII <input type="checkbox"/> Patrol	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS 23-1	

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

DR #1031038-07

REPORT AREA

Page 1

H #100-85

SUBJECT ID#	PC #87	CRIME	MURDER	CLASSIFICATION	FELONY
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME	OFFENSE FIELD #888		
COBB	Rita	ADDRESS			PHONE

FORD PINTO: Possible suspect vehicle

Information: On September 20, 1985, Det. McCoy spoke with Diane Flagg. Diane told McCoy she recalled seeing a silver colored Ford Pinto parked at Rita Cobb's home on Friday (09-20-85) or Saturday (09-21-85). There was no additional information in the supplemental.

- Refer to Neighborhood Contact dated 09-27-1985 by Det. McCoy

On January 29, 2009, Det. Myler queried DMV Records on vehicles registered to John H. Yablonsky. DMV Records have John H. Yablonsky as owning a 1978 Ford Pinto with California license plate #2DYD884 and VIN #8T11Y189413 assigned to the vehicle.

On February 02, 2009, I contacted SanCat, Auto Theft Task force, and requested they run the VIN through NCIB (insurance data base) for information regarding the vehicle. The VIN was entered into the NCIB Data Base with the following result:

- 1978 Ford Pinto, 2-door, Hatchback unknown color. Additionally, there was no record of the vehicle being involved in a collision or being salvaged/scraped.

I contacted California-DMA and asked for a Certified History of VIN #8T11Y189413. I spoke with "Kathy" who told me the vehicle was last registered in 1988 to John Yablonsky and there was no further record(s) for this VIN. She told me the records were too old and there was no additional information.

I contacted Dep. Sahagun of the Lucerne Valley Station and asked that he drive to 9884 Trade Post Rd. in Lucerne Valley. This address is the last known address of George Yablonsky the father of John Yablonsky. Sahagun did as requested and confirmed George still lives at that residence. Sahagun also told me he did not see a Ford Pinto on the property but there was a shed and a barn on the property. It is possible the Ford Pinto is in the shed or barn.

REPORTING OFFICER	DATE	REVIEWED BY	INDEXED BY	FILED BY	DATE
DET. R. ALEXANDER A-1872	02-02-2009	<i>[Signature]</i>			
INTERACTION	SEARCHED	<input type="checkbox"/> YES	<input type="checkbox"/> NO	REMARKS	
INDEXED	SERIALIZED	<input type="checkbox"/> YES	<input type="checkbox"/> NO		
FILED	FILED	<input type="checkbox"/> YES	<input type="checkbox"/> NO		

98-2

EXHIBIT A
THE HAIR ON BODY WAS
RED

Comparison between 44452 Q hairs and
44659 Q hairs

44452

K-5
(1 of 2 mounts)

- reddish brown hair ~5cm long

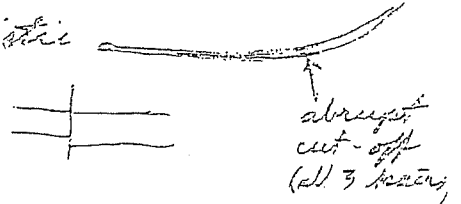
- roots \Rightarrow

- pigment - none at roots, gradually increases to between light medium and medium, diminishes at tip

K-6
(1 mount)

- medulla - very characteristic

- dia visibly > than 44659 K-1



44659

K-1

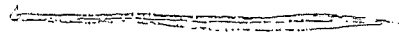
(1)

- reddish brown hair ~4 cm long

- root \Rightarrow

- pigment - none at root, gradually increases to medium density, diminishes at tip

- medulla - continuous ~~throughout~~, fragmented, extends to tip



- can not link these; may just need a larger population of hairs

EXHIBIT I

HOOPER TESTIMONY
MATCHED STATEMENT
UNSURE IF "ANY" BODY
ESCORTEED VICTIM Home

EXHIBIT COVER PAGE

20
E F

Description of this exhibit.

Number of pages in this exhibit: _____ PAGES

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITES STATES SUPREME COURT
- GRAND JURY



SAN BERNARDINO COUNTY PUBLIC DEFENDER BUREAU OF INVESTIGATION Desert Division

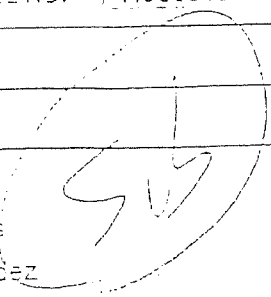
REPORT OF INVESTIGATION

DEFENDANT/MINOR: John Yablonsky CASE No: E1900518

CHARGE(S): PC 187

REPORT TYPE: Interview / Contact

DATE(S) OF INVESTIGATION:	01/13/2010	INVESTIGATOR:	Mapula
DATE REPORT PREPARED:	01/14/2010	ASSIGNED DPD:	Sanders
		SUP. INVESTIGATOR:	Hernandez



EXISTING CASES

W	NAME: Cynthia Hepper AKA: DOB: DL: PHYS:	ADD 1: 9550 Palomar Trail Lucerne Valley, Calif. ADD 2: PHN 1: 760-248-8745 PHN 2:
	NAME: AKA: DOB: DL: PHYS:	ADD 1: ADD 2: PHN 1: PHN 2:
	NAME: AKA: DOB: DL: PHYS:	ADD 1: ADD 2: PHN 1: PHN 2:
	NAME: AKA: DOB: DL: PHYS:	ADD 1: ADD 2: PHN 1: PHN 2:
	NAME: AKA: DOB: DL: PHYS:	ADD 1: ADD 2: PHN 1: PHN 2:
	NAME: AKA: DOB: DL: PHYS:	ADD 1: ADD 2: PHN 1: PHN 2:
	NAME: AKA: DOB: DL: PHYS:	ADD 1: ADD 2: PHN 1: PHN 2:

Handwritten initials 'SB'

Handwritten numbers '70' and '115'

NARRATIVE

I talked with Cynthia Hooper at her residence in Lucerne Valley on 1-13-10. I identified myself to her as a San Bernardino County Public Defender Investigator and asked if she would talk with me about this case involving the death of Rita Cobb. She agreed to talk with me.

Hooper told me she remembers being at a party or gathering at John Sullivan's house one evening shortly before Rita Cobb was found dead. She said Cobb was also at that party. She said she wasn't sure but thought someone either took her home or someone checked on her to make sure she arrived home safely. She didn't know who that may have been. She said she thought Cobb's son found her dead the next morning. Hooper also told me that Cobb and her son had been estranged "for some time". She said she thought it very strange that Cobb's son showed up and found his mother dead after being estranged for a long time. She said she did not know Cobb well at all but recalls she was a drinker.

I asked Hooper if she knew anything about who Cobb might have been dating just before her death. She said she wouldn't know anything about that. Hooper said her opinion of Cobb was that she seemed "loose" and seemed to be the type that would go home with men she met at bars. She had no opinion about whether or not Cobb was considered a "mean drunk". She could not remember seeing anything outside or around Cobb's residence that might have been considered suspicious or out of place around the time of her death.

I asked Hooper if the name Helen Brooks meant anything to her and she replied that it did not.

AUDIO/VIDEO RECORDING(S) GENERATED IN CONNECTION WITH THIS REPORT: Yes No

PHYSICAL EVIDENCE COLLECTED IN CONNECTION WITH THIS REPORT: Yes No

EVIDENCE CONTROL NUMBER(S):

This report was prepared from my notes and independent recollection of these contacts and events. As this report incorporates and replaces my original notes in their entirety, they were destroyed on: 01/14/2010.

<< NOTHING FOLLOWS >>

612
2-2
43

EXHIBIT COVER PAGE

21
E

Description of this exhibit:

Number of pages in exhibit file _____ pages

JURISDICTION (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITES STATES SUPREME COURT
- GRAND JURY

FOR THIRD PARTY
MOTIVE OR INTENT IS
NOT NECESSARY UNDER
HALL THEORY

EXHIBIT

BACKHOFF / RANDOLPH
CONFESSION, INVESTIGATION,
ARREST, SUICIDE DNA AT SCENE
SUICIDE IN 1999, SUSPECT IN 2 MURDERS
THIRD PARTY CULPABILITY
DIRECT AND OR CIRCUM-
STANTIAL EVIDENCE
LINKING TO
CRIME

DOUBLE
SIDE D

William Backoff (1991)



No Current Photo Available

William Backoff (2008)

16-1
13-17
X
07

CALIFORNIA DEPARTMENT

City of San Bernardino
California

CA 92400

CPA 1001037-07

REPORT 4004

STATION: 40-187

CRIME: MURDER

CLASSIFICATION:

REPORTING OFFICER: COBB, RITA MABEL

ADDRESS: [] RESIDENCE [] BUSINESS

PAGE 7

excited about going out with Bruce Lee. I asked if Drake knew the man identified as Fred and she said yes she did know him, and had seen him several times at Rita's house. I asked if Rita had ever said anything or complained to her about Fred hitting her, to Drake's knowledge, Rita had never made this complaint. I asked Drake what type of personality she would describe Rita as having, Drake said that she drank alot and could be very caustic when she had been drinking and not remember her comments after she'd sobered up. She further described Rita as liking men and used to go out to the Moose Lodge, quite alot on Saturday nights in Lucerne Valley and occasionally the Y Cafe and the Zodiac. I asked also if Rita was known to have any preference as to her men as far as age and Drake replied, no. I asked about race and Drake replied was, to her knowledge, Rita preferred white men and preferably those closest to her age, however she was not particular about age. Drake had nothing further of investigative value and the interview was concluded at that time.

ADDITIONAL INFORMATION OFFICER:

After concluding the above interviews, Det. Knapp and myself were requested by Sgt. Bayer and Det. Woods to make contact with a Betty Ball in Apple Valley for purposes of interview. Further information refer to supplemental interview by Det. Knapp. After completing the interview with Betty Ball, Det. Knapp and myself returned to the Victorville station to await the arrival of the Sheriff's Homicide Units. While at the station I ran through CNI and CLETS the name of Fred Bedard who is mentioned as a former "lover" of the victim Rita Cobb. Through CNI, I received a response showing Fred Bedard as a male 42 years of age, DOB 8-10-42, 5'7", 160 lbs, gray hair and eyes are blue. Mr. Bedard has had contact with the Victorville Sheriff's office on two occasions, once as a suspect in 1970 of a battery and once in 1983 as a suspect in a petty theft. Bedard's last address shows as of 2-83, 16702 McKinney Way in Victorville California. Contact through CLETS shows no warrants or warrants outstanding for Mr. Bedard and it shows a manual CNI number of HQ 1431008, refer to attached teletypes.

ADDITIONAL INFORMATION: BACKHOFF, WILLIAM ROGER Tall Trees Trailer Park Lucerne Valley, Calif.

On 9-25-85 at approx. 0740 hrs., I was contacted by telephone by Mr. Backhoff. Mr. Backhoff stated he had received word that the Sheriff's Dept., was looking for him in connection with Rita Cobb's death investigation. I told him I was not familiar with anyone looking for him however, I would talk with him at this point. Backhoff told me, he'd received word yesterday afternoon someone from the Sheriff's office was trying to contact him to talk to him about the death of Rita Cobb. He said he didn't know anything about her death, but said that he did know her and he talked to her on the day she got back from Canada, approx. 2 weeks ago, and related this incident.

REPORTING OFFICER: [] DATE: 9-26-85

APPROVED BY: []

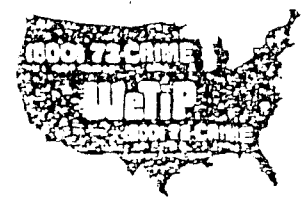
SEARCHED [] INDEXED [] SERIALIZED [] FILED []

SEP 26 1985

VICTORVILLE

4 HOURS

P.O. BOX 1295
RANCHO CUCAMONGA, CA 91730-1295
(714) 987-5005 Business Office



ADVISE WE T.I.P. OF ARRESTS / CONVICTIONS / DISPOSITIONS

AGENCY SBSO-Central Dispatch

CASE # MC 104476

ADDRESS _____ PHONE () _____
COUNTY _____ STATE _____ ZIP _____

ADJUDICATORY AGENCIES SBSO-

CALL RECEIVED 8/6/88 TIME 1435 PDT REFERRAL MEDIA KABC/TV 50 49 20

AGENCY CALLED 8/6/88 TIME 1500 PDT PHONE # 714 387 8313

REPORTED BY Deputy Carr AGENCY SBSO Central Dispatch

SUSPECT #1 NAME William Backoff AKA Unk

ADDRESS 9190 Kickasaw Trail (Trailer) PHONE () Unk

Lucerne Valley COUNTY San Bern. STATE CA ZIP Unk

DOB Unk HAIR Gry EYES Unk HGT 5'5 WGT 120

SEX Small appr. USER Unk DRUG _____

VEHICLE YR Unk MAKE Ford MODEL P/U Truck COLOR Brn LIC # Unk

OTHER VEH Blk tool box on back/Unk

INSTRUMENTS Unk/Unk/Unk

ARREST DATES Unk CHARGE _____ WHERE _____

OFFENSE: HOMICIDE QUANTITIES N/A

LOCATION LUCERNE VALLEY, CA DATE/TIME APPROX 3 yrs ago.

PROPERTY TAKEN N/A STASHED N/A

SPECIAL INFORMATION Suspect was bragging that he strangled, raped and mutilated a victim by name of Rita Cobb approx 3 yrs ago. Was laughing and bragging about crime at a party over week-end. Said he had picked up the victim at a bar called Zodiac, and when victim indicated that she was turned off sexually to suspect, he bragged he strangled her until victim "turned black." Then he described other crimes against victim after victim was dead. NFD

RELATED Unk WEAPONS/DOGS Unk/Unk STASHED _____

SUSPECT #2 NAME _____ AKA _____

ADDRESS _____ PHONE () _____

COUNTY _____ STATE _____ ZIP _____

RACE _____ AGE _____ DOB _____ HAIR _____ EYES _____ HGT _____ WGT _____

SEX _____ USER _____ DRUG _____

INVOLVED W/ SUSP #1 & CRIME _____

TESTED TIME/METHOD OF APPROACH Unk/Unk

CALL BACK YES CALLED BEFORE NO REFERRAL # _____ REWARD NO

ON 1st HAND FROM INFORMANT XX HEARSAY _____

ABOVE INFORMATION MAY BE INCOMPLETE, BE ADVISED THAT ALL QUESTIONS HAVE BEEN ASKED IT IS WE TIP'S POLICY TO FORWARD ALL

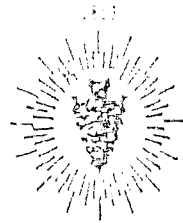
DOUBLE INFORMATION WITHOUT SCREENING WE TIP, INC OPERATOR #50 163 48

INTEROFFICE MEMO

DATE August 10, 1988 PAGE ONE

FROM WILLIAM BAIRD, Director
Scientific Investigations Bureau

TO MICHAEL CARDWELL, Captain
Specialized Detective Division



County of San Bernardino

SUBJECT REQUEST FOR PRIORITY RUSH ANALYSIS

In July and September of 1988 the Sheriff's Specialized Detective Division, Homicide Detail, investigated two murder cases which were situated in the Victorville area.

The two murder investigations, the first being dated July 4, 1988 under IR 1331036-07, victim's name was HELEN BROOKS, and the second murder investigation dated September 20, 1988 listed under IR 1331490-07, victim's name was HELEN COBB, presented sufficient evidence to cause homicide investigators to believe that both cases were perpetrated by the same suspect.

Serological examination of semen stains swabbed from both victim's showed the suspect to have a blood group category of ABO type B non-secretor which significantly narrowed the field of possible suspects.

For the past three years there have been no significant leads resulting in the identification or arrest of the suspect. However, recent information received by homicide investigators indicates a possible suspect involvement of an individual by the name of WILLIAM BROCKOFF a local resident of the Lucerne Valley area.

As a result of this information an interview was conducted with this individual. As a result of the interview conducted at the Lucerne Valley Sheriff's Office, three cigarette butts were obtained at the conclusion of the investigation. These are being submitted to the Sheriff's Crime Lab for possible comparison and serological examination.

Due to the seriousness of the crime and the multiple victim's involved and the extended length of time the suspect has remained outstanding. It is our request that a rush analysis be performed on the evidence being submitted to determine whether or not the individual WILLIAM BROCKOFF should be considered as a primary suspect lead.

Respectfully submitted,

WC/rb

28
R2

FILE

LR # 44452
LR # 44659

SAN BERNARDINO COUNTY
SHERIFF'S DEPARTMENT
CRIMINALISTICS LABORATORY

REQUEST FOR PHYSICAL EVIDENCE EXAMINATION

DIRECTIONS: Please TYPE or PRINT CLEARLY ALL information on both sides of this form PRIOR to submitting evidence to the Laboratory. ALL physical evidence submitted to the Laboratory for examination must be accompanied by a completed form with the EXCEPTION of (1) narcotics evidence, (2) Blood/Urine Alcohol Kits, and (3) Marijuana Citation Kits.

Please telephone the Laboratory if there is a change in the status of the case or there is additional information pertaining to the case that should be made known to the Laboratory.

Requesting Agency SBSD / HOMICIDE Agency Case No. 1331036-07

Date of Request 8-10-88 Date of Offense 7-4-85 Offense 1331490-07
PC 187

Date/Time of Evidence Collection 8-10-88 1320 Collected By BEUCE MCDONALD HIAGO

Victim(s) (Last Name First)	No. 1 <u>BROOKS, HELEN</u>	Suspect(s):	No. 1 <u>BACKHOFF, WILLIAM</u>
	No. 2 <u>CORB, RITA</u>	(Last Name First)	No. 2 _____
	No. 3 _____		No. 3 _____
	No. 4 _____		No. 4 _____

(Summary of Case Circumstances (Indicate where evidence was found and/or collected):

TWO (2) FEMALE VICTIMS WHO LIVED IN THE APPLE VALLEY
AND LICERNE VALLEY AREAS WERE FOUND MURDERED
IN THEIR RESIDENCES TWO (2) MONTHS APART. BOTH
W/ WERE KILLED BY LIGATURE STRANGULATION, SEMI SEMI
FROM BOTH W/ SHOWS S/ POSSIBLY AN ABO TYPE B NON SECRETOR.

Description of Evidence:

Item Designation
(A, B, C, etc.)

Brief Description (Package and Contents)

H-1, 2, 3 cigarette butts

16-5

REGIONAL FORENSIC SCIENCE LABORATORY

County of San Bernardino — Sheriff's Department

OVERVIEW

(This area is currently blank for an overview report.)

LOAD OF VERBAL REPORTS BY LABORATORY:

1. Date _____ Time _____
 To _____
 How _____
 Initiated _____

2. Date _____ Time _____
 To _____
 How _____
 Initiated _____

3. Date _____ Time _____
 To _____
 How _____
 Initiated _____

REGIONAL FORENSIC SCIENCE LABORATORY

County of San Bernardino — Sheriff's Department
 200 S. Lena Rd.
 San Bernardino, CA 92415
 Phone: (714) 387-2200

EVIDENCE

DATE	TIME	REC'D BY	DR. NO.
8/10/99	11:40		1331036-07

Cobb, Rita u.s.k.

