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EXHIBIT COVER PAGE



EXHIBIT

Description of this exhibit:

3-10-17
TRIAL COURT ORDER

Number of Pages to this exhibit: 2 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

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Stuart O'Melveny, Attorney
High Desert Defenders
14420 Civic Center Drive, #8
Victorville, California 92392

Phone : (760) 955-1700

Appointed by Superior Court of San Bernardino County

RECEIVED
MAR 07 2017
VICTORVILLE DISTRICT

VICTORVILLE DISTRICT
MAR 07 2017
RECEIVED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
VICTORVILLE DISTRICT
MAR 10 2017

SHIRLEY M. MINDELL DEPUTY

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO - VICTORVILLE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

JOHN YABLONSKI,

Defendant.

Case No.: FVI900518

PENAL CODE § 1405


ORDER FOR APPOINTMENT

GOOD CAUSE APPEARING, it is hereby ordered that the court will appoint Attorney Stuart O'Melveny to investigate the claims made by the Defendant John Yablonski for purposes of conducting a DNA re-testing and to submit a memorandum concerning his findings.

The appointment shall be made Nunc Pro Tunc from the date of Mr. O'Melveny's first appearance on this case, which occurred on November 8, 2016.

SO ORDERED,

Dated: MAR 10 2017


SUPERVISING JUDGE

People vs. Yablonski

Order for Court Appointment - 1

E1

EXHIBIT A



SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO
Victorville District
14455 Civic Drive, Suite 200
Victorville, CA 92392
www.sb-court.org

MINUTE ORDER

Case Number: FVI900518

Date: 5/19/2017

Case Title: People of the State of California vs. JOHN HENRY YABLONSKY

Department V2 - Victorville

Date: 5/19/2017

Time: 8:30 AM

Other hearing

Charges: PC187(A)-F

Judicial Officer: John M Tomberlin
Judicial Assistant: Shirley Jauregui
Court Reporter: Eva Arambula
Bailliff: J Patrick

Appearances

District Attorney Sean Daugherty
Conflict Panel Elizabeth Skrzynecky for CDP-Stuart O'Melveny
Defendant not present
(in State Prison)

Proceedings

Defense oral motion to continué matter is granted.

Hearings

Other hearing set for 7/21/2017 at 8:30 AM in Department V2 - Victorville
Defendant's presence waived.
(PC1405 motion)

Custody Status

Case Custody - State Prison

== Minute Order Complete ==

E2

EXHIBIT BA

DEFENDANT
OBJECTION
6-1-17

#4

PROOF OF SERVICE BY AN INMATE
ACCORDING TO PRISONER MAILBOX RULE

20

This service and mailing was conducted by a party to this action, and was conducted according to ordinary California State Prison Title 15, Div. 3 Section § 3142, and with Penal Code § 2601 (b).

This mailing was inspected and sealed in the presence of an on duty correctional officer, in a fully-prepaid envelope that was addressed as follows;

Superior court
Clerk for the court
14455 civic dr.
v.v.ca., 92392

Appellate unit
District attorney
303 W 3rd st fl. #5
s.b.ca. 92415

[Handwritten scribble]
In...
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...power
...03540

This service contained the following documents;

OBJECTIONS FILED BY DEFENDANT PURSUANT TO EV.C.451,452
C.R.P.C. RULE 5-200(B) FILED WITH SUPPORTING DOCUMENTS

This service was conducted by and of an adult over the age of Eighteen, and mailed according to ordinary daily mail routines to be delivered by the United States Postal service, from the city of;

SANDIEGO

92179

CITY

ZIP CODE

This service was conducted on the thir day of 1st of the month of june, 2017

ACCORDING TO THE PRISONER MAILBOX RULE

THIS SERVICE IS FILED WITH THE COURTS ON THIS DAY

UNDER THE PENALTY OF PERJURY

The forgoing is truthful and accurate to the knowledge of

john henry yabloosky

Print Name

[Handwritten Signature]
Signature

MY ADDRESS IS 430 alta rd, s.d.ca. 92179

I / C

John Henry Yablonsky AL0373
D17-129
480 alta rd.
~~XXXX~~ S.D., Ca. 92179

June 29, 2017

SUPERIOR COURT OF CALIFORNIA

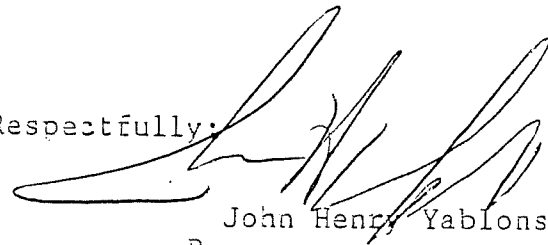
Dear courts clerk;

I am the narrator of the P.C. 1405 motion for case FVI 900 518 and prose litigant for this case as post trraIL CHALLENGES.

I am filing this objection regarding a review conducted by an alleged impartial counsel, *(see attached motion) filed by Mr. O.Melveny. His mistatements are now on record for objections by the injured party. Please file this formal objection pursuant to Ev.C. §§ 451,452 and CRPC rule 50200(B)

I have attached a SASE for your return of the proof of receipt of the motion filed on on my behalf as a defendant. There is also a record with the CDCR as this mailing being mailed to you from an institution.

Respectfully:



John Henry Yablonsky
Pro se

I 2 C1

John Henry Yablonsky AL0373

013-129

430 Alta rd.
San Diego, CA, 92179

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

People for the state of
California
Responding party,

vs.

John Henry Yablonsky,
Moving party,

CASE NUMBER #FVI900518

DEFENDANT AND MOVING PARTY ENTERS
OBJECTIONS FOR MISTATEMENTS OF FACT
AND LAW BY APPOINTED COUNSEL PURSUANT
TO EV.CODE §§ 451(b), 451(c) AND
C.R.P.C.RULE 5-200(B) AGAINST APPOINTED
COUNSEL MISTATEMENTS OF HISTORICAL
FACTS CREATED BY CASE #FVI900518

Date: July 21, 2017
Department: V2

The honorable judge John Tomberlin

Defendant filed a P.C. § 1405(a) MOTION TITLES AS PETITION
FOR WRIT OF MANDATE, on October 17, 2016. The Court considered the
motion based on post trial filing challenges regarding DNA evidence
and gave an order to appoint counsel (see exhibit 1) filed here.
The case was assigned to Stuart O'Melveny as the appointed counsel
on November 3, 2016 and instructed to conduct Nunc Pro Tunc review
of People v Yablonsky FVI900518 for possible DNA examinations pursuant
to 1405.

Petitioner (Yablonsky) filed the motion based on the
foundation and elements required by P.C. 1405 along with attachments
to support this request of the court by a life without possibility
parole inmate. (see exhibit 3)

OBJECTION-1

1 Defendant researched and drafted his petition for writ
2 of mandate pursuant to P.C. §1405(a) and other laws, which were
3 on point, addressing DNA characters that originated in the case for
4 DR# 1331036-07 the murder of Rita Mabel Cook that had been killed
5 on September 20, 1965 according to proof. As a result of the counsel's
6 failure to state the facts as the state #FV190513 record exists,
7 he embellished, mistated, and blatantly lied to this court in vio-
8 lations to rules, laws, and statutes regarding a) representation
9 b) attempts to influence the Court or tribunal of the truth, WITH LIES.