THE FOLLOWING WAS RECEIVED:

in lab

FROM

Det. F. McNeil

RECEIVED BY

Det. BOA

R. APPL

DATE

20/10/99

(A) 3 slides boxes

sig. prints

(Signature)

H# 6-99

RIVERSIDE/SAN BERNARDINO
CAL-DNA LABORATORY

AGENCY FILE NO.

DR 9900714-17
cf DR 1331490-07
cf DR 1331036-07

LABORATORY NO.

LR 71635
cf LR 44452
cf LR 44659

TO: MICHAEL INGRAM, CAPTAIN
Specialized Investigations Division
655 East Third Street
San Bernardino, CA 92415

This report is made with the understanding that the
information will be used for official purposes only.

LARRY SMITH and GARY PENROD, Sheriffs

By:

Alvin Luckhoff 6/1/99

Review Date:

TYPE OF INVESTIGATIONS: Death Investigation (38)

VICTIMS: RANDOLF, Gregory

SUSPECTS:

CASE AGENT: Boldt B1611

INVESTIGATING AGENCY: SBSD - Homicide Detail

TYPE OF REPORT: DNA-PCR (41)

DATE OF REPORT: June 1, 1999

(EB)

KT/H

16-15

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 92400

1331036-07
 REPORT DATE

Page 1

REPORTING OFFICER PC 157	CRIME Murder	CLASSIFICATION
VICTIM'S NAME (LAST NAME) Cobb,	FIRST NAME Rita	APPROXIMATE BUSINESS
ADDRESS	RESIDENCE	PHONE

ASSIGNMENT:

On 05/02/05, Lt. Mike Lennan advised me he had received a telephone call from Mike Safarik from the FBI's Criminal Profiling Unit (phone 706 632-4842). Safarik was inquiring about the murder of Rita Cobb and Helen Brooks. Both women were murdered in 1965, in the high desert (refer DR# 1331036-07, H# 100-65-Cobb and DR# 1331493-07, H# 68-65 Brooks). Safarik had read the WIOAP profile on the two cases that was done in 1987 and discovered that a person named William Backoff had been identified as a potential suspect.

He further discovered there was semen located at both crime scenes and wanted to know whether or not a match had ever been made on the suspect. I read some of the lab reports (LR# 44659 -Cobb and LR# 44452 - Brooks) and a genetic DNA profile was obtained on both of these cases from semen left by the suspect. I was unable to locate a document indicating wheatear or not there were two different suspects or the same DNA profile was found at both murder scenes.

I contacted Don Jones at the Sheriff's Crime Lab. Jones was the DNA analyst who did the work on both of these cases and was familiar with them. Jones told me the genetic profiles on the murder cases were from two separate suspects, therefore eliminating the possibility that the same suspect killed both women.

I asked Jones about William Backoff and his DNA profile. There was a DNA profile that was done on Backoff from some cigarette butts brought to the crime lab by Sergeant Brian English. It was at that time I discovered that William Backoff was a "fictitious name for Gregory Randolph. Randolph was a Deputy Coroner for the San Bernardino County Coroner's office and raised suspicion by English about his possible involvement in this murder because Randolph was rumored to have several photographs of elderly murdered homicide victims at his residence.

REPORTING OFFICER Sgt. T. Bradford B-1989	DATE 05/02/05	REPORTING OFFICER <i>TB</i>	FILED BY JK	REPORTING OFFICER	DATE
REPORT ACTION	COPIES TO	<input type="checkbox"/> CHS	<input type="checkbox"/> SDFD	REMARKS	
<input type="checkbox"/> INFO	<input type="checkbox"/> CHS	<input type="checkbox"/> SDFD	<input type="checkbox"/> SDFD		
<input type="checkbox"/> INFO	<input type="checkbox"/> CHS	<input type="checkbox"/> SDFD	<input type="checkbox"/> SDFD		

11-11-05 *JK*

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

CASE NO
 1331036-07
 REPORT AREA

Page 2

SECTION PC 187	CRIME Murder	CLASSIFICATION	
VICTIM'S NAME - LAST NAME Cobb,	FIRST NAME Rita	MIDDLE NAME	(FIRM NAME IF BUSINESS)
ADDRESS	RESIDENCE	PHONE	

Further, Randolph at some crime scenes displayed what could best be termed as "bazaar behavior" by his actions and verbalizations to English. English observed Randolph throw away a cigarette butt at one time and English took the cigarette butt to a lab so that a profile could be taken from it and compared on these murder cases. The reason the name William Backoff was used was because Randolph was an employee of the Coroner's office and English did not want anybody to know, including the Sheriff's Department's lab that they suspected Randolph maybe a suspect in this case.

Randolph died in 1999, and a reference blood sample was taken from him at his autopsy and a genetic profile was again taken from Randolph's blood sample and compared to both Cobb and Brooks, in a lab report dated June 1, 1999 (LR# 71636). This lab report again confirms that Randolph was not the semen donor on either of these cases.

REPORTING OFFICER Sgt. T. Bradford B-1959	DATE 05/05/95	REVIEWER BY	TYPED BY dk	ROUTED BY	DATE
DISTRIBUTION: <input type="checkbox"/> NO <input type="checkbox"/> Detective <input type="checkbox"/> Dist. Atty	COPIES TO: <input type="checkbox"/> Other <input type="checkbox"/> OH <input type="checkbox"/> Patrol	<input type="checkbox"/> SO/PO <input type="checkbox"/> Other	REMARKS (16-17) (258)		

DR 9900714-17
of DR 1331490-07
of DR 1331036-07

June 1, 1999

LR 71635
of LR 44452
of LR 44659

Table II: DQA1, LDLR, GYPA, HBGG, D7S8, GC and D1S80 alleles detected in the sperm fractions of the evidential samples examined for the Rita Cobb case.

Item and Description	DQA1	LDLR	GYPA	HBGG	D7S8	GC	D1S80
LR 44659, A-11: vaginal swabs	4.1	AB	A	EC	AB	AC	13,24
LR 44659, A-13: felt pad	4.1	AB	A	EC	AB	AC	13,24

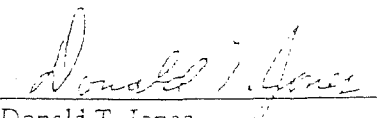
Table III: DQA1, LDLR, GYPA, HBGG, D7S8, GC and D1S80 types for the reference blood sample from Gregory Randolph

Item and Description	DQA1	LDLR	GYPA	HBGG	D7S8	GC	D1S80
R4535 Gregory Randolph	4.1	A	A	A	AB	C	23,31

CONCLUSIONS

Gregory Randolph is eliminated as the source of the sperm fraction, PCR-DNA profiles detected in the semen stains on the bedspread (LR 44452; Item A-13d and A-13e) in the Helen Brooks case. He is also eliminated as the source of the sperm fraction, PCR-DNA profiles in the semen on the vaginal swabs (LR 44659; Item A-11) from Rita Cobb and in the semen stain on the felt pad (LR 44659; Item A-13) in the Rita Cobb case.

A search of our local DNA database (San Bernardino and Riverside counties) failed to match Randolph's PCR-DNA profile to any of our cases.


Donald T. Jones
Criminalist II

DTJ:ds

LR # 44452
LR # 44659

SAN BERNARDINO COUNTY
SHERIFF'S DEPARTMENT
CRIMINALISTICS LABORATORY

REQUEST FOR PHYSICAL EVIDENCE EXAMINATION

DIRECTIONS: Please TYPE or PRINT CLEARLY ALL information on both sides of this form PRIOR to submitting evidence to the Laboratory. ALL physical evidence submitted to the Laboratory for examination must be accompanied by a completed form with the EXCEPTION of (1) narcotics evidence, (2) Blood/Urine Alcohol Kits, and (3) Marijuana Citation Kits.

Please telephone the Laboratory if there is a change in the status of the case or there is additional information pertaining to the case that should be made known to the Laboratory.

Requesting Agency SBSD / HOMICIDE Agency Case No. 1331036-07

Date of Request 8-10-88 Date of Offense 7-4-85 Offense PC 187

Date/Time of Evidence Collection 8-10-88 1320 Collected By BRUCE MICHAEL HIBBS

Victim(s) (Last Name First)	No. 1 <u>BROOKS, HELEN</u>	Suspect(s): (Last Name First)	No. 1 <u>BACKHOPE, WILLIAM</u>
	No. 2 <u>COBB, RITA</u>		No. 2 _____
	No. 3 _____		No. 3 _____
	No. 4 _____		No. 4 _____

(If Summary of Case Circumstances indicate where evidence was found and/or collected):

TWO (2) FEMALE VICTIMS WHO LIVED IN THE APPLE VALLEY AND LUCERNE VALLEY AREAS WERE FOUND MURDERED IN THEIR RESIDENCES TWO (2) MONTHS APART. BOTH WERE KILLED BY LIGATURE STRANGULATION, SEMEN SAMPLES FROM BOTH W/ SHOWS S/ POSSIBLY AN ABO TYPE B NON SECRETOR.

Description of Evidence:
Item Designation
(A, B, C, etc.)

Brief Description (Package and Contents)

H-1, 2, 3 cigarette butts

(28)
KS

16-25

REGIONAL FORENSIC SCIENCE LABORATORY

County of San Bernardino - Sheriff's Department

OVERVIEW

Handwritten initials: n BC

LOG OF VERBAL REPORTS BY LABORATORY:

1. Date _____ Time _____
 To _____
 How _____
 Initialed _____

2. Date _____ Time _____
 To _____
 How _____
 Initialed _____

3. Date _____ Time _____
 To _____
 How _____
 Initialed _____

REGIONAL FORENSIC SCIENCE LABORATORY

County of San Bernardino - Sheriff's Department

200 S. Lens Rd.

San Bernardino, CA 92415

Phone: (714) 387-2300

EVIDENCE

(H) 3 slide boxes

sig. prints

DATE	TIME	RECEIVED BY	DATE
8/10/93	11:40		1331034-07
Cobb, Rita		u.r.	
THE FOLLOWING WAS RECEIVED			
in lab			
Del. to Mailmail			
Lab BOA			
R. D. Ph. 11/10/93			
11/57	12/11/93		

Handwritten notes and signatures in the EVIDENCE section, including a circled signature and other markings.

SHERIFF'S DEPARTMENT
 City of San Bernardino
 California
 CA 92400

1331036-07
 H100-85

REPORT AREA

7.	CRIME MURDER	CLASSIFICATION
NAME - LAST NAME	FIRST NAME RITA	MIDDLE NAME (FIRM NAME IF BUSINESS) MARCEL
	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
		PHONE ()

SUPPLEMENTAL REPORT:

On Wednesday, August 10, 1988, at 1210 hours, myself Detective Jim Palacios and Detective Bruce Mc Phail of the San Bernardino County Sheriff's Department Homicide Division conducted a re-interview with William Rodger Backhoff at the San Bernardino Sheriff's Lucerne Substation.

QUESTION: What is your full name?

ANSWER: William Rodger Backhoff.

QUESTION: Do you have any alias names?

ANSWER: No.

QUESTION: Do you go by any other names such as Billy or Bill?

ANSWER: No.

QUESTION: How old are you?

ANSWER: Fifty-two.

QUESTION: What's your date of birth?

ANSWER: October 22, 1935.

QUESTION: Where were you born?

ANSWER: Illinois.

QUESTION: What's your current address?

ANSWER: 9190 Chickasaw, Lucerne Valley, but my post office box number is 1371, Lucerne Valley, California. The zip code is 92356.

OFFICERS SOS, DET, P0108	DATE 8/17/88	REVIEWED BY	TYPED BY KS S1751	ROUTED BY	DATE
COPIES TO:	<input type="checkbox"/> SO/PO	<input type="checkbox"/> Other	REMARKS 16 7622 QZ		
<input type="checkbox"/> Detective	<input type="checkbox"/> CII	<input type="checkbox"/> Other			
<input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> Patrol				

S. P. S. DEPARTMENT
 City of San Bernardino
 California
 CA 91600

1331036-07
 H100-85

REPORT AREA

SECTION 7.	CRIME MURDER	CLASSIFICATION
NAME - LAST NAME	FIRST NAME RITA	MIDDLE NAME MARFEL
	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
		PHONE ()

AGE 2

QUESTION: What's your telephone number?

ANSWER: I don't have a phone.

QUESTION: What type of education do you have?

ANSWER: I was a high school graduate back in 1984 at Chicago Vocational School or CVS.

QUESTION: What type of studies did you have? Were they general studies or what?

ANSWER: Mechanical.

QUESTION: Did you have a best class or favorite class?

ANSWER: No.

QUESTION: Mr. Backhoff, do you have any hobbies or sports?

ANSWER: No.

QUESTION: Were you married at one time?

ANSWER: Yes. I was married for 21 years, 68 days.

QUESTION: How long have you been divorced?

ANSWER: 10 years.

QUESTION: Where did this divorce take place?

ANSWER: In Chicago, Illinois.

QUESTION: What is the name of your ex-wife?

ANSWER: Susan Carol Sawyer.

OFFICERS SOS, DET, P0108	DATE 8/17/85	REVIEWED BY	TYPED BY NS S1751	ROUTED BY	DATE
<input type="checkbox"/> NO	<input type="checkbox"/> CORRECTED	<input type="checkbox"/> ST AD	<input type="checkbox"/> CHG	REMARKS	
<input type="checkbox"/> NO	<input type="checkbox"/> CORRECTIVE	<input type="checkbox"/> IS	<input type="checkbox"/> CHG		
<input type="checkbox"/> NO	<input type="checkbox"/> CORRECTED	<input type="checkbox"/> IS	<input type="checkbox"/> CHG		

SHERIFF'S DEPARTMENT
 County of San Bernardino
 California
 CA 92600

1331036-07
 H100-85
 REPORT AREA

IC 87	CRIME MURDER	CLASSIFICATION
SURNAME - LAST NAME	FIRST NAME RITA	MIDDLE NAME MAREEL (FIRM NAME IF BUSINESS)
S	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
		PHONE ()

PAGE 3

QUESTION: How old is Susan?
 ANSWER: Well, I don't know her date of birth but I think she's four years younger than me.
 QUESTION: Where does Susan live now?
 ANSWER: In Joliet, Illinois.
 QUESTION: Who initiated the divorce action?
 ANSWER: She wanted the divorce from me and she started everything. She said that it was because of mental cruelty.
 QUESTION: Did you fight the divorce?
 ANSWER: No, I didn't contest it. As a matter of fact, I didn't even show up for the court dates.
 QUESTION: Do you have any children?
 ANSWER: Yes.
 QUESTION: What are their names and ages?
 ANSWER: The oldest one is William Rodger Backhoff Jr, and I don't know when he was born, I think he's thirty years old. The second one is John Robert Backhoff and I think he's twenty eight years old, and then the third one is Peggy Sue Backhoff, I can't remember how old she is.
 My son John lives down the hill in San Bernardino but we don't talk very much. William Jr. and Peggy live back with their mother.
 QUESTION: Do you still keep in contact with your children?

OFFICERS IOS, DET, P0108	DATE 8/17/88	REVIEWED BY	TYPED BY KS S1751	ROUTED BY	DATE
FIG	COPIES TO:	<input type="checkbox"/> SDRD	<input type="checkbox"/> Other	REMARKS A2	
	<input type="checkbox"/> Detective	<input type="checkbox"/> CH	<input type="checkbox"/> Other		
	<input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> Patrol			

COUNTY OF SAN FRANCISCO
 DEPARTMENT OF PUBLIC SAFETY
 CALIFORNIA
 CA 03600

1331036-07
 H100-85

REPORT AREA

57	CRIME MURDER	CLASSIFICATION
NAME - LAST NAME	FIRST NAME	MIDDLE NAME
	RITA	MARCEL
	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
		PHONE ()

PAGE 4

ANSWER: Well, yes and no. I haven't seen them in a long time.
 QUESTION: Are you employed presently?
 ANSWER: No.
 QUESTION: What kind of work did you do?
 ANSWER: I was a sheet metal worker for 32 years.
 QUESTION: What was the last company that you worked with?
 ANSWER: I worked Scott Company Sheet Metal in San Francisco.
 QUESTION: How long ago was this?
 ANSWER: About two years ago.
 QUESTION: Do you have any military background?
 ANSWER: No. Because of my age I was in between. I didn't go to Korea, you know what I mean.
 QUESTION: Have you ever been arrested before?
 ANSWER: Yes.
 QUESTION: When was this?
 ANSWER: I was arrested for drunk driving out here (Lucerne Valley) about two or three years back. It was because of Rita Cobb.
 QUESTION: What do you mean by that?

OFFICERS SOS, DET, P0108	DATE 8/17/88	REVIEWED BY	TYPED BY NS S1751	ROUTED BY	DATE
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POLICE DEPARTMENT

City of San Bernardino
California

CA 03600

1331036-07
E100-85

REPORT AREA

CRIME MURDER	CLASSIFICATION
NAME - LAST NAME RITA	FIRST NAME MAREEL
MIDDLE NAME (FIRM NAME IF BUSINESS)	PHONE ()
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS

AGE 5

ANSWER: Because it's fucked up the way she died. I didn't do nothing wrong. Matter of fact, you police officers aren't doing your job. I hate to say it but it's all fucked up.

QUESTION: Aside from this arrest, have you ever been arrested before?

ANSWER: Well yeah, but I don't think it really counts.

QUESTION: What do you mean by that?

ANSWER: Well, it was when I was back east.

QUESTION: What was the arrest for?

ANSWER: It was for possession of stolen property. I had these adding machines. This was when I was about 17 years old.

QUESTION: How would you describe your current health status?

ANSWER: I'm an alcoholic. I've been one since I was 16 years old.

QUESTION: What is your current financial status?

ANSWER: Well, thats interesting because people wonder what I do. I don't accept food stamps and I don't accept welfare, I just make it on my own.

QUESTION: So when was the last time that you actually worked for a company?

ANSWER: That's when I worked for Scott Company Sheet Metal a couple years ago.

QUESTION: How about narcotics. Do you use drugs?

OFFICERS SOS, DET, P0108	DATE 8/17/88	REVIEWED BY	TYPED BY RS S1751	ROUTED BY	DATE
COPIES TO: <input type="checkbox"/> SO/PO <input type="checkbox"/> Other <input type="checkbox"/> Detective <input type="checkbox"/> CH <input type="checkbox"/> Other <input type="checkbox"/> Dist. Atty. <input type="checkbox"/> Patrol			REMARKS 19 62		

16 205

F B DEPARTMENT
 Co / of San Bernardino
 California
 CA 03600

1331036-07
 H100-85
 REPORT AREA

CHARGE	CLASSIFICATION	
7	MURDER	
NAME - LAST NAME	FIRST NAME	MIDDLE NAME
	RITA	MAREEL
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS	PHONE
		()

AGE 7

ANSWER: I moved to Morris, Illinois.

QUESTION: Then where did you move to?

ANSWER: From Morris I moved to Sun City, California, then I moved to El Cajon, California, then to the City of Downey, California and eventually here in Lucerne Valley, California.

When I moved to Lucerne, thats when I worked at the cement factory.

QUESTION: So how long have you actually lived here in California?

ANSWER: Well, I been living in California about 6 to 7 years.

You know, you detectives better find the mother fucker that did it. (The murder of Rita Cobb).

QUESTION: Well you said that you were going to cooperate and help us didn't you?

ANSWER: Well, I'm not gonna be a stool pigeon if that's what your saying.

QUESTION: I didn't say anything about being a stool pigeon but your cooperation would be appreciated.

ANSWER: Well, I didn't do anything wrong.

QUESTION: Nobody said you did anything wrong.

ANSWER: Well, I wanna find out who the mother fucker is that did it.

OFFICERS	DATE	REVIEWED BY	TYPED BY	ROUTED BY	DATE
IGS, DET, P0108	8/17/88		RS S1751		
TI	DELETED TO:	<input type="checkbox"/> SO PD	<input type="checkbox"/> CIVIL	REMARKS 20 22	
<input type="checkbox"/> NO	<input type="checkbox"/> CIVILIAN	<input type="checkbox"/> CH	<input type="checkbox"/> OTHER		
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NO. 1 83					

PP'S DEPARTMENT
 City of San Bernardino
 California
 CA 03600

1331036-07
 H100-85

REPORT AREA

CRIME MURDER	CLASSIFICATION
NAME - LAST NAME RITA	FIRST NAME MARCEL
MIDDLE NAME MARCEL	(FIRM NAME IF BUSINESS)
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
PHONE ()	

AGE 8

QUESTION: William, yesterday you told me that there were three guys that you thought may have been involved in the murder of Rita Cobb. Can you tell me more about that?

ANSWER: Yeah. As a matter of fact, I think it's three to five guys that maybe involved or who I think may have done it.

QUESTION: Lets start off with the first person who you think did it.

ANSWER: O.K. I think that two of them are Geraldine Ferdell. Geraldine Ferdell was my girlfriend and she had two son's. Geraldine was real good friends of Rita Cobb and that's how I met Rita was through Geraldine. Like I said, I don't know the name of her sons but they were both a couple of dildos and I think they may have done it.

QUESTION: O.K. So you think they may have done it. Why is that now?

ANSWER: Geraldine Ferdell had a room divider or a counter, no it was room divider, that belonged to her. Well, Geraldine gave it to Rita Cobb and her sons got pissed off about it. The sons wanted Rita Cobb to give it back to them. Rita Cobb refused and didn't want to give it back. This wasn't really a high dollar thing, ya know, it was just this room divider.

QUESTION: So, you think because of the room divider, and the two sons did not get it back from Rita Cobb that they may be responsible for the murder of Rita Cobb?

ANSWER: Yeah.

QUESTION: O.K. William. Who is the next person that you think may be suspect in the murder?

OFFICERS IC DET, P0108	DATE 8/17/88	REVIEWED BY	TYPED BY NS S1751	ROUTED BY	DATE
COPIES TO: <input type="checkbox"/> NO	<input type="checkbox"/> SD/PO <input type="checkbox"/> CII <input type="checkbox"/> Dist. Atty. <input type="checkbox"/> Patrol	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS [Handwritten initials]		

SHERIFF'S DEPARTMENT
County of San Bernardino
California
CA 92500

1331036-07

8100-85

REPORT AREA

CRIME	CLASSIFICATION		
MURDER			
NAME - LAST NAME	FIRST NAME	MIDDLE NAME	FIRM NAME (IF BUSINESS)
	RITA	WAREEL	
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS	PHONE	()

GE 9

SWER: A guy by the name of Art Bishop. He's a local dude and he may have been involved.

SWER: That's interesting. Why do you think he may have been involved?

SWER: Why he's involved? I don't know.

(Between that question and his answer there was a long pause and he eventually stated):

Well because he's a phony mother fucker.

QUESTION: Is Art Bishop a white male?

SWER: Yes.

QUESTION: About how old is he?

SWER: He's about 60 years old.

QUESTION: How tall is Art Bishop?

SWER: Ah, he's a short dude like me. He's about 5'5 inches.

QUESTION: O.K. Who is the next person that you think may be responsible or involved?

SWER: Well, theres this Mexican dude, I don't know his name, but he lives here in Lucerne Valley. He's an ex-iron worker.

QUESTION: How old is this Mexican guy?

SWER: He's about 68 years old.

QUESTION: Where does he work?

OFFICERS	DATE	REVIEWED BY	TYPED BY	ADJUSTED BY	DATE
IOS, DET, PC108	5/17/88		XS 51751		
INVESTIGATOR	<input type="checkbox"/> SO PD	<input type="checkbox"/> SUPV	REMARKS		
<input type="checkbox"/> I/O	<input type="checkbox"/> DET	<input type="checkbox"/> SUPV			
<input type="checkbox"/> I/O	<input type="checkbox"/> DET	<input type="checkbox"/> SUPV			

POLICE DEPARTMENT

County of San Bernardino
California

CA 03500

1331036-07
H100-B5

REPORT AREA

CRIME MURDER	CLASSIFICATION
SURNAME - LAST NAME RITA	FIRST NAME MARCEL
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
PHONE ()	

AGE 10

ANSWER: He works at Lucerne Valley Equipment Rental. This guy could be involved. But you know what? I think you guys are fucking up. I can't understand why this mother fucker hasn't been found yet.

QUESTION: O.K. Why do you feel that this Mexican guy is involved?

ANSWER: Well, Rita wanted to put him in a bad place, ya know, well, I really can't say why.

QUESTION: I'm confused. I don't understand what you mean.

ANSWER: Well, he came over and monkey played with Rita, if you know what I mean.

QUESTION: O.K. Who else do you feel may be involved?

ANSWER: There's a guy by the name of Fred. I don't know his last name, but he was living with Rita Cobb.

QUESTION: Because he was living with her?

ANSWER: Well I think that's her boyfriend. That's why he could have done it. That's why I think he could have done it.

Do you know that there's this girl writing a book about Rita Cobb's death?

QUESTION: No I didn't know about that. What's that all about?

ANSWER: well, its just something that I heard since I've been out here. Some girl about 32 or 34 years old.

QUESTION: Do you know the name of this girl?

ANSWER: No this is just a bunch of hearsay shit that I've heard around.

OFFICERS MOS, BET, POLCS	DATE 8/17/88	REVIEWED BY	TYPED BY RS S1751	ROUTED BY	DATE
COPIES TO:	<input type="checkbox"/> SD/PO	<input type="checkbox"/> Other	REMARKS 23 02		
<input type="checkbox"/> Detective	<input type="checkbox"/> CH	<input type="checkbox"/> Other			
<input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> Patrol				

POLICE DEPARTMENT

City of San Bernardino
California

CA 92400

1331036-07

H100-85

REPORT AREA

7-	CRIME MURDER	CLASSIFICATION
NAME - LAST NAME	FIRST NAME	MIDDLE NAME
	RITA	MARCEL
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS	PHONE

AGE 11

QUESTION: How long have you know Rita?

ANSWER: I've known her for two years. I knew her through my girlfriend Geraldine. Geraldine died a couple years ago. She died of cancer. She died in Loma Linda.

QUESTION: Did you ever date Rita?

ANSWER: No man. I was dating Geraldine. I mean I can see it. I'm out playing with her girlfriend. No way. But I do remember that Rita was a drinker.

QUESTION: Tell me about Rita Cobb.

ANSWER: Well, she was different, you know what I mean. Her sexual thing. Do you know what I mean?

QUESTION: No. I'm not clear about what you mean.

ANSWER: Well, you know she was different in sex. You know, she may have liked the same person.

QUESTION: Are you saying that she's a lesbian?

ANSWER: No. You know what I mean. When she goes both ways.

QUESTION: Your saying that she was bisexual?

ANSWER: Yeah, that's it.

QUESTION: Well, how did you find out that she may have been bisexual?

OFFICERS [CS, DET, POLIC]	DATE 8/17/88	REVIEWED BY	TYPED BY NS S1751	ROUTED BY	DATE
COPIES TO	<input type="checkbox"/> SERVO	<input type="checkbox"/> DET	REMARKS		
<input type="checkbox"/> Detective	<input type="checkbox"/> CI	<input type="checkbox"/> DET			
<input type="checkbox"/> DISPATCH	<input type="checkbox"/> FILE				

OFFICER'S DEPARTMENT

Col of San Bernardino
California

CA 03600

1331036-07
E100-85

REPORT AREA

SECTION 17	CRIME MURDER	CLASSIFICATION	
NAME - LAST NAME	FIRST NAME	MIDDLE NAME	(FIRM NAME IF BUSINESS)
	RITA	MAREEL	
	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS	PHONE ()

AGE 12

ANSWER: Through conversation with my girlfriend Geraldine.

(At this point in the conversation, Mr. Backhoff was seated across from me and he was talking to me in a softer tone of voice. After the previous questioning, he stood up and started yelling and pointing his finger at me stating the following):

I want to find that mother fucker that did it. You know what, I hate to say this, but in general, your police department is all fucked up. I'd get that mother fucker even if I had to stay up all night. But I would get him. You know, I've been sleeping on this and to tell you the truth theres this mother fucker walking around thats a degenerate and I want him caught. I'll go out of my way to get him. I have no love for Rita Cobb. I didn't have no sexual relations with her. I'll tell you what, this mother fucker should get fucked. You know what, this is a sick dude that murdered her. You know what I mean? I'd like to find out the mother fucker who did the act.

QUESTION: Yes, I can understand that. Why don't you go ahead and sit down. We'd like to find the person who did this also.

ANSWER: I'm just saying somebody better get caught. It's a mother fucker, you know what I mean.

QUESTION: What was the age difference between you and Rita?

ANSWER: Rita was probably eight years older than me.

You know what? I wanna see that prick mother fucker caught whcever he is, if he's a male or female.

QUESTION: Tell me a little bit more about Geraldine. What was she like?

OFFICERS SIOG, DET, P0108	DATE 8/17/88	REVIEWED BY	TYPED BY NS S1751	ROUTED BY	DATE
<input type="checkbox"/> NO	COPIES TO:	<input type="checkbox"/> SD/PO	<input type="checkbox"/> Other	REMARKS <i>LS</i> <i>Q2</i>	
	<input type="checkbox"/> Detective	<input type="checkbox"/> CII	<input type="checkbox"/> Other		
	<input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> Patrol			

PP'S DEPARTMENT
 City of San Bernardino
 California
 CA 03600

1331036-07
 E100-83

REPORT AREA

SECTION 7	CRIME MURDER	CLASSIFICATION		
NAME - LAST NAME	FIRST NAME RITA	MIDDLE NAME MARIEEL	IF FIRM NAME (IF BUSINESS)	
	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS	PHONE ()	

AGE 13

ANSWER: Geraldine had money and she was clean and free and she cooked. What a good women.

As a matter of fact she gave me a place to live. We had sex like two times a day. What more could a man want. If you had something like that, you don't need to look anywhere else. You know what I mean?

QUESTION: How do you think Geraldine and Rita knew each other?

ANSWER: I think they met each other through drinking at bars. Maybe the Zodiac Bar.

QUESTION: How did you find out about the death of Rita Cobb?

ANSWER: Well, I think was it was through Nellie Rhot. She's the one that told me. I was gone awhile, and when I came back, and then I found out that the police were looking for me.

QUESTION: Where were you at?

ANSWER: Oh, I think I was in Van Nuys. You know what I mean? But I had my trailer here and it was no big deal because I paid my rent. And I paid up on it, but I was down there. I'll tell you one thing, I didn't do nothing wrong.

QUESTION: Well who is the one saying that you did?

ANSWER: You know, personal people. People down here that said I was involved. Well, you know what, no fucking way.

QUESTION: Who are these people that said you were involved? What are the names of some of your personal friends?

OFFICERS HQS, DET. FOIGS	DATE 8/17/88	REVIEWED BY	TYPED BY MS S1751	ROUTED BY	DATE
<input type="checkbox"/> SAC	<input type="checkbox"/> SUPERVISOR	<input type="checkbox"/> SGT	<input type="checkbox"/> CLERK	REMARKS	
<input type="checkbox"/> ASST. SAC	<input type="checkbox"/> ASST. SUPERVISOR	<input type="checkbox"/> ASST. SGT	<input type="checkbox"/> ASST. CLERK		

PP'S DEPARTMENT
 County of San Bernardino
 California
 CA 03600

1331036-07
 E100-85
 REPORT AREA

SECTION 17	CRIME MURDER	CLASSIFICATION		
NAME - LAST NAME RITA		FIRST NAME MAREEL	MIDDLE NAME	(FIRM NAME IF BUSINESS)
<input type="checkbox"/> RESIDENCE		<input type="checkbox"/> BUSINESS		PHONE ()

AGE 14

ANSWER: Well fuck. Pickup your hand. How many fingers do you have on your hand? You know what I mean?

QUESTION: Do you know of Rita's personal habits?

ANSWER: She had like a little cabin, but I'll tell you what, her house wasn't really too sharp. You know, she was not my kind of girl.

QUESTION: What was she like?

ANSWER: Well, she was very outspoken. She was the type of girl to tell you to get fucked. When I talked to Rita, or when we were in each other's company, my girlfriend was with me.

QUESTION: How about her drinking habits?

ANSWER: Well I couldn't say whether she was a real drunk or not. Ya know, let me tell you something, it's a shame, it's a sick fucking deal. Isn't it? I mean this is really sick. It's a sick situation. You know, heres some prick wandering around who may kill another women, ya know what I mean?

DE TWO OF TAPE:

QUESTION: You mentioned earlier that this girl by the name of Nellie Rhor told you that the police were looking for you but when was the first time that you heard about Rita Cobb's death?

OFFICERS SANCOS, DET, P0108	DATE 8/17/88	REVIEWED BY	TYPED BY KS S1751	ROUTED BY	DATE
COPIES TO: <input type="checkbox"/> NO	<input type="checkbox"/> SD/PO <input type="checkbox"/> Detective <input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS	273 Q2	

POLICE DEPARTMENT
 City of San Bernardino
 California
 CA 92400

1331038-07
 H100-85
 REPORT AREA

CRIME	MURDER		CLASSIFICATION
NAME - LAST NAME	FIRST NAME	MIDDLE NAME	FIRM NAME IF BUSINESS
	RITA	KIEFFEL	
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS	PHONE ()	

GE 15

SWER:

Well, thats a fucking interesting question. Let me see.
 (At this point there was a long pause).

Well, I think it was at the Zodiac Bar. Yeah, it was
 conversation that was going around. I got talking to
 the bartender and the bartender told me about it. I
 talked to Rita three to four days before she passed
 away. I think she just got back from Canada. It's an
 amazing story isn't it. But I'll tell you what. I know
 I didn't do anything wrong.

Backhoff could add nothing further and the interview was then
 concluded.

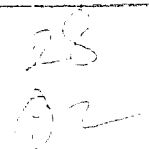

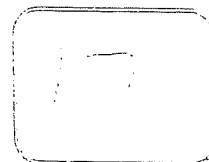
OFFICERS	DATE	REVIEWED BY	TYPED BY	ROUTED BY	DATE
OS, DET, P0105	8/17/88		NS S1751		
<input type="checkbox"/> Investigator <input type="checkbox"/> Detective <input type="checkbox"/> Sergeant	<input type="checkbox"/> SIND <input type="checkbox"/> CIP <input type="checkbox"/> TAP	<input type="checkbox"/> Date <input type="checkbox"/> Date	REMARKS		

EXHIBIT COVER PAGE



EXHIBIT

Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY

44659
11-6-97
E

GPT 363-07 → staple removed from top of white tin above wire contents

recovered 9/12 eno = 5-6x9 eno → all line have recovered
given notes & typed
reality by BT
on 11-6-97

- "44659 4-1, 2, 3" E boxes → [VE]

- "44659" E round metal containers → [VE] → (2-21 seal)

- "44659 A-21 cigarette butts found sitting in living room
DC99-2495 1408" → [VE]

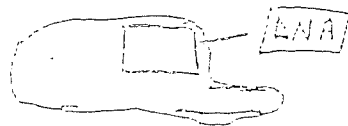
- "44659 four cigarette butts from sitting on deck
in dining area 100 2-27-85 1-0711" → [VE]

- "44659 A-17 A-18"

┌ E 9 sealed 3x5 eno → A-18a → A-18a
└ [A-17 & sealed] → [VE]

NOTE en- 2-154 → "sample removed" → [VE]

A-18a piece of tan felt ~2x8cm 590 photo of seal



A-18b piece of tan felt ~6x2.5cm 3400 photo of seal



(17-1)

28

100-44659 100-44659 100-44659

and Source:

See previous reports dated September 30, 1985, November 18, 1985 and July 3, 1987 for a description of Items A through G.

On August 10, 1988 Detective B. McPhail, Sheriff's Special Detective Division, delivered the following items to the Laboratory:

Item H: Three cigarettes (H-1, H-2, and H-3) identified as having been smoked by William BACKHOFF

RESULTS AND CONCLUSIONS:

The cigarette butts from BACKHOFF, as well as the cigarette butts from the crime scene were examined in an attempt to determine ABO/secretor status. The following table lists the results of that examination:

Item & Description	Amylase level	Soluble ASH antigens	Result
A-20a: "Virginia Slim" cigarette butt with lipstick	High	A, H	A secretor
10b: "Marlboro" cigarette	Moderate	A	A secretor
A-20c: unsmoked "Benson and Hedges" cigarette	Moderate	Inconclusive	Inconclusive
A-21: "Benson & Hedges" cigarette	High	H	O secretor
H-2: "Benson & Hedges" cigarette from BACKHOFF	High	A, H	A secretor
H-3: "Benson & Hedges" cigarette from BACKHOFF	High	A, H	A secretor

Conclusions:

- 1) BACKHOFF, as an ABO A secretor, does not match the semen donor profile developed from the semen-stains on the felt pad (Item A-18) from the crime scene.
- 2) Comparison of the ABO/secretor type of the cigarette butts at the crime scene to the blood types of the individuals in this investigation can be broken down as follows:

172
E5
28

Item & Description	Consistent with
A-20a: Virginia Slim (note: lipstick)	KRAEMER, BACKHOFF
A-20b: Marlboro	KRAEMER, BACKHOFF
A-20c: Benson & Hedges (not smoked)	no information
A-21 : Benson & Hedges	Cobb SANDERS (unknown secretor status)

David C. Stockwell

 David C. Stockwell
 Criminalist

Det. D. ...
 -1
 -2

17-3


Reference and Source:

See previous reports dated September 30, 1985, November 18, 1985 and July 3, 1987 for a description of Items A through G.

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AUGUST 23, 1958

Item & Description	Consistent with
A-20a: Virginia Slim (note: lipstick)	KRAEMER, BACKHOFF
A-20b: Marlboro	KRAEMER, BACKHOFF
A-20c: Benson & Hedges (not smoked)	no information
A-21 : Benson & Hedges	Cobb SANDERS (unknown secretor status)

David C Stockwell


David C. Stockwell
Criminalist

S/jkg

cc. Det. Div. (Det. B. McPhail) -1
le -1
-1

JOSEPH SWINDERS
ROBERT EDWARDS
GREGORY RANDOLPH

THIRD PARTY
SUSPECTS




* DNA AT SCENE

EXHIBIT

FBI + VICAP

PROFILING COBB + BROCKS

AS SERIAL



PSYCHOLOGICAL PROFILE

ALL OF
THIS MATCHES
BACKOFF //

AGE: 50's (Maybe mid 40 range)

SEX: Male

RACE: Caucasian

MARITAL STATUS: Single

EDUCATIONAL/INTELLIGENCE LEVEL: High school graduate, maybe dropout,
Normal intelligence.