10 The sixth amendment guarantees the right to effective assis-
11 tance of counsel during [criminal] prosecutions Panilla v Ky, 130
12 S.Ct 1473, 1480-81(2010) In order to be effective on proving the
13 ineffectiveness the defendant must (1) prove the counsel performance
14 fell below the objective standards of reasonableness Strickland
15 v. Washington, 466 US 668(1984) and (2) that counsels deficient perfor-
16 mance prejudiced the defendant in an injurious manner resulting
17 in unreliable [or] fundamentally unfair results(emphasis)

18 By clearly mistating the motion filed by defendant in the
19 44 page brief, he clearly created a conflict of interest when he
20 mistates facts as outlined by the (client) he was appointed to
21 represent (John Henry Yablonsky)(Defendant) Counsel Stuart O'Melvan,
22 (Counsel) as stated in this motion to ~~dismiss~~ and either a) reappoint
23 a conflict panelist b) Allow defendant for the purpose of filing
24 a factual based motion for the courts to determine regarding DNA
25 examination. SELF REPRESENTATION TO FILE BRIEF

26 Ineffective assistance of counsel may result from an attorney
27 conflict of interest Strickland v Washington-In Cuyler v Sullivan,
28 the Supreme Court ruled that a defendant can demonstrate a VI violation

1 violation by showing that (1) counsel was actively representing
2 a conflicting interest C.R.P.C. Rule 5-200(A) (2) the conflict
3 had an adverse effect on [specific] aspects of counsel's performance
4 U.S. v Schwarz, 233 F3d 75,94 (2nd cir 2002)

5 Here the blatant misstatements made by the counsel in
6 direct violation to CRPC 5-200(A) and other laws clearly sets the
7 precedence as appointed counsel to effectively represent a client.
8 (as stated here below) As counsel made these misstatements to avoid
9 further resources available to a prisoner sentenced to Life without
10 parole. Paal cois § 1405(b)(3)(A)

11 Upon a finding that the person is indigent, he or she has
12 included the information required in paragraph (1), counsel
13 has not previously been appointed pursuant to this subdivision
14 the Court shall appoint counsel to investigate and if appro-
15 priate, to file a motion for DNA testing under this section
16 and to represent the person solely for the purpose of obtaining
17 DNA testing under this section .

18 By this appointment for counsel who clearly mistated
19 facts that are weighed against the defendant because of the mis-
20 appropriation s of the facts by ;

21 1) Stating that defedant stated he had had sex with the victim
22 two days before seh was found by her son, clearly mistates the facts
23 of experts and science. Specifically at no point in defendant's
24 writing did he state he admitted to having sex with Rita Cobb two
25 days before seh was found by her son(see exhibit2, pp.11:9-10)
26 ["Yablonsky admits to having sex with Cobb. He said it occurred at
27 least two days before Kramer found her body"]

28 By mischaracterizing the facts and blatantly lying to the
Court with hopes of reaching a less reliable finding he ingested
[conflict] CRPC Rule 5-200 and 3-500. U.S. v Schwarz

1 2) Counsel then enters mistatements about where his clients
2 DNA was located, by placing the DNA on the body versus inside the
3 body as the state records are riddled with, leaving little room for
4 interpretation of the [real] facts presented by (RT317 Criminalist
5 Jones stating this DNA was located inside the body and a result of
6 an encounter that occurred several days before Rita Cobb had been
7 killed)(RT490 Dr Saukel who provided expert analysis that the DNA
8 locate was located inside the body and was the result of an encounter
9 that occurred at least and up to one and a half days before Rita
10 was killed), (see exhibit 2 pp.5:4-5)(see exhibit 2 pp.14:13-14) state
11 that Yablonsky's DNA was the result of an encounter that occurred
12 two days before the body was found, and that Yablonsky admitted to this.
13 (emphasis).⁴ DDA Ferguson was the states expert for where DNA, was, loca
14 First I never wrote this in any pleading, ~~any~~
15 THE ~~EVIDENCE~~ WAS PLACED THERE THROUGH DEFENSE
16 pleading⁹ by any defending party, DDA Ferguson or Attorney General
17 Delgado stated ~~as such~~ as such, leave no room for misunderstanding
18 about the counsels intent to make such a claim. Especially since
19 the science and experts in this case show that this [sex] was the
20 result of an encounter that occurred before death by (RT490 Dr Saukel
21 at least one and half day before the murder) and up to (RT317 Criminal
22 Jones that stated the sex was the result of several days before the
23 death, "several days passed and then she died")This section is based
24 on practice science, based on historical facts as the records and
25 available evidence suggest are meaningful. By the counsel stating
26 in his conclusion (AOB) that Yablonsky admits to having sexual
27 encounter with Rita Cobb at least two days before her death does
28 not correct his efforts to sway the Courts with assumptions in his
pleadings that contradict the records, science or evidence.

OSI 6

1 Second, if Yablonsklys DNA was located on the outside
2 of the body, and was a result of a sexual encounter two days before
3 Rita Cobbs body had been found, and in conjunction that as the
4 counsel infers was located outside the body, is inferable that this
5 sex was conducted at the time of death.

6 3) Yablonsky was not convicted of raping and murdering
7 Rita Mabel Cobb (AOB Exhibit 2 pp.1:19-21) and by stating so this
8 presents a very different version of the courts findings. First yablon
9 was convicted for murder P.C. § 187, and special circumstances found
10 true that this was committed in the commission of [attempted] rape
11 (emphasis added) Very colorable difference in the language and stand-
12 ing as to the facts. The information filed [only] held the count
13 one of P.C. § 187 with special circumstances of P.C.192 [attempted]
14 rape. Because the counsel was instructed under Nunc Pro Tunc makes
15 these mistatements aggravating when comparing sets of circumstances
16 to the facts that are to be weighed about whether there will be any
17 DNA evidences that could provide reasonable probability a different
18 result may have occurred had they been presented. Only here the very
19 first sentence in the pleading filled with mistatements contradicts
20 the records.

21 4) Counsel then ingests that Yablonsky admitted to having
22 a key to the home of Rita Cobb. (see exhibit 2, pp.4:7) (see exhibit
23 2, pp.11:13) when Yablonsky clearly stated that he never had any such
24 key, and presented a very colorful showing that had merit with the
25 states records as exhibit 49 and exhibit 49A from case FVI900519
26 that Yablonsky's answers had been altered from denying he had any
27 such key to saying that he did. (The states exhibit show this).
28 But by clearly mistating the facts of the records or the pleading
filed by yablonsky he provides probative value to a LIE!!

1 Suggesting if Yablonsky did have a key, and had it for months before
2 Rita had been killed that Yablonsky had planned to commit a crime,
3 creating an element. This evidence is available upon Courts request
4 to listent to for himself as states exhibit 40 (compact disc) created
5 on March 3, 2009 and then altered on November 23, 2010 to place evidence
6 into the possession of the defendant that (REALLY NEVER EXISTED).

7
8 5) Counsel then stated that yablonsky was on the bed where
9 the opresnece of sperm and non-sperm were located on a felt pad
10 (exhibit 2, pp14:1-2) This gross mistatement places evidence in a
11 location that is inferable by his play on words. First the felt
12 pad was located under a quilt, and had DNA on it, but no DNA was
13 located on the quilt. If this type of DNA (sperm) was placed there
14 at the time of the crime, the moisture of the evidence would have
15 transferred onto [something!], anything, only it did not. The felt
16 pad was removed from the dining room desk and placed into the bedroom
17 by Rita or some other, and then a quilt had been layn over it. The
18 fact Rita was located on her bed does not place Yablonsky in that
19 room. In fact Yablonskly, through all the sexual encounters with
20 Rita at her house never occured in her bedroom, and only the front
21 room living area, ~~XXXXXXXXXXXX~~

22 All other innaeractions were conducted elsewhere atb oither
23 locations. By placing Yablonsky on a bed when there is nothing, by
24 wit ness or science that places him there would infer that Yablonsky
25 was in fact the perpetrator, when he was not

26
27 WHY LIE TO THE COURTS NOW ??

28 The only explanation this attorney lied would be to protect



1 his contract with Sanbernardino public defenders office or the coun
2 ty who writes his check, but at no point were his pleadings based
3 on historical fact 2254(d)(2) and are in clear and delivberate violatio
4 to Yablonskys right to the truth about who comsited the crime.

5 Pursuant to Ev.C. § 452(d) judicial notice may be taken
6 upon [records] of any court of state or country, and in this case
7 FVI900513. (see exhibit 4) filed here supporting Yablonskys claim
8 that there are such proofs available that are DNA qualified and
9 are available for DNA examinations.

10 Although section 452 extends the process of judicial
11 notice to some matters of law which the courts do not judicially
12 noit notice under existing law, the vider scope of such notice is
13 balanaced by the assutrance that the matter need not be judicially
14 noticed unless adequate in formation to support the [truth] is futalish
15 to the court .(emphasis added)

16
17 The right to counsel and to have counsel attaches for
18 specific cases and attaches for the prosecution of particular acts
19 or events arising out of same acts or transactions, Texas v Cobb
20 532 US 162(2001) and the right to select personal reference attorney s
21 must be considered by the court but should not be a determinative
22 factor requiring the appointment of that attorney *People v Chavez
23 26 C3d 334(1980) Drungo v Superior Court 33 C3d 930(1973) It could
24 be interpreted as an abuse of discretion by the courts to deny
25 motion for particular counsel when the motion was timely made and
26 based on relationship issues related to cases Peoole v Cole, 33
27 C4th 1153(2004). Basing this objection and founded by the mistatement

28 OBJECTION-7

~~08~~ I 9

1 that are not only cumulative but appear to be characterized to
2 diminish Yablonsky of the facts surrounding the case in chief,
3 which is not litgations to cheat society out of tax paying monies,
4 but is exactly what a innocent man is suppose to do when so many
5 miscarriages of justices had consumed all fairness in the hearing
6 he challenges.

7 In fact this counsel Mr.O.Melveny appears to have just
8 read the answers of respoqndents brief without taking into consideration
9 facts that supported the filed were available to refer or even
10 do preliminary investogations of, to make a determination . Here
11 the counsel suggested by his own admission that he did not even
12 read the records that are plentiful that contradict his writings
13 and then relying on his mistatements to make a conclusion that
14 any DNA found onthe outside of the victims nude body(red hair)
15 would not help in supporting prima facie, or that theDNA on this
16 item would not match Yablonsky has no value. This finding make
17 no sense ,common or otherwise.

18 He then suggested that if tyhere was other DNA onthe
19 murder weapon that ~~not there~~ ^{were not} Yablonsky's DNA ~~not~~ on the weapon, but
20 even if there was anothers DNA on this item would not e xculpate
21 Yablonsky, and the DNA on any of the evidence that are asked for.

22
23 IN fact if it this courts decisions to deny the motion
24 based on historical facts, that if true would not only support
25 that yablonsky was not the perpetrator of this heinous crime, but
26 that they came back matching Gregory randolph would make this
27 entire state team look like imbusils that and himwhen they foirst
28 arrested him, but let him go. As a result of their incompetence

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CONCLUSION

Yablonsky moves this court to take records of the objection and the records filed herein. That this court ignore the pleading filed by Mr. O'Malveny and accept the records brought forth under objection and evidence code section 452. Grant the DNA examinations and appoint an impartial [investigator] to review the findings as they are established by a state XXXX board authorized and accepted laboratory for yablonsky to bring into this court under New evidence and other laws regarding these DNA's.

I AM INNOCENT!!!!!!!!!!!!

These evidences will prove that, and this alone make a prime facie case (emphasis added)

Yablonsky now waters an objection based on the afore stated facts and exhibits attached in support herein.

PRAYER

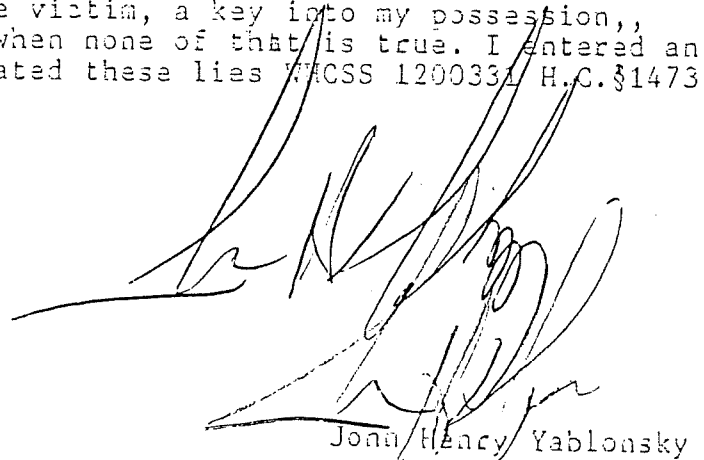
- 1) Grant the DNA testing on the items requested pursuant to P.C.1405 that are specific, and related to material, relevant evidence located at the scene and on the victims body

ADDITIONAL OBJECTION

- A) That DDA Ferguson was the first respondent that mistated facts by placing My DNA under the victim, a key into my possession,, and my DNA on the victim, when none of that is true. I entered an objection when he first stated these lies WACSS 1200331 H.C. §1473

JUNE 29, 2017

JUNE 1, 2017



John Henry Yablonsky

SUPERIOR
DENIAL
7-21-2017

#5



SUPERIOR COURT OF CALIFORNIA,
 COUNTY OF SAN BERNARDINO
 Victorville District
 14455 Civic Drive, Suite 200
 Victorville, CA 92392
 www.sb-court.org

MINUTE ORDER

Case Number: FVI900518

Date: 7/21/2017

Case Title: People of the State of California vs. JOHN HENRY YABLONSKY

Department V2 - Victorville

Date: 7/21/2017

Time: 8:30 AM

Other hearing

Charges: PC187(A)-F

Judicial Officer: John M Tomberlin
 Judicial Assistant: Shirley Jauregui
 Court Reporter: Kellie Moss
 Bailiff: J Patrick

Appearances

District Attorney Eric Ferguson
 Conflict Panel Stuart O'Melveny
 Defendant not present - not transported
 (in State Prison)

CCR 8.122
~~8.223~~

Proceedings

Issues submitted to the Court by counsel.
 The Court finds no merit as to the request made by the defendant.