SOCIAL/ECONOMIC STATUS: Middle class

RESIDENCE: Will be some distance from scene, neat and clean appearance.

PHYSICAL CHARACTERISTICS: Well-groomed, muscular, well built, takes
care of self.

AUTOMOBILE: "Muscle Car" (Trans Am, Camaro), Red or Black in color.
If suspect older, conservative "clean" sedan (red or black)

EMPLOYMENT: Macho type job [Bouncer, fireman, etc.]

MENTAL HEALTH HISTORY: None

MILITARY HISTORY: Army or Marines, volunteered for Airborne, Special
Forces, etc. Discharge other than honorable.

LAW ENFORCEMENT HISTORY: Interpersonal violence, poor driving record

GENERAL BEHAVIOR CHARACTERISTICS: Good talker, ladies' man, frequents
bars, dates frequently and many different women, flashy dresser,
athletic, "hits" on all the women, police buff, gun nut, self-
centered, does not like criticism; when irritated is mean/hateful
person, many times homosexual tendencies.

RP:lm

18 + 3

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 92400

DATE: 12/14/95

REPORT NO:

Page 1

OFFICE	CRIME	PERPETRATOR	DATE
WFA-65	MURDER		
WFA-65	WFA-65	WFA-65	WFA-65
WFA-65	WFA-65	WFA-65	WFA-65

CONTACT FROM FBI/ICAP: 718-632-4163

On 11/27/95, I received a phone call from FBI/ICAP Analyst Ken W. Wold (phone number 718) 632-4163, regarding the following SBSD homicide investigation:

DR # 1331490-07/H #83-85

Victim: Brodie, Helen Margaret
 WFA-65, DOB: 07/11/22
 Found: Friday, 07/05/85
 Location: 19001 Highway 18, Apt. #2, Apple Valley, CA
 Suspect: Unknown

DR # 1331036-07/H #100-85

Victim: Ocho, Rita Maribel
 WFA-65, DOB: 02/23/59
 Found: Monday, 10/28/85
 Location: 35435 Highway 18, Lucerne Valley, CA
 Suspect: Unknown

W. Wold said through their review of the two SBSD cases, they found (4) similar murder cases from 4 jurisdictions that occurred from 1988-1995. W. Wold said he contacted the other agencies regarding the similarities in each case. The following cases were given:

LCS ALAMITOS PD CASE #890764

Victim: Deebie, Majorie Elaine
 Found: May 12, 1985
 Suspect: Edwards, Robert Mark WMA-41, DOB: 06/14/51, (Arrested In-Custody since 1997)
 Contact: Sgt. Travis, Los Alamitos Homicide, (562) 431-2255

Edwards was later convicted for this murder in 1998 and sentenced to death

SEARCHED	INDEXED	SERIALIZED	FILED
SEARCHED	INDEXED	SERIALIZED	FILED

(Handwritten signature and initials)

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

OFFENSE
 1331036-17
 H #100-85
 REPORT AREA

Page 2

TITLE		CRIME		CLASSIFICATION	
MURDER		MURDER			
FBI NAME (LAST NAME)		FIRST NAME		MIDDLE NAME	
J.B.B.		RITA		MARBEL	
ADDRESS		RESIDENCE		PHONE	

CONTACT FROM FBI/VICAP: (continued)

LOS ANGELES COUNTY SHERIFF CASE #086074941617

Victim: Belcher, Rhonda
 Found: June 26, 1988
 Suspect: Unknown
 Contact: Sgt. Joe Hartshorne/LASO Homicide, (323) 890-5641

COSTA MESA PD CASE # 88-59459

Victim: Gibbons, Melinda
 Found: July 13, 1988
 Suspect: Unknown
 Contact: Sgt. Archer/Costa Mesa PD Homicide, (714) 754-5695

LOS ANGELES PD CASE # 89-1123392

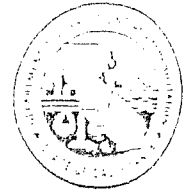
Victim: Kreismanis, Brigita
 Found: August 5, 1989
 Suspect: Unknown
 Contact: Det. Berdin/LAPD Homicide, (213) 847-4281

I ran a records check regarding the Los Alamitos suspect (Robert Mark Edwards/OII #A06751443). Edward's records showed he was arrested/in-custody at CDC on 12/10/85, until he was paroled on 12/12/85. On 11/27/02, I contacted the CDC Statewide Parolee Locator Service/OBIS (916-358-1847) and spoke to Record's Clerk Scott Johnson. Upon review of their records, Johnson confirmed Edwards was incarcerated from 12/85-12/86.

Based on this information, Edwards could not be a suspect in our murder investigation because he was incarcerated at the time of the murders.

REPORTING OFFICER T. CARLOS A. ESPINOZA E-4802	DATE 12/02/02	REVIEWED BY [Signature]	TYPED BY CBB	RECORDED BY	DATE
ACTION: <input type="checkbox"/> NO	COPIES TO: <input type="checkbox"/> Detective <input type="checkbox"/> Detective <input type="checkbox"/> Other	<input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS: <div style="text-align: center; font-size: 2em;">18-3</div>		

53 (26)



August 9, 2012

John Yablonsky, CDCR #AL0373
Facility D, Building 5-214L
North Kern State Prison

Inmate Yablonsky:

This response is in regard to your correspondence dated July 22, 2012. Your request authorization to correspond with Inmate Robert Edwards, California Department of Corrections and Rehabilitation (CDCR) number P11700, who is currently housed at San Quentin State Prison.

If Inmate Edwards is in agreement with your request, a CDCR Form 1074, Request for Correspondence Approval, is required. A CDCR Form 1074 has been forwarded to Inmate Edwards for completion. A copy of your letter will be placed in your central file.

I hope this information is of assistance. If you have any other concerns regarding this or any other matter, please contact your assigned counselor, O. Quiroz, Correctional Counselor, via a CDCR Form 22, Inmate Parolee Request for Interview, Item or Service.

Sincerely,


P.L. VAZQUEZ
(Warden-A)

Enclosure

Co: C-File, Inmate Yablonsky, AL0373

18-7

EXHIBIT COVER PAGE



Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
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- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY



U.S. Department of Justice

Federal Bureau of Investigation

FBI Academy
Quantico, Virginia 22084

April 20, 1987

UNSUB;
HELEN MARGARET BROOKS - VICTIM (DECEASED);
SAN BERNARDINO SHERIFF'S DEPARTMENT,
SAN BERNARDINO, CALIFORNIA;
7/4-5/85;
MORVO/VICAP - HOMICIDE (CRIMINAL PROFILING);
OO: LA

UNSUB;
RITA MARCEL COBB - VICTIM (DECEASED);
SAN BERNARDINO SHERIFF'S DEPARTMENT,
SAN BERNARDINO, CALIFORNIA;
9/20-23/85;
MORVO/VICAP - HOMICIDE (CRIMINAL PROFILING);
OO: LA

The following criminal personality profile was prepared by Special Agent R. Charles Maddigan, in consultation with Special Agent Ronald G. Walker and other members of the National Center for the Analysis of Violent Crime (NCAVC). This profile is based upon a review of the materials submitted and the conclusions are the result of knowledge drawn from the personal investigative experience, educational background and research conducted by these profiles as well as by other NCAVC members. It is not a substitute for a thorough and well-planned investigation and should not be considered all-inclusive. The final opinion is based upon probabilities noting, however, that no two identical sets of criminal personalities are exactly alike and therefore the character of those may not fit the profile in every category.

This profile contains information of a confidential and sensitive nature. It is provided exclusively for your investigative purposes and should not be disseminated except to other criminal justice agencies with a legitimate investigative or prosecutorial interest in this matter.

Over and above the forensic evidence linking the Brooks and Cobb homicides, our analysis of materials submitted reveals

(19-1)

26

10

18



U.S. Department of Justice

Federal Bureau of Investigation

FBI Academy
Quantico, Virginia 22135

April 30, 1987

UNSUB;
HELEN MARGARET BROOKS - VICTIM (DECEASED);
SAN BERNARDINO SHERIFF'S DEPARTMENT,
SAN BERNARDINO, CALIFORNIA;
7/4-5/85;
NCAVC/VICAP - HOMICIDE (CRIMINAL PROFILING)
OO: LA

UNSUB;
RITA MARSEL COBB - VICTIM (DECEASED);
SAN BERNARDINO SHERIFF'S DEPARTMENT,
SAN BERNARDINO, CALIFORNIA;
9/20-23/85;
NCAVC/VICAP - HOMICIDE (CRIMINAL PROFILING)
OO: LA

The following criminal personality profile was prepared by Special Agent R. Stephen Mardigian, in consultation with Special Agent Ronald P. Walker and other members of the National Center for the Analysis of Violent Crime (NCAVC). This profile is based upon a review of the materials submitted and the conclusions are the result of knowledge drawn from the personal investigative experience, educational background and research conducted by these profilers as well as by other NCAVC members. It is not a substitute for a thorough and well-planned investigation and should not be considered all-inclusive. The final analysis is based upon probabilities noting, however, that no two criminal acts or criminal personalities are exactly alike and therefore the offender at times may not fit the profile in every category.

This profile contains information of a confidential and sensitive nature. It is provided exclusively for your investigative assistance and should not be disseminated except to other criminal justice agencies with a legitimate investigative or prosecutorial interest in this matter.

Over and above the forensic evidence linking the Brooks and Cobb homicides, our analysis of materials submitted reveals

19-2

S4

marked similarities in behavior exhibited by the offender at each crime scene. Separate and detailed review of each of these cases has led us to conclude that these homicides were committed by the same perpetrator; therefore, we are submitting our assessment of each of these cases within the format of a single profile.

VICTIMCLOGY

Analysis of the victims is a significant aspect of the profiling process. The vulnerability of both Helen Brooks and Rita Cobb toward a violent incident should be examined in conjunction with a review of their lifestyles, reputations, behavior, social interactions and environment. Specifically, at what risk were these women to becoming victims?

Upon examination, we find striking similarities of background between each victim. They were each white females, five feet seven inches tall, 123-134 pounds, between the ages of 55 and 63, who lived alone, being either divorced or widowed. Each had children who lived elsewhere. Brooks was a resident manager of a desert community apartment complex located north of San Bernardino, California, and just 12 miles west from Cobb, who was residing in a single and relatively secluded family residence. Their residences were situated off State Highway 18. Brooks also worked at a dress shop and did some bookkeeping at a bowling alley. Cobb was employed as a receptionist/secretary at a country club. Their employments, located locally to their residences, brought them into daily contact with the general public. Investigation, however, did not develop any information to suggest that these women had ever been personal or social acquaintances.

Both these women were reportedly sexually active with several different men.

Brooks, according to comments from her associates, frequented many of the local bars around town and was very "free" with men, to the point that she was known to pick men up and even bring total strangers home with her. She was said to have bragged to friends about the number of men with whom she had been sexually associated. Moreover, she dated men close to her own age as well as younger men from their twenties on up. According to her former husband, Brooks was very demanding in regards to affection and in sexual relationships could become very jealous. This attitude was corroborated by a former boyfriend who added that she not only demanded sex a lot, but would sometimes in private belittle a man who wouldn't or couldn't perform. In line with her boyfriend's statements, another associate advised that Brooks was known to pick up men, allow them to live with her for a week or so, get tired of them and go for someone else. She was said to enjoy being argumentative with men.

Similarly, Rita Cobb frequented local bars and was known to pick up men of varying ages and take them home with her. She was described by her associates as being an alcoholic who could exhibit a very mean and demeaning attitude toward men and become difficult to relate with when drinking. Her own son described her as having a "Jekyll and Hyde" personality when intoxicated. Friends characterized her, when she was in an intoxicated state, as being very caustic, argumentative and debative, to the point that she enjoyed baiting people into heated discussions.

These victim's general lifestyles, reputations and behaviors would increase their potential vulnerability. Although they were attacked in their own homes, in view of their general accessibility to a large age range of men, we would characterize them from moderate to high-risk of becoming victims of violence.

MEDICAL EXAMINER'S REPORTS

Upon consideration of the medical examiner's reports, the Behavioral Science Investigative Support Unit (BSISU) primarily focuses attention on the information which would suggest the kind of personality capable of committing these types of crimes. The following points concerning the examiner's reports are felt to be significant in relation to the offender profile:

Each victim's cause of death was listed as ligature strangulation, utilizing a coat hanger in one case and woman's pantyhose in the other. One of the victims sustained additional ligature marks on her wrists which were found bound behind her back. The apparent excessive wrapping of the bindings will be addressed in more detail in a later section of the profile.

There was evidence of vaginal and oral sexual assault on each victim. Moreover, it appears likely that the assailant ejaculated over at least one and possibly both of the victims. Deposits of semen were found on one victim's body and on bed clothing of the other victim.

Analysis of samples of semen taken from the Cobb crime reflects type B, non-secretor blood type which directly corresponds to the samples of semen recovered from the Brooks crime scene and which is found in approximately two percent of the white male population.

There was no evidence of blunt-force trauma or defensive wounds found in conjunction with postmortem examination of either victim.

CRIME SCENE ANALYSIS

The best results evolve in the profiling process when we are in a position to analyze the assailant's verbal, physical and sexual behavior, as well as his methodology in terms of the area of the victim selection and his manner of control over them. As there is no verbal behavior to address, we consider the assailant's physical and sexual behavior and present the following aspects of each crime scene as significant:

Each victim was attacked during the evening hours in her own home. There was no sign of forced entry, nor was any evidence uncovered to suggest that either victim struggled with the assailant. This leads us to conclude that each victim was well enough acquainted with the assailant so as not to be concerned about allowing him to enter her respective residence.

There was no evidence to indicate the assailant brought any weapon to the crime scene. In fact, each weapon utilized at both crime scenes was secured on the premises. We usually would suggest such a person is ill-prepared and, therefore, somewhat disorganized. However, the fact that an assailant uses weapons of opportunity does not always connote a disordered personality. We suggest that this assailant did not come to either crime scene with the intention of killing, but once he made his decision, he made use of whatever was available to him. In both these cases, we find an assailant who was able to secure total control over the victims to such an extent that little, if any, signs of struggle were discernible. He exhibited this control through utilization of restraint devices.

SHOCKERFFS
CORRECTIONS
T.E.G.

It appears unlikely this assailant was significantly motivated or interested in ransacking either victim's residence for valuables. The assailant obviously left various items of value located in plain view at both crime scenes, such as jewelry on a vanity and even on one of the victim's person. Given the amount of time that was spent with each victim, he would have had ample opportunity to steal valuables if he so intended. Our research in similar cases leads us to conclude that the fact a gold chain was discovered missing from one of the victim's residences does not suggest burglary, but rather the assailant's desire for a souvenir to remember or relive for himself what he had done.

Moreover, it is significant to note that the assailant left each victim nude and lying on her back across her bed with legs spread apart in what appears to be a displayed fashion, with articles of clothing or pillow covering only the victims' faces. This display of their bodies was an attempt to leave a message about his opinion of the victims themselves and women in general.

J

The assailant in this manner depersonalized the victims, not necessarily for who they are, but for what they are and what they represent for him. An additional consideration or purpose for leaving the bodies in this state relates to the assailant's possible bondage fantasies.

Each victim reportedly was sexually assaulted vaginally and orally and was likely in the assailant's company for some time. The fact that there was no evidence of forced entry, struggle or even defense-type wounds on either victim suggests the assailant was known by the victims and was allowed to enter their residences. Once inside, one must evaluate the possibility that the victims, given their lifestyles, willingly engaged in sexual relations with the assailant, at least in the early stages of their interactions. Support of this can be found from review of their backgrounds and because of the lack of signs of struggle throughout either residence or bedroom. Neither victim was known to sleep in the nude and, when the bodies were found, their clothing was neatly laid on a chair alongside the bed.

These victims died as a result of ligature strangulation around their necks. There was no evidence of blunt-force trauma. One victim was found with pantyhose wrapped at least four times around her neck with some of the excess hose crammed into her mouth. Her hands were bound at the wrists behind her back and she was found nude on her back across her bed and adjacent to a full-length closet mirror.

The other victim was found with an unraveled coathanger wire wrapped at least twice around her neck and twisted together. The evidence recovered reflects the assailant ejaculated over her body and also onto a dresser located near the bed where she was left displayed, all the while looking at himself and probably the victim in the mirror. The apparently excessive bindings around the victims' necks, with the gags in their mouths, hands tied behind their backs and bodies displayed adjacent to mirrors, should be viewed from the assailant's conceivable desire to fuel his own fantasies of sexual interaction with submissive and bound women, rather than solely his need to control his victims.

OFFENDER PROFILE

Empirical research suggests that crimes of violence usually occur along intra-racial lines, i.e., white on white and black on black. Absent evidence to the contrary and in light of forensic findings in these cases, we would expect your offender to be a white male.

When considering the offender's age, a number of factors pertinent to the crime are examined. Each victim's age, the amount of control exhibited by the assailant and degree of

58

11/10/83 DWA
WMS FOUND ON
BCCV
P. 10/10/83

trauma inflicted, the weapons used and evidence left behind at the scene all become important. In considering these aspects in relation to these particular crimes, we would expect your offender to be chronologically between his mid-twenties and mid-thirties.

It should be cautioned that age is a difficult category to profile since behavior is a result of emotional and mental maturity, not just physical maturity. No suspect should be eliminated based on age alone. The fact that the victims interacted sexually and socially with men of varying ages must be taken into account. Nevertheless, actions exhibited (such as ejaculation in front of a mirror) do indicate a more youthful offender.

Due to the offender's age, you could expect that he may have served in the military and even received a general or honorable discharge, although we would not expect that he would have been officer material.

The offender was not a total stranger to either victim; however, he could have had only a casual or fleeting-type relationship with them.

It does not appear likely that the offender would be married and he probably resides alone. He may live or work in the general area of the homicides. The late hours of the attacks suggest that the offender does not seem to have to answer to anyone for his time. If married, however, we would expect him to be having marital difficulties. This type of individual should be viewed as an inadequate-type person, especially with women in his own age group. He would not be successful in his interpersonal relationships with women.

We would expect that this offender may have had some training beyond high school and could be found to have average to above-average intelligence.

Others who know the offender would characterize him as somewhat of a loner, impulsive and reacting spontaneously to situations, yet he can be adaptive.

The offender is likely employed in an occupation requiring a semi-skilled to skilled worker, yet he would not be one of the employees that necessarily would stick out. The fact that he did not feel it necessary to steal valuables from either victim suggests he is employed and not in need of money.

Additionally, we would expect to find this offender in a similar socio-economic level as other individuals who frequented the same bars to which the victims came. This was conceivably the offender's original point of access to these victims.

19-c-

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FOLLOW
HIS KNOWN BARRKS

If the offender has a criminal record, it would include petit crime-type offenses, such as voyeurism/peeping, party theft, etc. His interests may include bondage-type pornography of the soft-core variety, not the heavy materials, such as whips, leather or chains.

Investigation subsequent to the homicides indicated that the offender likely came to and left the scenes in a vehicle. Given the location of the crime sites, it appears probable that the offender did travel by vehicle. We would generally characterize this offender as neat and well-groomed. Consistent with his means, we would expect that he would be found driving a sedan or utilitarian-type vehicle, rather than a flashy-type auto.