WITHIN
 30 DAYS

The Court denies the motion for further DNA analysis.

Attorney Information

Conflict Panel Attorney-Stuart O'Melveny relieved as counsel for JOHN YABLONSKY. Reason: Other

Custody Status

Case Custody - State Prison
 Clerks office to notify: Defendant of ruling.

== Minute Order Complete ==

D1

NOTICE TO
APPEAL
8 11 2017

#6

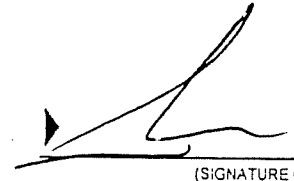
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)		FOR COURT USE ONLY
JOHN HENRY YABLONSKY A10373 480. ALTA S.D. CN. 92179 TELEPHONE NO. FAX NO.		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT: JOHN HENRY YABLONSKY vs. Date of birth: 93063 Cal. Dept. of Corrections and Rehabilitation No. (if any): A10373		
NOTICE OF APPEAL—FELONY (DEFENDANT) (Pen. Code, §§ 1237, 1237.5, 1538.5(m); Cal. Rules of Court, rule 8.304)		CASE NUMBER(S): FUI 900518

NOTICE

- You must file this form in the SUPERIOR COURT WITHIN 60 DAYS after the court rendered the judgment or made the order you are appealing.
- IMPORTANT: If your appeal challenges the validity of a guilty plea, a no-contest plea, or an admission of a probation violation, you must also complete the Request for Certificate of Probable Cause on page 2 of this form. (Pen. Code, § 1237.5.)

- Defendant appeals from a judgment rendered or an order made by the superior court.
 NAME of defendant: JOHN HENRY YABLONSKY
 DATE of the order or judgment: 7/21/17
- Complete either item a. or item b. Do not complete both.
 - If this appeal is after entry of a plea of guilty or no contest or an admission of a probation violation, check all that apply:
 - This appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea. (Cal. Rules of Court, rule 8.304(b).)
 - This appeal is based on the denial of a motion to suppress evidence under Penal Code section 1538.5.
 - This appeal challenges the validity of the plea or admission. (You must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature.)
 - Other basis for this appeal (you must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature) (specify):
 - For all other appeals, check one:
 - This appeal is after a jury or court trial. (Pen. Code, § 1237(a).)
 - This appeal is after a contested violation of probation. (Pen. Code, § 1237(b).)
 - Other (specify): DENIAL OF P.C. § 1405
- Defendant requests that the court appoint an attorney for this appeal. Defendant was was not represented by an appointed attorney in the superior court.
- Defendant's mailing address is: same as in attorney box above. as follows:

Date: 8 11 17

 JOHN HENRY YABLONSKY (TYPE OR PRINT NAME)  (SIGNATURE OF DEFENDANT OR ATTORNEY)

F I G

PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, JOHN YABLOWSKY, declare:

I am over 18 years of age and a party to this action. I am a resident of _____

R.S. DUNCAN Prison,

in the county of _____

State of California. My prison address is: 480 ALTA

S.O. CA. 92179

On 8/11/17 (DATE)

I served the attached: NOTICE OF APPEAR

(DESCRIBE DOCUMENT)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named correctional institution in which I am presently confined. The envelope was addressed as follows:

SUPERIOR COURT
14455 CIVIC DR.
V.V. CA, 92392

ATTORNEY GENERAL
14455 CIVIC DR
V.V. CA, 92392

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 8/11/17
(DATE)

[Signature]
(DECLARANT'S SIGNATURE)

F3 G

Court of

APPEAL

8-2017

EO69 011

#6

PROOF OF SERVICE BY AN INMATE
ACCORDING TO PRISONER MAILEBOX RULE

1df2 

This service and mailing was conducted by a party to this action, and was conducted according to ordinary California State Prison Title 15, Div. 3 Section § 3142, and with Penal Code § 2601 (b). This mailing was inspected and sealed in the presence of an on duty correctional officer, in a fully-prepaid envelope that was addressed as follows:

California District Coyurt of appeals
4th district, div. two
3389 12 th st.
riverside ca, 92501

DISTRICT ATTY
14455 CIVIC DR
V. U. CA. 92392

SUPERIOR COURT
14455 CIVIC DR.
DIV. 4-2
V. U. CA. 92392

This service contained the following documents;

PETITION FOR WRIT OF MADATE W/ATTACHMENTS

This sevice was conducted by and of an adult over the age of Eighteen, and mailed according to ordinary daily mail routines to be delivered by the United States Postal service, from the city of;

sandiego.

92179

CITY

ZIP CODE

This service was conducted on the THURS day of 24 of the month of AUGUST, 2017

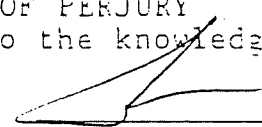
ACCORDING TO THE PRISONER MAILEBOX RULE

THIS SERVICE IS FILED WITH THE COURTS ON THIS DAY

UNDER THE PEKALTY OF PERJURY

The forgoing is truthful and accurate to the knowledge of
John Hbentry Yablonsky

Print Name

Signature 

MY ADDRESS IS

480 alta rd. sandiego, ca, 92179

C1

Henry Yablonsky AL0373
.29
Alta rd
Palo Alto, ca, 92179

COPY

FILED
AUG 29 2017

FOURTH DISTRICT COURT OF APPEALS

COURT OF APPEAL FOURTH DISTRICT

DIVISION TWO

Henry Yablonsky,
Petitioner

CASE NO.#

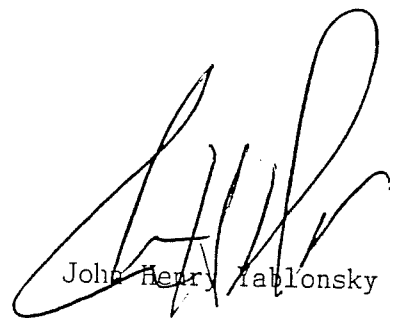
E069011

APPEAL OF TRIAL COURTS DENIAL
OF WRIT OF MANDATE PURSUANT TO P.C.#1405

Superior Court of California,
County of Sanbernardino,
Respondent,

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PETITION FOR WRIT OF MANDATE PURSUANT TO P.C.# 1405



John Henry Yablonsky Pro Se

MANDATE ~~001~~ 1

C2

DENIED
COURT OF
APPEAL
E069646

10-2017

#7

PROOF OF SERVICE BY AN INMATE
ACCORDING TO PRISONER MAILEBOX RULE



This service and mailing was conducted by a party to this action, and was conducted according to ordinary California State Prison Title 15, Div. 3 Section § 3142, and with Penal Code § 2601 (b). This mailing was inspected and sealed in the presence of an on duty correctional officer, in a fully-prepaid envelope that was addressed as follows:

CALIFORNIA STATE SUPREME COURT
350 Mc Allister
Safrancisco,ca, 941023

ATTORNEY GENERAL
box 85255
Riverside ca,92501

This service contained the following documents;

writ of panadate bursuant to p.c.§ 1405 w/ EXHIBITS

2 VOLUMES

This service was conducted by and of an adult over the age of Eighteen, and mailed according to ordinary daily mail routines to be delivered by the United States Postal service, from the city of;

SABNDIEGO 92179
CITY ZIP CODE

This service was conducted on the THUIRS day of 19th of the month of OCTOBER, 2017

ACCORDING TO THE PRISONER MAILEBOX RULE
THIS SERVICE IS FILED WITH THE COURTS ON THIS DAY

UNDER THE PENALTY OF PERJURY

The forgoing is truthful and accurate to the knowledge of
john henry yablonsky

Print Name

Signature

MY ADDRESS IS 30 alta rd. sandiego,ca,92127x 0 92179

A 3

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

JOHN HENRY YABLONSKY,
Petitioner,

v.

THE SUPERIOR COURT OF SAN
BERNARDINO COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

E069011

(Super.Ct.No. FVI900518)

The County of San Bernardino

THE COURT

The petition for writ of mandate is DENIED.

FIELDS

Acting P. J.

Panel: Fields
Codrington
Ramirez

cc: See attached list

C3

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

JOHN HENRY YABLONSKY,
Petitioner,
v.
THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,
Respondent;
THE PEOPLE,
Real Party in Interest.

E069646

(Super.Ct.No. FVI900518)

The County of San Bernardino

THE COURT

The petition for writ of mandate is DENIED.

CODRINGTON

Acting P. J.

Panel: Codrington
Slough
Ramirez

cc: See attached list

STATE SUPREME
10-2017



#8

APRIL BOELK
AUTOMATIC APPEALS SUPERVISOR



EARL WARREN BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CA 94102
(415) 895-7000

Supreme Court of California

JORGE E. NAVARRETE
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

*RETURN
10/26/17*

October 24, 2017

John Henry Yablonsky AL-0373
480 Alta Road
San Diego, CA 91279

Re: Yablonsky v. Superior Court of San Bernardino County (People)

Dear Mr. Yablonsky:

The Clerk's Office is holding your Petition for Writ of Mandate, received today.

In order to properly file your petition under rule 8.486 of the California Rules of Court, you must complete, date, and sign the enclosed verification form. Please return the signed verification in the enclosed envelope as soon as possible.

Thank you.

Very truly yours,

JORGE E. NAVARRETE
Court Administrator and
Clerk of the Supreme Court

A handwritten signature in black ink, appearing to read "CCQ".

By: C. Cahoon, Deputy Clerk

Enclosures

A 1



APRIL BOELK
AUTOMATIC APPEALS SUPERVISOR

EARL WARREN BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CA 94102
(415) 865-7000

Supreme Court of California

JORGE E. NAVARRETE
CLERK AND EXECUTIVE OFFICER

February 14, 2018

John Henry Yablonsky, AL-0373
R.J. Donovan Correctional Facility
480 Alta Road
San Diego, California 92179

Re: S245166 – Yablonsky v. S.C. (People)

Dear Mr. Yablonsky

Returned unfiled is your Motion to Reconsideration received February 13, 2018. The order of this court filed on December 13, 2017 denying the above-referenced petition, was final forthwith and may not be reconsidered or reinstated. Please rest assured, however, that the entire court considered the petition for review, and the contentions made therein, and the denial expresses the court's decision in this matter.

Very truly yours,

JORGE E. NAVARRETE
Clerk and
Executive Officer of the Supreme Court

A handwritten signature in black ink, appearing to be "C. Wong", written over a circular stamp.

By: C. Wong, Deputy Clerk

Enclosure:

cc: Rec.

BIC

S245166

IN THE SUPREME COURT OF CALIFORNIA

SUPREME COURT
FILED

DEC 13 2017

JOHN HENRY YABLONSKY, Petitioner,

Jorge Navarrete Clerk

Deputy

v.

SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent;

THE PEOPLE, Real Party in Interest.

The above-entitled matter is transferred to the Court of Appeal, Fourth Appellate District, Division Two, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

CANTIL-SAKAUYE

Chief Justice

S245166

IN THE SUPREME COURT OF CALIFORNIA SUPREME COURT
FILED

DEC 13 2017

JOHN HENRY YABLONSKY, Petitioner,

Jorge Navarrete Clerk

Deputy

v.

SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent;

THE PEOPLE, Real Party in Interest.

The above-entitled matter is transferred to the Court of Appeal, Fourth Appellate District, Division Two, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

CANTIL-SAKAUYE

Chief Justice

John Henry Yablonsky AL0373
018-129
480 Alta rd.
sandiego,ca,92179

SUPREME COURT FOR THE STATE
OF CALIFORNIA

In Re JOHN HENRY YABLONSKY CLERK OF THE COURT

Petitione for writ of mandate P.C. 1405

Case #S245166 Yablonsky vs S.C (People)

Dear Clerk;

I filed P.C. 1405 with Superior Court which was denied for FVI900518. I filed this to the Court of appeals which was also denied as #E069011.

Inios Court filed the mandate on October 24, 2017 then sent this to the appeallate Court to verify is it was a duplicate that had been already deterniend by the Court of Appeals.

This Court did not directly provide a ruling, instead relied on the Court of appeals that gave that ruling on February 2, 2013 without any further response by this court until I filed motion to reconsider which was denied on Febraur 14, 2018.

I tried to file thios to the ~~staxxxx~~ Supreme Court, but ~~been~~ because the Courts orders for this initial filing was never givin. the Court rejected the filing.

I need "this Courts" ruling for the initial filings. If you would please provide me a copy of the following rulings by this Court

- 1) The initial order sending the writ to the Court of appeals
- 2) The Courts order denying the petition inthe first instance
- 3) The Courts order denying the motion for reconsiderar#ion

A) I have provided the Supreme Courts order which shoukld be returned to me polease.

Thank You
John Henry Yablonsky

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. § 2601(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;

California State Supreme Court
350 McAllister
sanfran cisco, ca, 94102

This service contained the following documents;

Request for Courts orders # S245166

RECEIVED

APR 18 2018

CLERK SUPREME COURT

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 ;

Sand9oiego

92179

CITY

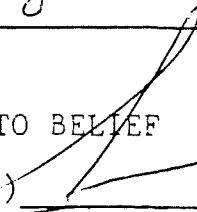
ZIP CODE

This service was conducted on (DATE) 4/15/18

UNDER THE PENALTY OF PERJURY

THE FORGOING IS TRUTHFUL AND ACCORDING TO BELIEF

(NAME) John Henry Yablonsky

(SIGNED) 

My address is 480 Alta re sandiego, ca, 92179

STATE SUPREME
RECONSIDER

2-8-2018

#9

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.568(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. § 2601(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;

SUPREME COURT
350 MCALLISTER
S.F. CA. 94102

ATTORNEY GENERAL
Box 85266
S.D. CA. 92501

This service contained the following documents;

MOTION TO RECONSIDER

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 CITY 92179 ZIP CODE

This service was conducted on (DATE) 2-8-18

UNDER THE PENALTY OF PERJURY

THE FORGOING IS TRUTHFUL AND ACCORDING TO BELIEF

(NAME) John Yablonsky (SIGNED) [Signature]

My address is 480 ACHA S.D. CA. 92179

Ⓟ B1

1 JOHN HENRY YABLONSKY ALO373
2 D18-129
3 480 ALTA RD.
4 SANDIEGO, CA, 92179
5 IN PROPRIA PERSONA

6
7 IN THE SUPREME COURT
8 FOR THE STATE OF CALIFORNIA

9 JOHN HENRY YABLONSKY,
10 PETITIONER,

(SUPERIOR COURT, FVI900518)
(STATE SUPREME, S245166)
(APPELLATE COURT, E069646)

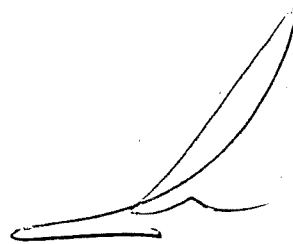
11 VS.