Overall, when considering his relationship with others, this offender would be characterized as the type who would find it easier to deal with women significantly older or younger than he, as each would appreciate his age. He would not involve himself in any long-term relationships and would be seen having difficulty maintaining close relationships, especially with peer age women. Sexually, he would be immature and inadequate, as evidenced by his apparent masturbation over the victim. His sexual inadequacy could have played a role in precipitating his actions towards the victims, especially if they ridiculed, belittled or demeaned him.

The offender is likely a recreational user of alcohol, may use drugs occasionally in a social setting and could have had his inhibitions lowered during commission of the homicides as a result of such use.

POST-OFFENSE BEHAVIOR

One of the more interesting aspects of the profiling process and indeed one which could generate new direction for the investigation is the subject's post-offense behavior. What did the subject do following the crime? Who did he talk to and what noticeable behavioral changes about him have taken place?

Based on research data, in conjunction with an analysis of the information presented in these cases, we suggest the subject responded in the following ways after completion of these crimes:

The offender departed the scene of these homicides in a very nervous and agitated state, not because of any deep-seated feelings of guilt or remorse for what he had done, but rather out of fear of possibly being caught. His primary goal upon leaving the victims was to distance himself from them, get to a safe place, probably his home, and collect his thoughts. He would

have then attempted to establish an alibi or develop some story, which he could relate if he was questioned by the police. In the offender's mind, the victims deserved to be killed because of what they were or what they represented to him. He rather quickly was able to rationalize and cope with what he had done.

His main concern was the possible discovery of his involvement.

If the offender came into contact with anyone shortly after leaving the crime scenes, his nervous and agitated state would have been obvious. They would also have noticed his desire to be left alone; but, because he is usually thought to be a loner, no real significance would have been attached to his behavior.

We would expect that your offender would have acquired and consumed more alcohol or drugs following the crimes in an effort to calm himself so he could begin to cope with his fears of being linked with the victims' deaths.

Considering that each homicide occurred in close proximity to a weekend, the offender may not have had to face going to work the day following his crimes. If he was scheduled to work, he would consider it might look suspicious not to go and would anticipate regular work attendance could bolster any alibi on which he had decided.

In view of the fact that the offender likely lives or works near the crime scenes, coupled with his acquaintance with both victims, it is possible the police have already interviewed him. Investigators would not have necessarily focused on him as a suspect, but rather as an individual who because of his relationship with the victims, might be in a position to provide information concerning their activities. If interviewed, we would not have expected the offender to abruptly offer an alibi. He merely would attempt to claim no knowledge of the victims' recent activities; however, if accused he would have been prepared with an alibi.

This offender would not likely interject himself into the police investigation but would attempt to keep abreast of any developments from newspaper articles and general gossip in the community.

Early on, the offender would have considered whether he might have to leave town. If the police investigation indicated to him that he was being considered suspect in the homicides, he would then attempt to find a reason for leaving town. If the investigation did not appear to be centering on him, he likely would remain in the area. Considering the passage of time since

SH

EXHIBIT L
BRUCE NASH TESTIMONY
BETWEEN 1985 AND 2009 EXTREMELY
IDENTICAL / INCONSISTANT TO TESTIMONY
IMPEACHABLE

EXHIBIT COVER PAGE

13
EXHIBIT

Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY

SHIFF'S DEPARTMENT
 County of San Bernardino
 California
 CA 92500

CALL NO
 DR# 1001036-07
 REPORT AREA

CODE SECTION PC 187	CRIME MURDER	CLASSIFICATION
VICTIM'S NAME - LAST NAME COBB, RITA	FIRST NAME	MIDDLE NAME (IF FM NAME BUSINESS)
ADDRESS	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE ()

INTERVIEW NASH, BRUCE KENNETH, WMA 36 yrs, DOB 3-7-49, 9550 Palomar Trail, Lucerne Valley, home telephone 619/249-6745, Mr. Nash is self-employed:

At approx. 1715 hrs., Monday 9-23-85 Mr. Nash was interviewed on the roadway of highway 15 in the exterior side of the boundary protecting the crime scene.

Mr. Nash stated that he'd known the victim for approx. 3 to 4 years and he met her through John Sullivan a mutual friend. Nash also stated that he and his wife Cynthia had visited with the victim possibly 20 to 30 times over the last 3 year period. And he had last seen the victim while he and Cynthia were at John's Sullivan's house on last Friday 9-20-85.

He went on to add it was approx. 1930 to 1945 hrs., when he and Cynthia were at John's residence where they saw Rita Cobb consuming Jim Beam Bourbon. Bruce and Cynthia Nash left the Sullivan residence at approx. 2145 hrs., leaving Rita Cobb there consuming Jim Beam. Mr. Nash stated that Rita appeared to be a "little buzzed" and in fact he and his wife had offered her a ride home because they didn't think she should be driving.

Asked if Rita appeared to be belligerent he stated no, she's just a very lonely woman that's looking for a man, she could spare her life with. I then questioned Mr. Nash as to what he had last seen Rita wearing, he responded by saying she was wearing designer blue jeans and that's all he could remember. He also stated that she had a new boyfriend by the name of Bruce Lee and she'd mentioned that she was excited about him. Mr. Nash stated that Rita also visited local taverns in the area some of which were the Moose Lodge, VFW, and Zodiac Lounge. Mr. Nash could offer nothing further of investigative value and this preliminary interview was then concluded.

24

REPORTING OFFICERS P. K. 0822	DATE 9-27-85	REVIEWED BY	TYPED BY	ROUTED BY	DATE
ACTION SEARCHED <input type="checkbox"/> INDEXED <input type="checkbox"/>	CLASSIFIED <input type="checkbox"/>	DATE	DATE	REMARKS 13-1	

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

CASE NO. 176
 DR 1331036-07
 REPORT AREA 19
 H 100-65

Page 1

SECTION PC187	CRIME MURDER	CLASSIFICATION FELONY
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME
ADDRESS	RESIDENCE	PHONE

OTHER STATEMENT: Bruce Nash

On March 11, 2009, at approximately 1315 hours, Detective Robert Alexander and I interviewed Bruce at his residence. Bruce was at Many Springs Ranch with Rita Cobb when she was last seen alive. On March 8th, 2009 we arrested Yablonsky for the murder of Rita Cobb. The purpose of the interview was to find out if Bruce knew John Yablonsky and if he had any further information to provide since his last statement in 1985. We asked Bruce numerous questions and the following is a summary of his audio recorded statement.

Bruce liked Rita and described her as a fun lady to hang out with. Bruce met Rita through John Sullivan. Bruce hung out with Rita at Many Springs Ranch and at Rita's house. John was the care taker for Many Springs Ranch. Rita had a ping pong table at her house and they played one another from time to time.

Bruce last saw Rita when she arrived at Many Springs Ranch that Friday evening in 1985. Present at the Ranch were Rita, John Sullivan (Bruce's brother-in-law), Francesca Sullivan (Bruce's sister), Cynthia Hooper (Bruce's girlfriend) and him. Everyone was drinking alcohol except for Cynthia and Bruce. Rita was intoxicated and slurred her speech. *FRANCESCA NEVER SAW AT PARTY?*

Bruce recalled that it was pleasant outside that Friday night. Cynthia and he drove to Many Springs Ranch in their green Ford Interstation wagon arriving at about 8pm. Rita arrived in her Cadillac. Bruce could not recall if Rita arrived before or after Cynthia and him. While at the ranch Rita drank alcohol, possibly some White Lightening (190 Proof). Cynthia and he were sober. Rita generally drank wine and John and Francesca drank beer.

They all hung out together at the ranch until about 9 PM or 10 PM. Rita was good at holding her alcohol but that night she seemed more intoxicated than she usually gets. Rita was having a good time but was slurring her speech. Bruce was concerned for Rita because he did not think she was able to drive home safely. Bruce told Rita he was going to drive her home while Cynthia followed behind them. At no other time when they drank together in the past did Bruce ever have to offer Rita a ride home.

MARCH 11, 2009
 SAW SAUNDERS
 BUT RECALLED COBB ARRIVING
 AT PARTY

AFTER TRIAL

REPORTING OFFICER DET. G. MYLER (M4285)	DATE 03/12/09	REVIEWED BY FM	TYPED BY	ROUTED BY	DATE
OTHER ACTION:	COPIES TO:	Other	SO/PO	REMARKS	
NO	Dist Atty	Patrol		(13-2) GZ	

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SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

DATE NO
 DR 1331036-07
 REPORT AREA
 H 100-65

Page 1

SECTION PC187	CRIME MURDER	CLASSIFICATION FELONY
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME
ADDRESS	RESIDENCE	PHONE

OTHER STATEMENT: Bruce Nash

On March 11, 2009, at approximately 1315 hours, Detective Robert Alexander and I interviewed Bruce at his residence. Bruce was at Many Springs Ranch with Rita Cobb when she was last seen alive. On March 3rd, 2009 we arrested Yablonsky for the murder of Rita Cobb. The purpose of the interview was to find out if Bruce knew John Yablonsky and if he had any further information to provide since his last statement in 1985. We asked Bruce numerous questions and the following is a summary of his audio recorded statement.

Bruce liked Rita and described her as a fun lady to hang out with. Bruce met Rita through John Sullivan. Bruce hung out with Rita at Many Springs Ranch and at Rita's house. John was the care taker for Many Springs Ranch. Rita had a ping pong table at her house and they played one another from time to time.

NASH SEEN COBB
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 NEEDS

Bruce last saw Rita when she arrived at Many Springs Ranch that Friday evening in 1985. Present at the Ranch were Rita, John Sullivan (Bruce's brother-in-law), Francesca Sullivan (Bruce's sister), Cynthia Hooper (Bruce's girlfriend) and him. Everyone was drinking alcohol except for Cynthia and Bruce. Rita was intoxicated and slurred her speech.

SAUNCEA NOT SEEN AT PARTY - NASH?

Bruce recalled that it was pleasant outside that Friday night. Cynthia and he drove to Many Springs Ranch in their green Ford Pinto station wagon arriving at about 8pm. Rita arrived in her Cadillac. Bruce could not recall if Rita arrived before or after Cynthia and him. While at the ranch Rita drank alcohol, possibly some White Lightning (190 Proof). Cynthia and he were sober. Rita generally drank wine and John and Francesca drank beer.

They all hung out together at the ranch until about 9 PM or 10 PM. Rita was good at holding her alcohol but that night she seemed more intoxicated than she usually gets. Rita was having a good time but was slurring her speech. Bruce was concerned for Rita because he did not think she was able to drive home safely. Bruce told Rita he was going to drive her home while Cynthia followed behind them. At no other time when they drank together in the past did Bruce ever have to offer Rita a ride home.

AFTER TRIAL BX

REPORTING OFFICER DET. G. MYLER (M4285)	DATE 03/12/09	REVIEWED BY FM	TYPED BY	ROUTED BY	DATE
THE ACTION ND	COPIES TO Detective Dist. Adv.	Other Off Felony	SC/PO Other	REMARKS 13-3-09	

E-47 (13)

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

CASE NO

DR 1331036-07

REPORT AREA

H 100-85

Page 2

SECTION PC187	CRIME MURDER	CLASSIFICATION FELONY
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME
ADDRESS		PHONE
RESIDENCE		

Interview Continued: Bruce Nash

Rita was adamant that she was fine and could drive herself home. When Bruce pressed her to allow him to drive her home she refused his offer. Rita even made the comment that she was thinking about going to the Zodiac Bar or somewhere else before going home. Bruce saw Rita drive away in her Cadillac and Cynthia and he drove home. That left John and Francesca at the ranch. Today Bruce could not recall what Rita wore that night.

Alexander asked Bruce to tell him about Rita's boyfriends, friends, social life, and career. Bruce said Fred Bedard and Rita dated for a year or so before breaking up. They broke up about six months before Rita was killed. Bruce did not recall Rita dating anyone at the time of her death. Bruce did not know what type of guys Rita preferred or what her social life was like. John Sullivan and Art Bishop (deceased) seemed to be Rita's good friends. Rita worked for the Spring Valley Lake Country Club as a secretary.

On Monday, Francesca, John, and he went into Victorville for some reason. When they returned to Lucerne Valley they saw police cars at Rita's house. When they stopped Daryl (Rita's son) ran to their car and told them someone killed his mother. Bruce put his arms around Daryl and comforted him. Daryl was quite distraught.

Alexander asked Bruce if he had any knowledge that Rita had rented her back house out at any time. Bruce said no. Bruce then recalled that Rita may have rented it out to Fred Bedard at one time or another.

Alexander showed Bruce a photograph of John Yablonsky. Bruce said he does not know John Yablonsky, but he does know a George Yablonsky. George and he rode horses together a long time ago. Bruce recalled George told him back then he was trying to get one of his sons into the family business. George introduced that son to him, but Bruce does not recall what he looked like. George was frustrated with his son because he was a flake, meaning he could not depend on him.

Rita had a personalized license plate of "ST James." James was the name of her deceased husband. Rita always said James was a Saint to her.

AFTER TRIAL 13

REPORTING OFFICER DET. G. MYLER (M4285)	DATE 03/12/09	REVIEWED BY EM	TYPED BY	ROUTED BY	DATE
OTHER ACTION: NO	COPIES TO: Detective Dist. Atty.	Other CII Patrol	SD/PO Other	REMARKS (13-4) 64	

M-401 Rev. 1/83

ESH (L4)

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03500

CASE NO
 DR 1031036-07
 REPORT AREA
 H 100-85

Page 3

SECTION PC187	CRIME MURDER	CLASSIFICATION FELONY
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME
ADDRESS		PHONE
RESIDENCE		

Interview Continued: Bruce Nash

Bruce said he made some repairs to Rita's house once in awhile. One time he replaced the thermostat in her house. Bruce made the repair before Rita and her son Daryl had stopped communicating with each other.

I asked Bruce if he saw or spoke to Rita from the time he saw her leave the Ranch that Friday evening until the time Daryl told him Rita had been killed. Bruce said no. Bruce also indicated he had not received any messages from Rita over the weekend.

Bruce did not have any further information to provide and his interview was concluded at 1400 hours.

NOT A TRIAL

REPORTING OFFICER DET. G. MYLER (M4285)	DATE 03/12/09	REVIEWED BY [Signature]	TYPED BY	ROUTED BY	DATE
OTHER ACTION: NO	COPIES TO: Detective Dist. Atty	Other CII Patrol	SO/PC Other	REMARKS 13-5 65-15	

[Handwritten signatures and initials]

NARRATIVE

I talked with Bruce Nash on 12-9-09 regarding this incident. I identified myself to him as a San Bernardino County Public Defender Investigator and he agreed to talk with me about this case but asked that I call him back on 12-10-09. I called him again on 12-10-09 and talked with him about this case.

I asked Nash if he remembered when he last saw Rita Cobb before her death. He said he thinks it was on Friday night of the weekend of her death. He told me that was at John Sullivan's house. Sullivan is Nash's brother-in-law. There was a get-together at Sullivan's house and Rita Cobb was there. He said she did not have a date or companion that had accompanied her.

SAUNDERS WAS NOT SEEN
AT PARTY EVEN THOUGH HE SAID (SAUNDERS)
SEEN HER ARRIVE

I asked Nash if he knew who, if anyone, Cobb had been dating or seeing regularly before her death. He said he thought it was somebody from Spring Valley Lake but said he could be wrong about that. He could not remember a name at all. He said he seemed to remember Cobb telling him she had been seeing someone. Nash thought that maybe the person Cobb had been seeing had something to do with Spring Valley Lake.

I asked Nash if he had any opinion as to Cobb's reputation with men. He said his "impression" is that she did, at times, go home with a man after having drinks at one of the bars in town. He did not know if that was a fact or not. Nash also told me he never knew Cobb to be a "mean drunk" at all. He said he never saw her like that. He told me she did have a strong personality and would often speak her mind, but was not a mean or aggressive person.

I asked Nash if he noticed anything suspicious or out of the ordinary at or around Cobb's residence just prior to her death. Nash told me he did not live close to Cobb at the time of her death so he would not have any information as far as anything suspicious around her house. I also asked Nash if he knew, or had heard of, Helen Brooks of Apple Valley around the time of Cobb's death. He did not know the name at all.

Nash told me Fran Sullivan is his sister. He said he did not know of anyone that came to mind that might have any information regarding this incident.

AUDIO/VIDEO RECORDING(S) GENERATED IN CONNECTION WITH THIS REPORT: Yes No

PHYSICAL EVIDENCE COLLECTED IN CONNECTION WITH THIS REPORT: Yes No

EVIDENCE CONTROL NUMBER(S):

This report was prepared from my notes and independent recollection of these contacts and events. As this report incorporates and replaces my original notes in their entirety, they were destroyed on: 12/10/2009.

<< NOTHING FOLLOWS >>

AFTER REW

13-8

ETS

1-6 (LS)

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

DATE
 DR 1001030-07
 REPORT TYPE
 H 100-85

Page 2

SECTION	CRIME	CLASSIFICATION
PC187	MURDER	FELONY
VICTIM'S NAME (LAST NAME)	FIRST NAME	MIDDLE NAME
ADDRESS	RESIDENCE	PHONE

Interview Continued: Bruce Nash

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REPORTING OFFICER DET. G. MYLER (M4285)	DATE 03.10.00	REVIEWED BY <i>[Signature]</i>	FILED BY	ROUTED BY	DATE
ACTION	COPIES TO:	DATE	SO/PO	REMARKS	
100	100-100	03/10/00	0100		
100-100	100-100	03/10/00	0100		

113-1



SAN BERNARDINO COUNTY PUBLIC DEFENDER
BUREAU OF INVESTIGATION
Desert Division

REPORT OF INVESTIGATION

DEFENDANT/MINOR:	John Yablonsky	CASE NO:	FVI900518
CHARGE(S):	PC 187		
REPORT TYPE:	Interview / Contact		
DATE(S) OF INVESTIGATION:	12/09/2009	INVESTIGATOR:	Mapula
DATE REPORT PREPARED:	12/10/2009	ASSIGNED DPD:	Sanders
		SUP. INVESTIGATOR:	Mapula

W	NAME: Bruce Nash	ADD 1: 32323 Carnelian	
	AKA:	Lucerne Valley	
	DOB:	ADD 2:	
	DL:		
	PHYS:	PHN 1: 760-900-0702	PHN 2: 760-248-7947
	NAME:	ADD 1:	
	AKA:		
	DOB:	ADD 2:	
	DL:		
	PHYS:	PHN 1:	PHN 2:
	NAME:	ADD 1:	
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	AKA:		
	DOB:	ADD 2:	
	DL:		
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5-11-09 35936

13-16

I talked with Bruce Nash on 12-9-09 regarding this incident. I identified myself to him as a San Bernardino County Public Defender Investigator and he agreed to talk with me about this case but asked that I call him back on 12-10-09. I called him again on 12-10-09 and talked with him about this case.

I asked Nash if he remembered when he last saw Rita Cobb before her death. He said he thinks it was on Friday night of the weekend of her death. He told me that was at John Sullivan's house. Sullivan is Nash's brother-in-law. There was a get-together at Sullivan's house and Rita Cobb was there. He said she did not have a date or companion that had accompanied her. *SANDERS SAID HE SEEN COBB ARRIVE AT BAR AT 630 BUT NOBODY SEEN SANDERS, WHY?*

I asked Nash if he knew who, if anyone, Cobb had been dating or seeing regularly before her death. He said he thought it was somebody from Spring Valley Lake but said he could be wrong about that. He could not remember a name at all. He said he seemed to remember Cobb telling him she had been seeing someone. Nash thought that maybe the person Cobb had been seeing had something to do with Spring Valley Lake.