12 SUPERIOR COURT OF,
13 SANBERNARDINO COUNTY, RESPONDENT,

14 THE PEOPLE,
15 REAL PARTY IN INTEREST,

PENAL CODE SECTION 1405 MOTION
REGARDING POST CONVICTION DNA
EXAMINATION, REQUEST FOR
RECONSIDERATION PURSUANT TO
P.C. § 1405(f)(1-8)

16
17
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19 MOTION FOR RECONSIDERATION

20
21
22
23
24 

25 JOHN HENRY YABLONSKY
26 IN PROPRIA PERSONA

27
28 RECONSIDERATION-1

B2

RECEIVED

FEB 1974

CLERK SUPREME COURT

STATEMENT OF ACTION

1
2 Petitioner was tried and convicted by state Court for
3 a crime that occurred in 1985, when the trial did not occur until
4 2009, causing the loss of valuable rights to protect the interests
5 of the convicted party. A murder occurred on or about September
6 20, 1985, causing the death of Rita Mable Cobb by a party unknown
7 to the police, after she had left a party just up the street from
8 her home in Lucerne Valley California. She was found by her son
9 on September 23, 1985 after he had received distress calls for
10 his assistance that Friday before. The evidences collected from
11 the scene that are and were available at the time of trial included
12 several articles of clothing, items located on the body, contents
13 inside the victims blood smeared into the bedroom door where she
14 was located, and the murder weapon. None of which had been examined
15 or had and were verified to have DNA not matching the petitioner.

16 Petitioner was convicted by the states theory that the
17 last person who had sex with Mrs. Cobb was the killer and relied
18 on spermazoid that had been collected from inside the cavity of
19 the victim.(sperm) This evidence which had been examined by two
20 of the states leading experts, one a pathologist that had been
21 employed by the county as a pathologist for over 30 years had
22 determined the DNA from inside the cavity was the result of a sexual
23 encounter that occurred more than one and a half days before, rita
24 Cobb had been killed. This was also verified by the fourth appellate
25 Court in their affirmation of the conviction (AC16-17) "That the
26 DNA matching the defendant was the result of a sexual encounter
27 that occurred up to one and a half days before the crime of murder
28 occurred. All the other evidences located at the scene do not belong

1 to petitioner and do belong to parties they know are not the peti-
2 tioner. The state relied on recording transcript that had been
3 altered, changing petitioners answers in order to place evidence
4 into the possession of their charged defendant, and then presented
5 this evidence to the jury. (KNOWINGLY USING FALSE EVIDENCE)

6 Petitioner filed post trial challenges regarding these
7 facts after he had discovered that his trial counsel had withheld
8 numerous exculpatory facts from him. The file for this case had
9 been fully developed by January 2016, five years after the trial.
10 Petitioner made formal demands for the records and answers of his
11 trial counsel, who blatantly ignored them, which would have provided
12 legal reasoning as to his failure to address these issues, at the
13 time of the trial, or explanations as to why he had not known they
14 existed until after the trial. Not responding to petitioners claims
15 that was innocent. The states theory was that because petitioner
16 had lied to detectives when he was interrogated in front of his
17 wife, mother-in-law, and daughters, that he must have killed Rita
18 Cobb, ignoring that the DNA matching petitioner to the crime had
19 been verified as the result of a sexual encounter that occurred almost
20 two days before she had been killed. The state did not present
21 anything in the trial connecting petitioner to the crime scene
22 at the time the murder occurred. In fact state prosecutor presented
23 three witnesses who stated Rita Cobb had been seen almost two
24 days after she had been with petitioner, withholding everything
25 else from the jurors.

26 WHY ARE WE HERE NOW ?

27 Because petitioner had discovered these evidences did exist,
28 and discovered that these evidences are DNA magnificent.

BY RECONSIDERATION-3

1 Petitioner filed motions under P.C. § 1405 according
2 to In Re Steele, 32 Cal.App.4th 682(2004) and Richardson v Superior
3 Court, 43 CAL.4th 1040(2008) with the Superior Court addressed to
4 The honorable judge John Tomberlin. On March 10, 2017 the Court
5 ordered that counsel be appointed regarding [NUNC PRO TUNC] appointing
6 Stuart O'Melveny to file a motion, which was not consistent to the
7 facts of the case: Filing this [bogus] motion on May 24, 2017
8 ignoring the state record and relying instead on a egregiously mistated
9 DDA brief filed by DDA Ferguson who repeatedly lied to the Court
10 in defense of a habeas corpus filing (WHCSS 1200331). Petitioner
11 filed objections on June 1, 2017 and again on June 29, 2017 and
12 served the appropriate parties. Correcting the gross mistatements
13 made by O'Melveny which were done to prevent the hurdles outlined
14 by P.C. § 1405(f).

15 The Superior Court without providing authority denied
16 petitioners 1405 motion, also ignoring the facts and exhibits
17 presented by petitioner denying the motion on July 21, 2017
18 causing injury under the XIV Amendment and other laws outlined
19 by the penal section this motion lies, as defined by STEELE AND
20 RICHARDSON.

21 Petitioner filed this to the 4th Appellate Court timely
22 (EO69011) which had been denied on September 27, 2017. Arguing that
23 the trial counsel mistated facts, that would have made this resource
24 available, and reaffirming the standards set out by Steel.

25 Again petitioner timely filed this 1405 with this Court
26 under case # S245166 who then ordered the appellate Court to review
27 this to determine whether it had been a duplicate. That is not the
28 standard for review by this Court. The standards by this Court are

BS

RECONSIDERATION-4

1 to affirm that procedural due process rights are protected and
2 that state and federal laws adhere in their applications of the
3 lower Courts decisions regarding parties seeking redress.

4
5 WHAT HAPPENED??

6 The lower Court, knowing that the DNA was incredible and
7 that this case was directly related to DNA and other evidences
8 that had been located at the crime scene, and that the [ONLY] evidence
9 connecting petitioner to the case had been the result of an encounter
10 that occurred before the crime ever occurred, by as much as one and
11 a half days with one expert, while another stated that the DNA had
12 been the result of several days. (Criminalist Donald Jones) The
13 Court also knew there were several errors by counsel regarding
14 third party culpability issues which trial counsel David Sanders
15 had not only failed to address with the Courts correctly, but he
16 failed to even follow ordinary Court Rules when he filed briefs.