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PHYSICAL EVIDENCE COLLECTED IN CONNECTION WITH THIS REPORT: Yes No

EVIDENCE CONTROL NUMBER(S):

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<< NOTHING FOLLOWS >>

13-11

BRUCE NASH

1 right, and there were people that could testify
2 that -- that what she said was not what happened.

3 MR. SANDERS: There were a couple of people
4 that said they thought they remembered her in the car.

5 THE COURT: Okay.

6 MR. SANDERS: Thank you.

7 THE COURT: Thank you.

8 (Whereupon the following proceedings were held in open
9 court in the presence of the jury:)

10 THE COURT: I'm sustaining the objection. Go
11 ahead. Ask another question.

12 BY MR. SANDERS:

13 Q So did you -- you offered her -- to take her
14 home.

15 Was she in the process of getting ready to go
16 home?

17 A I don't remember. I believe so.

18 Q Okay. And she declined your offer to drive her
19 home?

20 A Yes.

21 Q Did you watch her as she left to go to her
22 house?

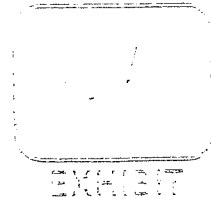
23 A I don't remember that.

24 Q Was there some discussion between she and
25 your -- it was your girlfriend?

26 A Correct.

27 Q Was there some discussion between the two of
28 you that you should follow her home to make sure she got

EXHIBIT COVER PAGE



Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY

EXHIBIT M
JOHN SULLIVAN. POLICE REPORTS
BETWEEN 1985-2009 STARKLY DIFFERENT
INCONSISTANT TO EVERY OTHER WITNESS

IMPEACHABLE

FRANCESCA DRAKE STATEMENT
ZITA LEFT PARTY AT
1130 PM 9 20 85

SECTION 187	CRIME MURDER	CLASSIFICATION
DECEASED'S NAME - LAST NAME COBB, RITA MABEL		FIRST NAME
ADDRESS		MIDDLE NAME (FIRM NAME IF BUSINESS)
<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS		PHONE ()

PAGE 5

Don added that this Frank and Rita had fought like cats and dogs and he'd heard her yelling several times in the middle of the night, for help, usually when she had been drinking. Don had nothing further of investigative value and interview was concluded.

ARRIVAL OF CORONER:

At approx. 1335 hrs., date, Dep. Corner Marshall Franey arrived at the scene. Mr. Franey was briefed of the circumstances surrounding the death that we were aware of at this point and did not enter the residence.

ADDITIONAL INFORMATION:

ADDITIONAL OFFICER:

At approx. 1406 hrs., date, officers from the Sheriff's identification bureau arrived at the scene. Officers present were Tom Moody, and a Jeff Venditti they also were briefed of the circumstances surrounding the death that were known at this time and they also did not enter scene, and stood by awaiting the arrival of the Sheriff's Homicide Division.

At approx. 1417 hrs., date, Sgt. Dave Baker along with Det. Al Long, Gary Woods and Roger Mc from the Sheriff's division arrived at the scene. The responding homicide unit detectives were briefed of the circumstances and also of all information obtained from interviews as of this time. After being briefed, the homicide team began their investigation directing photographs to be taken of the scene and also entering the crime scene.

After the arrival of the Sheriff's homicide team, Det. Knapp and myself remained at the location pending further assignment by Sgt. Baker.

ADDITIONAL INFORMATION SULLIVIAN, JOHN DOB 5-8-45 Mini Springs Ranch, HWY 18 Lucerne Valley Calif., 619/248-6960:

At approx. 1640 hrs., this date I conducted an interview with the above subject in front of the residence owned by Rita Cobb. This interview took place on the dirt shoulder of Hwy 18. In the course of the interview Sullivan related the following information.

I asked Mr. Sullivan when the last time he had seen Rita alive was and he said on Friday night 20-85 she'd come over to his residence that he shared with his girlfriend Fran. Rita came in to the house at approx. 1800 hrs. and left sometime after he went to bed approx. 2230 hrs.

HE LATER SAYS SHE STAYED WITH HIM 2000 HRS

REPORTING OFFICER CUTTLE T1183	DATE 9-26-85	REVIEWED BY	TYPED BY fj	RECORDED BY	DATE
COPIES TO:	<input type="checkbox"/> SERIALIZED	<input type="checkbox"/> OTHER	REMARKS (14-1) <i>69</i> <i>BEFORE 2:00</i> <i>F2</i>		
<input type="checkbox"/> Detective	<input type="checkbox"/> INDEXED	<input type="checkbox"/> OTHER			

STATION 0 187	CRIME MURDER	CLASSIFICATION
VICTIM'S NAME - LAST NAME COBB, RITA MABEL		FIRST NAME MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS	<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> BUSINESS
		PHONE ()

PAGE 6

I asked if Rita had been drinking and he said yes. I asked John if he knew of anyone Rita had been seeing or had dated and he said a man by the name of Fred Bedard or Penard. He drove a brown Ford van with pin striping that used to work at Pfizer. This Fred had been injured and is currently off work. I asked if Rita had seen a lot of men and he said yes, that to him she was a very lonely woman. However, recently she'd met someone from Spring Valley Lake and had gone out with him last week. John said he didn't know the man. Last weekend, meaning the weekend of September 14 and 15, Betty Ball a friend of Rita's, had spent the weekend with her and maybe she would have some additional information about this individual that Rita is seeing. John said he didn't know where Betty Ball lived, but thought Apple Valley.

I asked John what Rita's hobbies were and he said she dearly loved golf, and she like to hike and camp as well. I asked John if he'd seen Rita anymore this weekend and he said no. He said that he thought she was going down below, but did not know what made him think so, and he had not gone by her house except for Sunday evening when he and his girlfriend Fran returned from an Angel game. I asked John if Rita had a critical personality to which he responded that she would critique people and if they didn't know her they could probably take it wrong, as critical. I asked if Rita was anti-"man" in particular and he said no. I asked John if he ever heard Rita talking about Fred hitting her or them getting into fights and he said, mentioned on one occasion, that Fred had hit her once, with no other information available. I said in closing, he thought Doris lived in La Quinta on the outskirts of Palm Springs. John had nothing further of value, interview was concluded.

FRED BEDARD

ADDITIONAL INFORMATION: DRAKE, FRANCESCA DOB 12-29-56, WAXY SPRINGS RANCH, LUCERNE VALLEY, CALIF., 79/248-6960:

at approx. 1700 hrs., on 9-23-85, I conducted an interview with the above person in front of the victim's residence. During the course of the interview, Drake related the following information. In response to my question as to when the last time she'd had seen the victim Rita Cobb, Drake said she saw her on Friday 9-20-85 when she came over to her and John's house. Rita stayed at home approx. 2330 hrs., that night and when she left, she was drunk, she had been drinking a lot of bourbon that evening. I asked Drake what Cobb's personality was when she left, she said that although she was drunk, she was feeling good but lonely like always. I next asked Drake if Cobb had been seeing anybody or going out on any dates with anyone and she said that last weekend, the weekend of 9-13 through 15th she had a date with a man by the name of Bruce Lee, she said the date was on Sunday making it 9-15-85. That they'd gone out one time but had a date of some type for this weekend meaning the weekend just passed.

Drake had mentioned to Drake, she had talked with Lee this past week but, she did not remember if Lee had said it was a telephone or a personal contact with Lee. Drake said Rita was very

SEARCHED	INDEXED	FILED	DATE	REVIEWED BY	TYPED BY	ROUTED BY	DATE
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9-30-85		fj		
COPIES TO:		<input type="checkbox"/> COPY		<input type="checkbox"/> COPY		REMARKS	
<input type="checkbox"/> FILE		<input type="checkbox"/> FILE		<input type="checkbox"/> FILE		14-2	

SECTION 187	CRIME MURDER	CLASSIFICATION
REPORTING OFFICER'S NAME - LAST NAME COBB, RITA MABEL	FIRST NAME	MIDDLE NAME (FIRM NAME IF BUSINESS)
ADDRESS	<input type="checkbox"/> RES OFFICE <input type="checkbox"/> IN PRISON	PHONE ()

PAGE 6

I asked if Rita had been drinking and he said yes. I asked John if he knew of anyone Rita had been seeing or had dated and he said a man by the name of Fred Bedard or Penard. He drove a brown Ford van with pin striping that used to work at Pfizer. This Fred had been injured and is currently off work. I asked if Rita had seen a lot of men and he said yes, that to him she was a very lonely woman. However, recently she'd met someone from Spring Valley Lake and had gone out with him last week. John said he didn't know the man. Last weekend, meaning the weekend of September 14 and 15, Betty Ball a friend of Rita's, had spent the weekend with her and maybe she would have some additional information about this individual that Rita is seeing. John said he didn't know where Betty Ball lived, but thought Apple Valley.

I asked John what Rita's hobbies were and he said she dearly loved golf, and she like to hike and camp as well. I asked John if he'd seen Rita anymore this weekend and he said no. He said that he thought she was going down below, but did not know what made him think so, and he had not gone by her house except for Sunday evening when he and his girlfriend Fran returned from an Angel game. I asked John if Rita had a critical personality to which he responded that she would critique people and if they didn't know her they could probably take it wrong, as critical. I asked if Rita was anti "man" in particular and he said no. I asked John if he ever heard Rita talking about Fred hitting her or them getting into fights and he said, she mentioned on one occasion, that Fred had hit her once, with no other information available. John said in closing, he thought Doris lived in La Quinta on the outskirts of Palm Springs. John had nothing further of value, interview was concluded.

ADDITIONAL INFORMATION DRAKE, FRANCESCA DOB T2-29-56, WAXY SPRINGS RANCH, LUCERNE VALLEY, CALIF., 19/248-6960:

at approx. 1700 hrs., on 9-23-85, I conducted an interview with the above person in front of the victim's residence. During the course of the interview, Drake related the following information. In response to my question as to when the last time she'd had seen the victim Rita Cobb, Drake said, she saw her on Friday 9-20-85 when she came over to her and John's house. Rita stayed until approx. 2330 hrs., that night and when she left, she was drunk, she had been drinking out of bourbon that evening. I asked Drake what Cobb's personality was when she left, she said that although she was drunk, she was feeling good but lonely like always. I next asked if Cobb had been seeing anybody or going out on any dates with anyone and she said that last weekend, the weekend of 9-13 through 15th she had a date with a man by the name of Bruce Lee, she said the date was on Sunday making it 9-15-85. That they'd gone out one time but had a date of some type for this weekend meaning the weekend just passed.

Drake had mentioned to Drake, she had talked with Lee this past week but, she did not remember if Drake had said it was a telephone or a personal contact with Lee. Drake said Rita was very

NO. OF FILES TITLE T1183	DATE 9-30-85	REVIEWED BY	TY. JOB BY fj	ROUTED BY	DATE
ACTION: <input type="checkbox"/> FILED <input type="checkbox"/> INDEXED <input type="checkbox"/> SERIALIZED <input type="checkbox"/> FILED	COPIES TO: <input type="checkbox"/> SO/PO <input type="checkbox"/> Other <input type="checkbox"/> Other	REMARKS: DRAKE SAID SHE SAW RITA COBB ON FRIDAY 9-20-85 AND SHE STAYED OVER AT HER AND JOHN'S HOUSE UNTIL APPROX 2330 HRS. SHE WAS DRUNK AND HAD BEEN DRINKING BOURBON THAT EVENING. SHE SAID SHE HAD A DATE WITH BRUCE LEE ON SUNDAY 9-15-85.			

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

AGENT
 1331039-07

Page 2

H # 100 - 85

SECTION PD 187	CRIME Murder	CLASSIFICATION Felony
VICTIM'S NAME (LAST NAME)	FIRST NAME	MIDDLE NAME
ADDRESS	RESIDENCE	PHONE

WITNESS INTERVIEW: JOHN SULLIVAN (continued)

Sometime around 10:00 p.m., Rita said it was time for her to go home. Sullivan and everyone else felt Rita was too intoxicated to drive so they insisted that one of them drive her home. Bruce got into the driver's seat of Rita's Cadillac and drove Rita home, as Cynthia followed behind in her vehicle. Sullivan remained at the ranch with his girlfriend, Francesca, when they all left.

On Monday, Sullivan went to a doctor's appointment in Apple Valley. When he returned to Lucerne Valley, he stopped at a market. While at the market, someone told him there were a lot of police officers at Rita's house. Sullivan left the market and drove to Rita's house. When he arrived at Rita's, there were police officers everywhere. Sullivan found Darrell at the scene. Darrell is Rita's son. Darrell told Sullivan his mother was dead.

From the time Rita had left Many Springs Ranch that Friday or Saturday evening up until Monday, when he spoke to Darrell, Sullivan had not spoken with Rita over the telephone or seen her for that time period.

When Bruce and Cynthia took Rita home, they did not return to Many Springs Ranch because they had also planned to go home. Sullivan could not recall what type of vehicle Cynthia and Bruce drove back then.

Alexander asked Sullivan if Rita rented out the back apartment behind her house. Sullivan said as far as he knew, she had not rented it out.

Alexander showed Sullivan a photograph of John Yablonsky which did not have any personal identifying information on it. Sullivan said he did not recognize the person in the photograph. Alexander asked Sullivan if he knew the Yablonsky family. Sullivan said he knew George Yablonsky and described him as a very nice person. Alexander asked Sullivan if George had any sons or daughters. Sullivan said not that he was aware of. Sullivan recalled that George Yablonsky and Rita's son, Darrell, had been friends at one time.

REPORTING OFFICER Det. G. Myler/M4285	DATE 031009	REVIEWED BY <i>[Signature]</i>	TYPED BY OMB	ROUTED BY	DATE
OTHER ACTION	COPIES TO:	Other	SD/AD	REMARKS	
1 NO	Detective	Off	Other	<i>[Handwritten notes]</i>	
44-431 Rev. 1-83	Div. Adm.	Party			

[Handwritten signatures and initials]

SHERIFF'S DEPARTMENT
 COUNTY OF SAN BERNARDINO
 CALIFORNIA
 CA 03600

CASE NO.
 1331036-07
 H # 100 - 85

Page 2

SECTION 187	CRIME Murder	CLASSIFICATION Felony	
VICTIM'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME	(FIRM NAME IF BUSINESS)
ADDRESS	RESIDENCE	PHONE	

WITNESS INTERVIEW: JOHN SULLIVAN (continued)

Sometime around 10:00 p.m., Rita said it was time for her to go home. Sullivan and everyone else felt Rita was too intoxicated to drive so they insisted that one of them drive her home. Bruce got into the driver's seat of Rita's Cadillac and drove Rita home, as Cynthia followed behind in her vehicle. Sullivan remained at the ranch with his girlfriend, Francesca, when they all left.

On Monday, Sullivan went to a doctor's appointment in Apple Valley. When he returned to Lucerne Valley, he stopped at a market. While at the market, someone told him there were a lot of police officers at Rita's house. Sullivan left the market and drove to Rita's house. When he arrived at Rita's, there were police officers everywhere. Sullivan found Darrell at the scene. Darrell is Rita's son. Darrell told Sullivan his mother was dead.

From the time Rita had left Many Springs Ranch that Friday or Saturday evening up until Monday, when he spoke to Darrell, Sullivan had not spoken with Rita over the telephone or seen her for that time period.

When Bruce and Cynthia took Rita home, they did not return to Many Springs Ranch because they had also planned to go home. Sullivan could not recall what type of vehicle Cynthia and Bruce drove back then.

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REPORTING OFFICER Det. G. Myler/M4285	DATE 031009	REVIEWED BY <i>EM</i>	TYPED BY CMB	ROUTED BY	DATE
OTHER ACTION: NO	COPIES TO: Other Detective Dist. Atty.	SO/PO Other Patrol	REMARKS <i>(14-4)</i> <i>10/12</i>		

NOTE 2/27/74
FF-EL2
(112)

OFFICER	NAME	CLASSIFICATION
67	WEDDER	
PERSON'S NAME - LAST NAME	FIRST NAME	MIDDLE NAME
COBB, RITA MABEL		
ADDRESS	RESIDENCE	PHONE

PAGE 5

on added that this Frank and Rita had fought live cats and dogs and he'd heard her yelling several times in the middle of the night, for help, usually when she had been drinking. He had nothing further of investigative value and interview was closed.

ARRIVAL OF CORONER:

at approx. 1335 hrs., date, Dep. Coroner Marshall Franey arrived at the scene. Mr. Franey was briefed of the circumstances surrounding the death that we were aware of at this point and did not enter the residence.

ADDITIONAL INFORMATION:

ADDITIONAL OFFICER:

at approx. 1405 hrs., date, officers from the Sheriff's identification bureau arrived at the scene. Officers present were Tom Moody, and a Jeff Verditti they also were briefed of the circumstances surrounding the death that were known at this time and they also did not enter scene and stood by awaiting the arrival of the Sheriff's Homicide Division.

at approx. 1417 hrs., date, Sgt. Dave Baker along with Det. Al Long, Gary Woods and Roger McCoy from the Sheriff's division arrived at the scene. The responding homicide unit detectives were briefed of the circumstances and also of all information obtained from interviews as of this time. After being briefed, the homicide team began their investigation directing photographs to be taken of the scene and also entering the crime scene.

after the arrival of the Sheriff's homicide team, Det. Knapp and myself remained at the location pending further assignment by Sgt. Baker.

ADDITIONAL INFORMATION SULLIVIAN, JOHN BOB 5-8-45 Mini Springs Ranch, HWY 18 Lucerne Valley Calif., 619/248-6960:

at approx. 1640 hrs., this date I conducted an interview with the above subject in front of the residence owned by Rita Cobb. This interview took place on the dirt shoulder of Hwy 18. In the course of the interview Sullivan related the following information.

asked Mr. Sullivan when the last time he had seen Rita alive was and he said on Friday night 5-20-85 she'd come over to his residence that he shared with his girlfriend Fran. Rita came over to the house at approx. 1800 hrs. and left sometime after he went to bed approx. 2230 hrs.

SEARCHED	INDEXED	SERIALIZED	FILED	REMARKS
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14-5 (34)
SEARCHED	INDEXED	SERIALIZED	FILED	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	



SAN BERNARDINO COUNTY PUBLIC DEFENDER
 BUREAU OF INVESTIGATION
 Desert Division

REPORT OF INVESTIGATION

DEFENDANT/MINOR: John Yablonsky CASE NO: FV1900518

CHARGE(S): PC 187

REPORT TYPE: Interview / Contact

DATE(S) OF INVESTIGATION: <u>01/14/2010</u>	INVESTIGATOR: <u>Mapula</u>
DATE REPORT PREPARED: <u>01/15/2010</u>	ASSIGNED DPD: <u>Sanders</u>
	SUP. INVESTIGATOR: <u>Hernandez</u>

WITNESSES

W	NAME: <u>John Sullivan</u>	ADD 1: <u>33403 Carnelian Road</u>	
	AKA:	<u>Lucerne Valley, Calif.</u>	
	DOB:	ADD 2:	
	DL:		
	PHYS:	PHN 1: <u>760-248-6902</u>	PHN 2:
	NAME:	ADD 1:	
	AKA:		
	DOB:	ADD 2:	
	DL:		
	PHYS:	PHN 1:	PHN 2:
	NAME:	ADD 1:	
	AKA:		
	DOB:	ADD 2:	
	DL:		
	PHYS:	PHN 1:	PHN 2:
	NAME:	ADD 1:	
	AKA:		
	DOB:	ADD 2:	
	DL:		
	PHYS:	PHN 1:	PHN 2:

149

I talked with John Sullivan at his residence on 1-14-10. I had previously spoken with him on the telephone and agreed to come to his residence for interview regarding this case. I identified myself to him and gave him a business card.

I asked Sullivan about the death of Rita Cobb. He told me he last saw Cobb the Friday before she was found dead in her home. He said she had come to his residence for a gathering of friends. He remembers that she did like to drink and brought a bottle of liquor of some kind. He seemed to remember she came alone. I asked him if he knew who, if anyone, she had been dating just before her death. He knew that she had been dating Fred Bedard for a period of time but then had split up. He didn't know of anybody else Cobb may have been dating. He did not know the name Bruce Lee. He said he knew Cobb was known to like the company of men and that was her reputation as far as he knew and added that she was a single and fairly attractive lady. He also said he never saw Cobb as a "mean drunk".

I asked Sullivan if he remembered seeing anyone or anything around Cobb's residence that was unusual or suspicious-looking. He said that as a matter of fact he had driven past her home that weekend of her death but he did not see anything unusual, out of place, or suspicious-looking.

AUDIO/VIDEO RECORDING(S) GENERATED IN CONNECTION WITH THIS REPORT: Yes No

PHYSICAL EVIDENCE COLLECTED IN CONNECTION WITH THIS REPORT: Yes No

EVIDENCE CONTROL NUMBER(S):

This report was prepared from my notes and independent recollection of these contacts and events. As this report incorporates and replaces my original notes in their entirety, they were destroyed on: 01/15/2010

<< NOTHING FOLLOWS >>

[Handwritten signature]



Francesca Drake (1992)



Francesca Drake (2008)

14-13

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EXHIBIT COVER PAGE



Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELLATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY

EXHIBIT N
RONALD KCBBS STATEMENT
ABOUT A TRICK ON CCB
BY HER SON & RAMER

County of San Bernardino

California

CA 03600

REPORT AREA

ON 7	CRIME MURDER	CLASSIFICATION STRANGULATION
NAME - LAST NAME COBB	FIRST NAME RITA	MIDDLE NAME (FIRM NAME IF BUSINESS) MABLE
ADDRESS 345 Hwy 18, Lucerne Valley, CA page 4	<input type="checkbox"/> RESIDENCE <input type="checkbox"/> BUSINESS	PHONE () 248-7584

CONTACT AT ZODIAC BAR:

At approximately 2040 hours, Monday, 9-23-85, we made contact at the Zodiac Bar with the bartender DAWN. I asked DAWN and showed her a picture of RITA COBB, and asked her if she knew her. DAWN stated that she did and was aware of RITA, she had been in her about a month and a half ago and was very intoxicated and she stated that's the last time that she has seen her, only one time. I asked her specifically if she had been in there Friday or Saturday night and she stated that she had been the night bartender on those particular nights and had not seen her at all.

While we were leaving the Zodiac Bar we were approached by a VAL LEMOS, Mexican male, 50 years, who lives in Big bear, home phone number of 585-3931. This was approximately 2045 hours, 9-23-85. LEMOS told us of an incident occurring earlier that evening where a subject wearing a L.A.P.D. black hat, blonde hair, skinny, blonde moustach and beard, stated that he was in the bar and he had never seen him in there before and was talking to a female subject that was a local that lived in the area. He stated that she was sitting there and he kept making an approach to her, finally started calling her names such as dirty bitch and telling her to get fucked. He stated that this occurred about 1800 hours, Monday. He stated the girl now is gone but is the girlfriend of a subject by the name of GENE. The information was taken from Mr. LEMOS, the contact was concluded.

Second contact at the Zodiac Bar that night was with RONALD KOBS, he's the local propane gas man, works for Sun Propane there in Lucerne Valley. Mr. KOBS stated he had heard what had happened to RITA and he stated that back on August 15th or 18th, somewhere in that particular area, 1985, that he was called out to the COBB residence and when he went out to survey the property for a possible propane tank construction that there was a dark headed subject with a beard and moustach that he found out later was RITA's son, was there and was very violent acting towards his mother, calling her dirty names and grabbing her by the front of the shirt calling her dirty names to her face. Mr. KOBS stated that RITA COBB was not acting as if she were all there either. He stated that he tried to explain the insertion of the propane tank to her several times and she was just not understanding. Contact with Mr. KOBS was concluded.

OFFICERS WDS, Det. W2108	DATE 9-26-85	REVIEWED BY <i>[Signature]</i>	TYPED BY jo 00397	ROUTED BY	DATE	
COPIES TO: <input type="checkbox"/> NO	<input type="checkbox"/> SD/PO <input type="checkbox"/> Detective <input type="checkbox"/> Dist. Atty.	<input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Patrol	REMARKS <div style="border: 1px solid black; border-radius: 50%; width: 100px; height: 100px; display: flex; align-items: center; justify-content: center; margin: 10px auto;">15-1</div>			

EXHIBIT COVER PAGE



Description of this exhibit:

Number of Pages to this exhibit: _____ Pages.

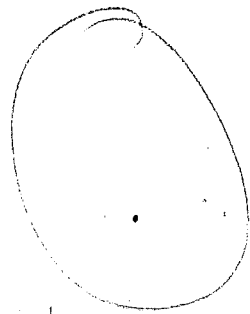
JURISDICTION: (Check One Only)

- MUNICIPAL COURT
- SUPERIOR COURT
- APPELATE COURT
- STATE SUPREME COURT
- UNITED STATES DISTRICT COURT
- STATE CIRCUIT COURT
- UNITED STATES SUPREME COURT
- GRAND JURY

GOVERNMENT BODIES
DISCUSSION ABOUT ALTERING

PLACED ONTO RECORD IN
COURT OF A PPEAR (E071880)
(CIVDS1506664)

Exhibit



AUTHENTICATION OF EXHIBIT 49A
STATES EXHIBIT 49 TO EXHIBIT 49A
AND "OTHER" 136 PAGE TRANSCRIPTS
VALIDATING "DISCREDENCIES"
ANSWERS CHANGED
FRAUD

PROOF OF SERVICE BY ^{NON PARTY} KENNETH YABLONSKY

~~THIS SERVICE WAS CONDUCTED BY A PARTY AND PRIVATE OF DCCP~~

This service and mailing was conducted by a party and private of DCCP and was conducted according to California Code Regulations § 2112 and P.C. 11501(b). This mailing was inspected and sealed in the presence of an Orange County Correctional officer into a fully prepaid envelope to be delivered by the U.S.P.S. as addressed to the following parties;

THIS SERVICE IS TO THE FOLLOWING PARTY'S
COURT OF APPEAL
3389 TWELFTH
R.S.CA. 92501

This service contained the following documents;

ADDENDUM FILING OF EXHIBIT #68

This service was conducted by an adult over the age of 18 years of age and mailed from 6 WARMSPRING LANE ALISO VIEJO CA 92656 ORANGE COUNTY parties as [LEGAL] mail. This mailing was conducted from; ADDRESSED TO THE ABOVE STATED ADDRESS COURT OF APPEAL

Aliso Viejo 92656
CITY ZIP CODE

This service was conducted on (DATE) _____

UNDER THE PENALTY OF PERJURY
THE FORGOING IS TRUTHFUL AND ACCORDING TO BELIEF
(NAME) kenneth yablonsky (SIGNED) _____

My address is 6 warm spring lane aliso viejo, ca, 92656

1 John Henry Yablonsky AL0373
2 18-129
3 480 Alta rd.
4 Sandiego, ca.92179

5 CALIFORNIA COURT OF APPEAL
6 4thDISTRICT, DIVISION TWO

7
8 In Re John Henry Yablonsky,
9 On Habeas Corpus,

§ CASE #

§ MOTION TO FILE STATES EXHIBIT
§ 49 [COMPACT DISC] COPY FOR
§ VERIFICATION OF GROUNDS ONE AND
§ TWO PURSUANT TO CA. EV. CODE§1552,
§ 1553, 1550(b)
§ SUPPORTING THE ALTERING OF EVIDENCE
§ HABEAS RULE 6
§ POINTS AND AUTHORITIES

10
11
12
13
14 ADDENDUM EXHIBIT FILING

15 Petitioner filed habeas corpus with this Court titled as
16 "Factaul Innocence" petition pursuant to P.C. 1473 alleging claims
17 that state parties had manufactured evidence with the intent to
18 present it to a panel of jurist as true and accurate for trial
19 Court #FVI900518. In that case the prosecutor used a recording of
20 the alleged "original" interrogation recording that occured on
21 March 8, 2009. The government identified this "copy" as states exh-
22 ibit 49, and after trial provided post trial counsel Hal Smith as
23 well as appellate counsel Richard Levy "copies" of this exact same
24 compact disc that was "used" in the trial. The state also placed
25 into states records a 113 page "version" of that recording and title
26 it as states exhibit 49A, which is filed herein as petitioners exhibit
27 63. Upon the completion of direct appeal counsel Levy provided

1 petitioners family "the" copy of states exhibit (49) that had been
2 provided to him by the prosecutors office in Sanbernardino Calif-
3 ornia. [T]hat copy was sent to George Yablonsky who without alter-
4 ing its content mailed this to petitioners brother Kenneth Yablonsky
5 which was a computer specialist. This compact disc came in a protec-
6 tive sleeve, and was undamaged when inspected by Kenneth.

7 Kenneth Yablonsky is a skilled and trained computer
8 [expert] with certifications, indicating his knowledge and experience
9 in handling compact discs of this [type]. Kenneth also has a computer
10 inside the office in his home that has protective programs to prevent
11 viruses or other malware that could damage the use, or information
12 stored into the computer. Petitioners daughter then used this protec-
13 computer to open and listen to the contents of states exhibit 49
14 and then compared it to a copy of one of the "^{version}" of the interr-
15 oigation that occured on march 8, 2009. (A 136 page transcript create
16 by Robert Alexander on November 23, 2010) This 136 page transcript
17 is provided in this habeas filing as petitioensrs exhibit 64 and
18 does have notations on it placed there by Jasmine Shawnda Jade
19 Yablonsky who authenticated the states exhibit 49 to petitioners
20 exhibit 64.

21 There were time markers made onto the exhibit 64 showing
22 where and what was altered if any from the [copy] of the recording
23 made by state prosecutors and sheriffs office on November 23, 2010
24 identifying any abnormalities or anomolies. (Please verify) In
25 petitioensrs argument for "factaul innocence" he claims there are
26 two seperate alterings made from the original "real time" recordings
27 made which violated due process rights regarding (authenticity)
28 which if true would warrant habeas being issued.

SWORN DECLARATION BY JASMINE YABLONSKY

I Jasmine Yablonsky am the daughter of John Yablonsky who is a party to this action, while I am not. I am an adult over the age of 18 years of age and swear the following under penalty of perjury and according to knowledge and belief do swear; That I was able to verify a compact disc which had the numbers 49 Case#FVI900518 on it as a copy of a discussion which included my father and other persons I was later informed as Mr. Myler and Mr. Alexander. I am knowledge of how to operate a computer and able to tell time. I personally sat at a desk at 6 Warm Springs lane Aliso Viejo Cal. 92656 I sat there with the disc 49 Case #FVI900518 uploaded onto the computer which was pretected by antivirus software. I was also able to have in my possession a copy transcript from case DR#1331036-07/H#1985-100 which was "reviewed by Robert Alexander #A1672" on November 23 2010. I identified this as a 136 page transcript where it had markings along the left side of the page with initials (GM)(RA)(JY) . I was made aware that GM stood for Greg Myler when I listened to the compact disc 49(CD49). I also was made aware the RA stood for Robert Alexander from the same disc (CD49) I also recognized the sound of my fathers voice and was aware that JY meant Joh Yablonsky.

I played this compact disc on the computer that had speakers that sounded very good and great quality where I could understand everything being said clearly. My task was to verify that what was played on the compact disc was verbatim to the transcript that I was to compare it to. I marked the pages with time stamps to verify how long the sound played and made these marking regularly through the entire recording, especially where there was discrepancies about the sound and text. I identified these anomalies and differences in words, where I wrote what the actual sound was where the answers had been altered. I repeated this process through the entire three hour and fifty minute recording that was on (CD49). I wrote exactly what was said on the sound and identified the parties according to the text transcript and the initials used as GM or RA or JY.

I am a competent adult and swear this to be the truth of the matter according to belief. If called to testify will submit the same under oath in a Court of law.

DATE:

~~SEPTEMBER 2018~~

Jasmine Sahwnda Jade Yablonsky
6 Warm Spring lane
Aliso Viejo, Ca, 92656

CONCLUSION

Allow this compact disc be filed within your Court and allow the attorney general or, prosecuotr authenticate.

NOVEMBER 30, 2018
~~September 21, 2018~~

John Henry yablonsky

SWORN DECLARATION BY JASMINE YABLONSKY

I Jasmine Yablonsky am the daughter of John Yablonsky who is a party to this action, while I am not. I am an adult over the age of 18 years of age and swear the following under penalty of perjury and according to knowledge and belief do swear;

That I was able to verify a compact disc which had the numbers 49 Case#FVI900518 on it as a copy of a discussion which included my father and other persons I was later informed as Mr. Myler and Mr. Alexander. I am knowledge of how to operate a computer and able to tell time. I personally sat at a desk at 6 Warm Springs lane Aliso Viejo Cal. 92656 I sat there with the disc 49 Case #FVI900518 uploaded onto the computer which was pretected by antivirus software. I wass also able to have in my possessiona copy transcript from case DR#1331036-07/H#1935-100 which was "reviewed by Robert Alexander #A1672" on November 23 2010. I identified this as a 136 page transcrip t where it had markings along the left side of the page with initials (GM)(RA)(JY) . I was made aware that GM stood for Greg Myler when I listened tothe compact disc 49(CD49). I also was made aware the RA stood for Robert Alexander from the same disc (CD49) I also recognized the sound of my fatehrs voice and was aware that JY meant Joh Yablonsky.

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I am a competant adult and swear this to be the truth of the matter according to belief. If called to testify will submit the same under oathe in a Court of law.

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~~September 21, 2018~~
Jasmine Jade Yablonsky
6 Warm Spring lane
Aliso Viejo, Ca, 92656
12/9/18

Gassful

CONCLUSION

Allow this compact disc be filed within your Court and allow the attorney general or, prosecuotr authenticate.

~~September 21, 2018~~

[Signature]
John Henry Yablonsky

December 5, 2018

EXHIBIT COVER PAGE

42

DESCRIPTION OF THIS EXHIBIT:

Number of pages to this exhibit: _____ pages.

Jurisdiction: *13-2186* (Check only one)

- Municipal Court
- Superior Court
- Appellate Court
- State Supreme Court
- United States District Court
- Federal Circuit Court
- United States Supreme Court
- Grand Jury

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THE COURT: Mr. Sanders?

MR. SANDERS: I believe so, sir.

THE COURT: Now, I'm going to tell you to put down your pencils and pens and notebooks because I've got quite a bit of reading to do. These are the instructions that I'm going to give you on the law that applies to this case. Some of those are general instructions, some of these are specific instructions.

Just know that I'm going to go through them rather quickly as I read because I don't believe that reading them more slowly gives any benefit in your comprehension. I'm going to be flashing these instructions up on the board so you can read them along with me. I will give you copies of these instructions in writing to go back into the jury deliberation room, and you'll have plenty of chance to look at them when deliberations start.

I haven't been in the 21st Century for long yet. I'm kind of low-tech generally.

Remember when you saw the transcript, I told you to go by the transcript, see if it helps you understand what's on the tape, but the tape-recorded media is the original. Here we go.

"Members of the jury, I will now instruct you on the law that applies to this case. I will give you a copy of the instructions to use in the jury room. The instructions that you

*MANIPULATED
VEES (2)*

411-8

1 or do you want something we write up?

2 MR. SANDERS: If you prefer, I'll write
3 something up, but I think it's fine if you do it
4 informally.

5 MR. THOMAS: In the past, I used to do the
6 drug cases, and an issue that would come up would be
7 whether or not the defendant's vehicle or a person or
8 house was searched in accordance to law. The special
9 instruction that would be given usually in that case
10 would be something to the effect that, it's -- this is
11 a matter for the Court to decide, and the Court has
12 decided that it was a lawful search.

13 THE COURT: Yeah, but that's not really what
14 I'm asking you. I'm asking you whether you want to
15 write something up or for me to informally advise
16 them.

17 MR. THOMAS: I'm fine with the Court
18 informally advising them.

19 MR. SANDERS: As am I.

20 THE COURT: Somebody remind me on Monday,
21 somebody wearing glasses seated to my left. You can
22 show me that note again on Monday.

23 All right. I drafted some instructions. You
24 have them there, I think in blue. I'm going to run
25 through these, and you all can tell me -- you can tell
26 me what you think I should do when I get through telling
27 you what I'm intending to do.

28 I'm intending to give 100, 101, 102, 103, 41-7

1 MR. THOMAS: And Mr. Sanders and I spoke. I
2 think we've agreed to all the exhibits would go into
3 evidence except for Exhibits 30, 31, 32, 38, and 40.

4 THE COURT: By stipulation?

5 MR. SANDERS: Yes, your Honor, we agree that
6 all of them will go into evidence except the ones that
7 the district attorney mentioned.

8 THE COURT: So stipulate, Mr. Thomas?

9 MR. THOMAS: Yes, your Honor.

10 (Whereupon Exhibits 1 through 29, 33 through 37 and 39
11 through 49A were admitted into evidence.)

12 MR. THOMAS: As far as the transcript is
13 concerned, both of us don't have a problem with the
14 jury getting it as an aid to Exhibit 49 itself.

15 THE COURT: Okay.

16 MR. SANDERS: That's correct.

17 THE COURT: Fine. Did anybody want to do
18 something like write a stipulation regarding the
19 Miranda issue?

20 MR. SANDERS: I like the Court's suggestion,
21 and I thought the words you used were even appropriate
22 words.

23 THE COURT: Since I never listen to myself, I
24 have no idea what I said.

25 MR. SANDERS: Something to the effect of,
26 I'll instruct the jury that they are to disregard that
27 issue.

28 THE COURT: You want me to do it informally

1 had had this before I let the jury go. I may very well
2 allow either one of you to reopen to discuss this. I
3 don't want the jury to be confused on something that is
4 of no moment and should not enter into their
5 consideration. I don't know how we're going to do it.

6 MR. THOMAS: I think we can draw up a
7 stipulation that he was read his Miranda rights, and
8 everything was done properly.

9 THE COURT: Maybe you guys can do whatever
10 you want to do. I don't know the answer to what
11 you're going to want to do. I need to have you here
12 at 8:30 in the morning on Monday so we can get these
13 things straight.

14 In the meanwhile, we're going to take a
15 15-minute recess.

16 MR. THOMAS: Okay.

17 (Whereupon a recess was taken.)