17 The "NUNC PRO TUNC" that had been filed was nothing more
18 than a sham, for the petitioner had filed a complete breakdown
19 of the evidences he sought to have examined, why they were material
20 ,and how they were relevant, providing exhibits that could be
21 authenticated. Only the Court rejected the hard to deny facts,
22 because of the (tangible) records petitioner provided, and instead
23 allowed these parties to further pollute the state records with
24 assumptions, and ball face lies, without one piece of evidence
25 to support their gross misstatements of the facts. Furthermore,
26 these counsels had completely ignored the exhibits attached to
27 petitioners filing, which qualified in these Courts as material.

1 As outline by the petition filed here, petitioner makes
2 claims that are true, and the state has provided nothing more than
3 allegations that they are not material, but could not dispute the
4 validity of these facts. The state relies on manufactured evidences
5 that after alterations show petitioner had a key to the home of
6 rita Cobb several months after he and his wife had moved out. Only
7 the state conspirators places these records into the state case
8 file under FVI 900513 as exhibit 49A(113 page transcript with
9 the altered answers) and exhibit 49(compact disc of the actual
10 recording, verifying they altered petitioners answers) preserving
11 these records for an eternity. (INTRINSIC FRAUD)

12 It should be this Courts duty to enforce compliance to
13 state laws, and in this case 1405 outlines what thresholds the
14 petitioner was to meet, and petitioner did.P.C.1405(f)(1-6)

15 1) The evidences are available because they failed
16 to deny they are not, and could not deny the authenticity
17 of the exhibits that petitioner had attached. That
18 the murder weapon was smooth metal, and located on
19 the body, and was available. The red hair with the
20 entire roots attached were also DNA incredible and was
21 located on a nude body, also verified by criminalist
22 jones that this would be a perfect source for DNA
23 and this evidence is available. The handprint on
24 the bedroom door jamb that had the victims blood
25 in hand prints that could not be read, were verified
26 by forensics, matching the blood to the victim and
27 would also be available. The watchband pin is also
28 a smooth piece of metal and was located underneath
the victims head that had been located on a cleared
sheet, and would also be available.

1405(f)(1)

B7 RECONSIDERATION--6

1 2) These evidences had been collected and verified
2 through chain of evidences as to be protected and
3 placed into the states evidences logs and lockers.
4 1405(f)(2)

5 3) The identity of the perpetrator is very significant
6 since there was no witnesses to the crime, and the
7 party prosecuted was prosecuted by less than circum-
8 stancial evidences. (because he lied to cops about
9 relationship)(nothing else)
10 1405(f)(3)

11 4) Petitioner has made a prima face case regarding possible
12 relief and that these ~~xxxxxxxxxxxx~~ evidences are
13 material, specifically because the DNA located on
14 these items were located and determined to be left
15 behind by the actual killer, and the DNA will not
16 match petitioner.
17 1405(f)4)

18 5) That these different DNA results would not only
19 lead a reasonable trier of facts to make different
20 decisions, these jurors clearly were deadlocked at
21 one time and even after they were frightened into
22 a verdict by the Courts ALLEN instruction, they told
23 the media and press that there was [NO EVIDENCES,
24 WHICH WAS WHY IT TOOK SO LONG TO DELIBERATE]O
25 1405(f)5)

26 6) These evidences had been tested or at least
27 some of them have and were even matched
28 to a person that had allegedly confessed
in 1988 that he committed the crime in 1985, only
when he made the confession these evidences had
not been processed at the time, and even though
he had been arrested on August 17, 1988 they
had to release his ass because they had not completed
the DNA analysis, which explains why they gave
him a code name from his real name (WILLIAM BACKHOFF)

1 Furthermorer these evidences had not only been
2 known and not tested to prevent the divulging
3 their exculpating fsactorss such as the red hairs
4 withthe entire roots attached which were being
5 hidden from the [BLONDE] defendants, or were
6 expertly testified that the DNA on these itemse
7 had not been matched to petitioner,while the
8 prosecutor grossly mistated this facts in his
9 closing statements saying that the DNA on the
10 watchband opin had been matched to Yablonsky,when
11 in fact he knew that it had not.
12 1405(F)(6A-B_)

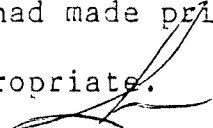
11 Petiutioner cannot show whos DNA are on these
12 items, but the state admnits they exhist and hold petitioner to
13 a threshold too far out of his grasps saying that because petitioner
14 cannot prove who they belong to his habeas corpus arguments should,
15 fail. It is this Courts jurisdiction to ensure statute compliance
16 in the interests of justice. In doing so^{ll} this Court would then
17 have to gran t this motion,and let the records speak for them selves.

18 THE TRUTH IS LIKE A FEROCIOUS TIGER
19 IT WILL DEFEND ITSELF ONCE YOU SET IT FREE!!

20
21
22 PRAYER

- 23 1) Grant the P.C. 1405 motion for the evidneces petitioner asks
24 2) Order that the state provide expert investogator to assist in
25 the processing of these evidneces,and allow petitioner to defend
26 his own case
27 3) Take judicial notice that petitioner had made prima facie case.
28 4) Any other relief this Court finds appropriate.

February 8, 2018


John Henry Yablonsky

B9 RECONSIDERATION-2

U.S. Supreme Court

2-20-18

#10

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

March 15, 2018

John Yablonsky
AL0373
480 Alta Road
San Diego, CA 92179

RE: Yablonsky v. Superior Court of San Bernardino County
Court of Appeal of California No. E069646

Dear Mr. Yablonsky:

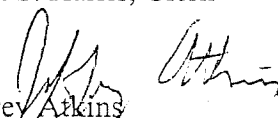
The above-entitled petition for a writ of certiorari was postmarked March 8, 2018 and received March 15, 2018. The papers are returned for the following reason(s):

Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.

It appears that you do not have a decision from the Supreme Court of California from the February 2, 2018 order of the Court of Appeal of California, Fourth Appellate District, Division Two.

Sincerely,
Scott S. Harris, Clerk

By:


Jeffrey Atkins
(202) 479-3263

Enclosures

Henry Yablonsky AL0373
Alta Rd.
San Diego, ca, 92179

SUPREME COURT OF
UNITED STATE OF AMERICA
CLERK OF THE COURT

Re YABLONSKY V SUPERIOR COURT OF SAN BERNARDINO
IN RE SUPREME COURT OF CALIFORNIA #S245155

Dear Clerk;

I had filed a state statute motion under P.C. § 1405 regarding post trial challenges. That motion was denied prejudicially on 7/21/17.

I then filed this into the state appellate court under the same statute which was denied on 9/27/17.

I timely filed into then state supreme under #S245155 which the Court order the state appellate court to make a determination if it were a repetitive motion. Even though the state supreme gave the order, the appellate court assigned a different case number and did eventually deny the motion as per the state supreme request to review. That denial came on 2/2/18.

I then filed for reconsideration to the state supreme which was denied on 2/14/18.