18 THE COURT: Back on the record in the case of
19 People of the State of California versus John Henry
20 Yablonsky who is here with Mr. Sanders, his attorney.
21 Mr. Thomas is here along with Detective Alexander.

22 Did you get a chance to review the exhibits?

23 MR. THOMAS: Yes, we did.

24 MR. SANDERS: Yes, sir.

25 THE COURT: Mr. Thomas, what are the -- there
26 is the list right here.

27 THE CLERK: Yes.

28 THE COURT: Looks like we have 1 motion on 4A.

41-5

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MR. THOMAS: No. I'll be up late tonight
doing it.

THE COURT: Have a nice lunch. Thank you.
(Whereupon the lunch recess was taken.)

1 THE COURT: -- statements that Mr. Sanders --

2 MR. THOMAS: As far as Mr. Sanders has
3 provided, I don't have any problem with redacting the
4 stuff. The only question I did have for Mr. Sanders
5 is there's reference at the end of the interview where
6 Mr. Yablonsky's invoking. I was planning on taking
7 that out unless you wanted to keep it in.

8 MR. SANDERS: I did this very late last
9 night, and I did forget when he invoked Miranda to
10 take that out.

11 THE COURT: Other than that, sounds like
12 we're in accord on what should be done. No
13 disagreement between the two of you?

14 MR. SANDERS: I believe so.

15 THE COURT: All right. That can't be done
16 until tomorrow.

17 MR. THOMAS: I wouldn't be able to do it
18 until tonight. I'm going to start this afternoon once
19 we're done.

20 THE COURT: How much is it?

21 MR. SANDERS: It's about a three-hour
22 interview. I'm requesting redaction of ten minutes
23 but in different parts of the interview.

24 MR. THOMAS: So I got to go through
25 everything and find out where I got to cut the
26 interview out and make sure it sounds good.

27 THE COURT: Can't be done between 11:05 and
28 noon

111-6

1 THE COURT: Make a copy for him. Anything
2 else?

3 MR. SANDERS: Thank you, your Honor. I had
4 indicated to the prosecutor the parts of the statement
5 that I felt should be redacted.

6 THE COURT: Let's talk about a little
7 information before we make assumptions.

8 MR. SANDERS: I believe we agree --

9 THE COURT: Statement that's going to be
10 offered by the prosecution, and it's a statement
11 alleged to be a statement by your client; is that
12 correct?

13 MR. SANDERS: Yes, your Honor.

14 THE COURT: All right. You are not going to
15 object to entry of the statements, but you believe
16 there should be some things that were stated by your
17 client that should be removed from the statement; is
18 that correct?

19 MR. SANDERS: Mostly statements by the police
20 officers but some statements by my client.

21 THE COURT: Mr. Thomas has not disagreed with
22 you and attempted to provide you with specifics of how
23 he intends to redact the statement of your client, so
24 that it is not objectionable to you; is that correct?

25 MR. SANDERS: That's correct.

26 THE COURT: Mr. Thomas, you've seen that, and
27 do you have any reason to disagree with the --

28 MR. THOMAS: No, as far as --

*NEVER
AGREE TO
ANY
STATEMENT
I HAVE
INTEREST*

(41-3)

ALTERED
TRANSCRIPT

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schedule.

THE COURT: Can those redactions -- I am not sure why the redactions cannot be done before Thursday.

MR. THOMAS: Because Mr. Sanders has to look at them. Then I need to make the redactions.

MR. SANDERS: I can do those tonight.

MR. THOMAS: Then I can get it done tomorrow. I'll do that when I get home tomorrow night.

THE COURT: You don't have a secretary to do that?

MR. THOMAS: No. I have to do it because I have to ensure that everything's taken out that needs to be taken out. I don't want to leave that up to somebody else.

THE COURT: All right. Do you have any instructions?

MR. THOMAS: I'll have those for you by Thursday.

THE COURT: Do you know how I like them?

MR. THOMAS: I have no idea. Last time I did a trial in here --

THE COURT: How about Wednesday? Don't you have the instructions ready? Here's what I want you to do. If you can't do it by tomorrow, that's understandable. I'd like to start working on them myself. What I'd like you to do is give me -- you know that piece of paper that you have, the checklist?

111-2

1 tomorrow morning at 9:00. Ladies and gentlemen,
2 you're admonished that it is your duty not to converse
3 among yourselves or with anyone else about any matter
4 connected with this case nor form or express an
5 opinion on it until it's submitted to you.

6 (Whereupon the following proceedings were
7 held outside the presence of the jury:)

8 THE COURT: All right. The jurors are gone.
9 Mr. Thomas, are you going to have enough people to
10 fill up the day tomorrow?

11 MR. THOMAS: Depending how long they go.
12 Just so the Court knows, this can be off the record as
13 far as scheduling.

14 THE COURT: I want to make sure that you
15 have extra people here. I don't mind if we don't get
16 to someone.

17 MR. THOMAS: That's what I was going to
18 explain to you. As far as tomorrow, I have
19 John Sullivan coming in. I have Marshall Franey, who
20 was the deputy coroner. Dr. Bill Saukel and
21 Bruce Nash. Those are going to be the four witnesses
22 I have.

23 Then my last witness, which will have to be on
24 Thursday is Detective Alexander. The reason it has to
25 be on Thursday is I need to wait for Mr. Sanders to take
26 out any redactions that he has in the recording because
27 that's what I was going to play on Thursday, and at that
28 point the People would rest. So we're well ahead of

*ADDED
TRANSCRIPTS*

EXHIBIT

INTERVIEW WITH JOHN YABLONSKY

DR #1331036-07 / H #1985-100

(v) Rita Cobb

1 JY: What a trip. I thought for sure you guys had already solved this thing a long time
2 ago.

3 GM: How come you never came forward to talk to any of the detectives?

4 JY: Well I only spoke to the guys that spoke to me. I you know I had nothing to offer
5 them what am I gonna say.

6 GM: Cause you were living on the rental property that could have been helpful back
7 then for the detectives.

8 JY: I, again I didn't run in the circles that she ran I was in a different you know.

9 GM: I guess that kind of makes sense. But at no time you didn't no detective tried to
10 reach out to you, tried to make an appointment to talk to you, come by your house
11 leave a business card?

12 JY: Somebody again. . . .

13 GM: Just a private eye?

14 JY: I don't know if it was a private eye or it was a detective or I don't know who it was.

15 RA: But somebody was asking questions? (overlapping conversation)

16 JY: ~~But~~ (inaudible) somebody in person and I spoke to somebody over the phone and
they asked me what I had to offer as far as anything and the only uh, complication
I had ever seen her have was with that one gentleman out in uh. . . .

19 RA: Right, but never nothing turned physical with that I mean nothing ever happened.
(overlapping conversation) You know this guy.

21 JY: He left.

22 RA: Right.

23 JY: And I don't even think he had a car. I think he left walking. I don't even remember
24 him how he got there maybe he had somebody drop him off or what I don't know.
25 ... 07:14:43

26 RA: You wanna after you discuss this a little more in detail with him I wanna ask him
27 some more questions. I'd like to go down to um, the other location to speak. I

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50:19

To

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15 SEC

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To

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INTERVIEW WITH JOHN YABLONSKY

DR #1331038-07 / H #1995-100

Rita Cobb

OFFER OF NEW CONFIDENTIALITY REMAINED

1 think some things that we're gonna talk about are gonna be a little bit private,
2 embarrassing and I just wanna make sure that we're in a comfortable location um,
3 kind of away from your wife. Do you mind going with us? 01:15:09

4 JY: Where are we going? RECORDED CUT CUT AND STAFF AND

5 RA: Go down to Signal Hill police department so we can sit down there and talk. 01:15:13

6 JY: I guess so.

7 RA: I appreciate it.

8 JY: I mean I'm now like a suspect, suspect on this thing or what? 01:15:23

9 RA: Well we're talking to everybody trying to get as much information as possible John
10 and um, sometimes we have to ask personal questions and ... 01:15:33

11 GM: You got your family sitting right there. (overlapping conversation)

12 RA: Your family's right there and we don't wanna cause any type of embarrassment.

13 JY: I don't think there is gonna be any kind of complications.

14 RA: I think it would be just be better if we did it kind of back at the station as opposed
15 to right here. And you have been very cooperative with us talking to us right now
16 and um ... 01:15:53

17 JY: Hey Mel, Melody?

18 GM: Hi, how are you?

19 UN: (Inaudible)

20 RA: Hi.

21 UN: (Inaudible) Uh, here Montana.

22 UN: Montana here.

23 GM: That's him huh? He's big.

24 RA: He looks like a big friendly dog.

25 JY: Was, was killed and they are trying solve the case and they wanna just ask. ...

26 UN: What? 01:15:57

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P.52,3

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48 SEC

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COUNTS BACKWARD FROM
11:15:57 TO 11:15:43

11 SEC

P.52,3

INTERVIEW WITH JOHN YABLONSKY

DR #1931036-07 / H #1995-100

W Rita Cobb

1 RA: Did she have a passkey to your apartment?

ALTERED ANSWER
FROM ~~Yes~~ To No
YES SHE DID NO

2 JY: Yeah, she did 1:07:32

3 RA: So it would not be common for her to go over to your apartment though, right?

4 When you guys were living there she just wouldn't ~~go~~

5 JY: She was thought 1:07:42

6 RA: And you guys wouldn't go over to her house obviously because it's two separate
7 houses.

8 GM: Does she have any pets?

9 JY: I think she had a dog.

10 RA: What kind of dog?

11 JY: (Inaudible)

12 RA: You don't remember? Was it a big dog or a small dog or . . .

13 JY: I don't remember you know I mean honest it's . . .

14 RA: Did it have a dog house? Was it a outside dog? An inside dog?

15 JY: I don't remember.

16 RA: Excuse me?

17 JY: I don't even remember.

18 RA: Ok.

19 GM: Now what about the pistachio place? We talked to some people up there. Maybe
20 he might be able to help us on that.

21 RA: Yeah, um, there was a couple other pista- - or couple of other people that we
22 talked to that lived at the pistachio farm. I'm thinking it's out this way cause you
23 said Big Bear's over here.

24 JY: Yeah.

25 RA: So . . .

26 GM: Is 19, does that take you to Big Bear?

27 JY: Yeah, uh, pistachio farm is over here.

1:07:32
1:07:32
10 SEC.
2 MIN
12 SEC TO
48:11

49A EXHIBIT #
CASE #: FV1900518
CASE NAME: PEOPLE-V-YABLONSKY, JOHN
DATE: 1-27-11
DATE ENTERED: 1-27-11
P 1 Δ

INTERVIEW WITH JOHN YABLONSKY

DR #1331036-07 / H #1985-100

(v) Rita Cobb

1 had sex? Never got in any fights with her? She was a nice lady? You're nodding
2 your head no?
3 JY: Yeah, no
4 GM: Ok.
5 JY: (inaudible)
6 GM: And this is, how was Holly back then? Was she
7 RA: Was she strictly with you or did she have boyfriends?
8 JY: I was hoping she would go. As far as I know she was always with me, just with
9 me.
10 GM: Ok.
11 RA: So you guys, you guys had a relationship where um, you didn't date outside of
12 yours and Holly's marriage. Cause I know that some people do that you know.
13 GM: Talked a lot of different types of people.
14 RA: Yeah, people do that. That's their thing but that wasn't your guy's thing?
15 JY: Uh-uh.
16 RA: Ok.
17 GM: Anything else you can think about? You hear any other rumors back then?
18 JY: No.
19 RA: Any other. . . .
20 GM: Did she get you guys had a key for the rental or
21 JY: ~~Yeah, I'm sure we had a key.~~
22 GM: Ok, did you guys also have a key to Rita's house?
23 JY: Um, yeah.
24 GM: Ok, so she wasn't like that it was strictly business? She didn't allow anybody in her
25 house?
26 JY: No
27 RA: Did, did she have a key to your apartment?

DEE ANSWERED TO
NO CHANGE TO
SAY "UM YEA
TH 7m 15s
EXHIBIT 49

28

INTERVIEW WITH JOHN YABLONSKY

DR #1331036-07 / H #1985-100

(v) Rita Cobb

1 RA: Ok, Jasmine would be the one that was born at this house and then when you left
2 this house and moved down to Lynwood how long did you stay at this house?
3 JY: I believe a year and a half.
4 RA: A year and a half, um did you have any more kids in that year and a half besides
5 Jasmine and J.J.? No, so then that was when you moved down to Lynwood it was
6 Holly, you, Jasmine, J.J.?
7 GM: Like my partner said it, it's embarrassing for us to ask but because you lived here
8 and we don't know what type of person you were back then. We don't know if you
9 were partying you cheated on Holly all the time we don't know what kind of scene
10 you were into you know and Rita's right here you know we, we gotta ask those
11 questions. You ever get in a fight with her a physical fight?
12 JY: With who?
13 GM: Did she ever get in a physical fight with you and hurt you?
14 JY: No.
15 GM: She never attacked you physically or anything like that? I mean we don't know
16 her. We, we've never met her. We heard she can get belligerent and cause
17 problems so (overlapping conversation)
18 RA: Yeah, we heard that she, get a little, get very belligerent when she'd been drinking
19 and kind of turn into obnoxious person. But, you're, to, you're describing that you
20 never saw that.
21 GM: And she was always kind to Holly.
22 JY: Always very kind and very compassionate.
23 GM: And you and her never partied you guys never got intimate?
24 JY: I don't think we even got a beer together. She just wasn't that kind of partier.
25 GM: Cause like I said we didn't we don't know you and your not so we have to ask
26 those questions because you lived on her property. You guys never kissed? Never
27

23

Page 43 of 113

Reviewed by Det. Rob Alexander

#A1672

November 23, 2010

INTERVIEW WITH JOHN YABLONSKY

DR #1331036-07-IH #1985-100

(v) Rita Cobb

DEF ANSWER DID CHANGE TO SAY
YES SHE "NO"

1 JY: No

2 RA: Did she have a passkey to your apartment?

3 JY: No

4 RA: So it would not be common for her to go over to your apartment though, right?
5 When you guys were living there she just wouldn't. . . .

6 JY: She was thoughtful.

7 RA: And you guys wouldn't go over to her house obviously because it's two separate
8 houses.

9 GM: Does she have any pets?

10 JY: I think she had a dog.

11 RA: What kind of dog?

12 JY: (Inaudible)

13 RA: You don't remember? Was it a big dog or a small dog or

14 JY: I don't remember you know I mean honest it's

15 RA: Did it have a dog house? Was it a outside dog? An inside dog?

16 JY: I don't remember.

17 RA: Excuse me?

18 JY: I don't even remember.

19 RA: Ok.

20 GM: Now what about the pistachio place? We talked to some people up there. Maybe
21 he might be able to help us on that.

22 RA: Yeah, um, there was a couple other pista- - or couple of other people that we
23 talked to that lived at the pistachio farm. I'm thinking it's out this way cause you
24 said Big Bear's over here.

25 JY: Yeah.

26 RA: So. . . .

27 GM: Is 18, does that take you to Big Bear?

28 Page 45 of 113

INTERVIEW WITH JOHN YABLONSKY

DR #1331036-07 / H #1985-100

(v) Rita Cobb

- 1 JY: Yeah, uh, pistachio farm is over here.
- 2 RA: Do you know which one we're talking about? It's called Minnie, Minnie Springs
- 3 Pistachio Ranch maybe?
- 4 JY: I don't know what, what it is now?
- 5 GM: So your road was in between Rita's and the pistachio farm?
- 6 JY: Yeah.
-
- 7 GM: Ok.
- 8 RA: Did you
- 9 JY: No, it was. . . . (overlapping conversation)
- 10 RA: Did you hang out with the people at the pistachio farm?
- 11 JY: Uhhh, God I can't keep (inaudible)
- 12 GM: Do you have a map Rob?
- 13 JY: No, I didn't bring a map of that area.
- 14 JY: I don't remember the name the road, uh, just like an old bar and there used to be
- 15 restaurant used to be right up here.
- 16 RA: Right.
- 17 JY: You know right by
- 18 GM: Can you draw like a smaller scale like Rita's, the dirt road you lived on, the
- 19 pistachio farm and that way we can kind of get a better picture.
- 20 RA: Ok, so that's Big Bear.
- 21 JY: Big Bear.
- 22 GM: You got 247 and 18 come together down here.
- 23 JY: Well you got
- 24 RA: Ok so that's where he lives and that's the rental.
- 25 JY: And this is the rental right here, there's a, a wolf sanitarium or whatever. It's, they
- 26 call her the wolf lady.
- 27 RA: She grow flowers there or what does she do?
- 28

INTERVIEW WITH JOHN YABLONSKY

DR #1331036-07 / H #1985-100

(v) Rita Cobb

1 think some things that we're gonna talk about are gonna be a little bit private,
2 embarrassing and I just wanna make sure that we're in a comfortable location um,
3 kind of away from your wife. Do you mind going with us?

4 JY: Where are we going?

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5 RA: Go down to Signal Hill police department so we can sit down there and talk.

6 JY: I guess so.

7 RA: I appreciate it.

8 JY: I mean I'm now like a suspect, suspect on this thing or what?

9 RA: Well we're talking to everybody trying to get as much information as possible John
10 and um, sometimes we have to ask personal questions and

11 GM: You got your family sitting right there. (overlapping conversation)

12 RA: Your family's right there and we don't wanna cause any type of embarrassment.

13 JY: I don't think there is gonna be any kind of complications.

14 RA: I think it would be just be better if we did it kind of back at the station as opposed
15 to right here. And you have been very cooperative with us talking to us right now
16 and um

17 JY: Hey Mel, Melody?

18 GM: Hi, how are you?

19 UN: (Inaudible)

20 RA: Hi.

21 UN: (Inaudible) Uh, here Montana.

22 UN: Montana here.

23 GM: That's him huh? He's big.

24 RA: He looks like a big friendly dog.

25 JY: Was, was killed and they are trying solve the case and they wanna just ask. . . .

26 UN: Who?

27

28

INTERVIEW WITH JOHN YABLONSKY

DR #1331036-07 / H #1985-100

(v) Rita Cobb

1 JY: A lady named Rita. Me and uh, J.J. and Jasmines mom had rented from her that
2 she had gotten killed (inaudible).
3 UN: Ok, so?
4 GM: He had never been interviewed back then officially and he lived in a back rental
5 that the detectives didn't know about back then.
6 UN: (Inaudible)
7 GM: So, obviously we wanna clear him if he didn't have anything to do with it. He was
8 living back there. . . . (overlapping conversation)
9 RA: We wanna. . . . (overlapping conversation)
10 GM: about the time when this happened
11 RA: We'd like to sit down and have a talk and we, we have a lot more questions that
12 we'd like to ask.
13 UN: Ok, I mean. . . .
14 RA: Ok.
15 UN: So he's gonna ride with you or you want me to give him a ride up. . . . (overlapping
16 conversation)
17 GM: He can ride with us and we can bring him back.
18 UN: Ok.
19 JY: Do you mind if I take uh, we got your car never mind.
20 RA: Um
21 UN: Do you want me I can give him a ride up there if you want me uh, just let them.
22 GM: If you want that would be fine.
23 RA: If you want, that's cool.
24 JY: Ok.
25 GM: Whatever's easier.
26 RA: As long, as long as you don't mind.
27 UN: Cause I don't mind giving him a ride no.

28

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Reviewed by Det. Rob Alexander

#A1672

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