BUT THE STATE SUPREME DID NOT MAKE THE DENIAL UNTIL CONSIDERED
NOTICE A2 AND C2 THAT ARE DIFFERENT CASE #'S FROM THE SAME APPELLATE
NOTICE A2 AND C3 ARE LISTED AS THE SAME PARTIES

There was no direct denial order from the state supreme in the first instance they relied on the appellate court to make that order.

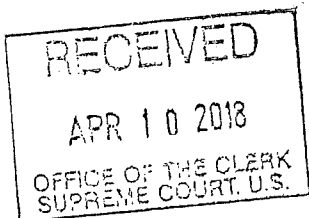
This is where I filed the motion to reconsider as outlined in the adjoining exhibits.

THAT'S WHEN THE STATE SUPREME MADE THE ORDER
Therefore your denial was misguided for an order that does not exist from one court, because it came from another.

AND WAS NOT DENIED BY STATE SUPREME UNTIL AFTER APPELLATE'S 2ND DENIAL

Respectfully

[Signature]
John Henry Yablonsky.



SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

April 10, 2018

John Yablonsky
AL0373
480 Alta Road
San Diego, CA 92179

RE: Yablonsky v. Superior Court of San Bernardino County
Court of Appeal of California No. E069646

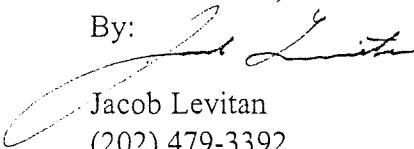
Dear Mr. Yablonsky:

The above-entitled petition for a writ of certiorari was originally postmarked March 8, 2018 and received again on April 10, 2018. The papers are returned for the following reason(s):

The reasons stated in prior correspondence.

Sincerely,
Scott S. Harris, Clerk

By:


Jacob Levitan
(202) 479-3392

Enclosures

CA. C. O. A * E069646
CA. S. C. A. S245166

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN HENRY YABLONSKY

(Your Name) — PETITIONER

vs.

SUPERIOR COURT OF CALIFORNIA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT FOR THE STATE OF CALIFORNIA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOHN HENRY YABLONSKY AL0373 

(Your Name)

480 ALTA RD

(Address)

SANDIEGO, CA, 92179

(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

- 1) IS IT THE POSITION OF THE UNITED STATES SUPREME COURT TO ALLOW STATE TERRITORIES TO CREATE LAWS UNDER THE FOURTEENTH AMENDMENT AND NOT ENFORCE THEM. SPECIFICALLY DNA THAT HAD BEEN LOCATED AT A SCENE THAT PETITIONER HAD BEEN CHARGE AND CONVICTED OF. THAT THESE DNA'S ON ITEMS LEFT BEHIND BY THE ACTUAL ATTACKERS WERE LEFT ON ITEMS THAT DIRECTLY TIE TO WHO COMMITTED THE CRIME, AND THESE DNA'S DO NOT MATCH THE PETITIONER, WHILE KNOWING PETITIONERS DNA WAS EXPERTLY EXAMINED AND DETERMINED TO BE THE RESULT OF ENCOUNTERS THAT OCCURED MORE THAN ONE AND A HALF DAYS BEFORE THE CRIME EVER TOOK PLACE, WHEN THE SUBJECT OF INTERESTS IS WHO COMMITTED THE CRIME.

- 2) IS IT THE POSITION OF THE UNITED STATES SUPREME COURT TO ALLOW ATTORNEY'S TO PROVIDE LESS THAN ETHICAL DUTIES WHEN THEY FILE BRIEFS WITH THE COURTS THAT ARE KNOWINGLY FALSE AND MISLEADING, CONTRARY TO THE HISTORICAL RECORDS OF THE COURT. SPECIFICALLY THE COURT APPOINTED COUNSEL TO FILE NUNC PRO TUNC BRIEF REGARDING FACTS RELATED TO THE CASE IN CHIEF. THAT THE APPOINTED COUNSEL FILED A BRIEF WITH INCORRECT INFORMATION AND CONSISTANT TO SUPPORT THE STATES PREVIOUSLY FILED BREIF THAT WAS BASED ON MISINTERPRETED FACTS, AND BLATANT LIES.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

JOHN HENRY YABLONSKY _____ PETITIONER

SUPERIOR COURT OF CALIFORNIA _____ RESPONDENT

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STATUTES AND RULES

XIV AMENDMENT UNITED STATES CONSTITUTION

ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF TH ESTATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEDGES OR IMMUNITIES OF THE UNITED STATESD, NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW, NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTIONS OF THE LAWS

P.C. § 1405(a)

A PERSON WHO IS CONVICTED OF A FELOONY AND IS CURRENTLY SERVING A TERM OF IMPRISONMENT MAY MAKEA WRITTEN MOTION BEFORE THE TRIAL COURT THAT RENDERED THE JUDGEMENT OF CONVICTION IN HIS /HER CASE FOR PERFORMANCE OF FORENSIC DEOXYRIBONUCLEIC ACID TESTING

P.C. § 1405 (f)(1-8)

THE COURT SHALL GRANT THE MOTION FOR DNA TESTING IF IT DETERMINES ALL THE FOLLOWING HAVE BEEN ESTABLISHED

- 1) The evidence to be tested is available and in condition that would permit DNA testing requested in the motion

OTHER

(see next page)

STATUTE AND RULES CONTINUED

- 2) The evidence to be tested has been the subject to chain of custody sufficient to establish it has not been substituted, tampered with, replaced or altered in any material aspect
- 3) The identity of the perpetrator of the crime was, or should have been a significant issue in the case
- 4) The convicted person has made a prima facie showing that the evidence sought to be tested is material to the issue of the convicted persons identity as the perpetrator of the, or accomplice to, the crime, special circumstances, or enhancements allegations that resulted in the conviction or sentence
- 5) The requested DNA testing results would raise reasonable probability that, in light of all the evidences, the convicted persons verdict or sentence would have been more favorable if the results of DNA testing had been available at the time of conviction. The Court in its discretion may consider any evidence whether or not it was introduced at trial.
- 6) The evidence sought to be tested meets either of the following conditions
 - A) The evidence was not previously tested
 - B) The evidence was tested previously, but the requested DNA test would provide results that are reasonably more discriminating and probative of the identity of the perpetrator or accomplice or have a reasonable probability of contradicting prior test results
- 7) The testing requested employs methods generally accepted within the relevant scientific community.
- 8) The motion is not made solely for the purpose of delay

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix ~~B~~ A to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the STATE DISTRICT-APPELLATE court appears at Appendix ~~B~~ C to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

STATE COURT DECISIONS CONTINUED

The opinion of the Superior Court
appears at Appendix D~~e~~ to the petition and is

reported

Has been designated for publications but not yet reported

is unpublished

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

N/A

For cases from **state courts**:

The date on which the highest state court decided my case was 2/2/18.
A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date:
2/14/18, and a copy of the order denying rehearing appears at Appendix B.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

XIV Amendment US constitution

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws

Penal Code § 1405(a)

A person who was convicted of a felony and is currently serving a term of imprisonment may make a written motion before the trial court that entered the judgment of conviction in his/her case, for performance of forensic deoxyribonucleic acid (DNA) testing

Penal Code § 1405 (f)(1-3)

The Court shall grant the motion for DNA testing if it determines all of the following have been established

- 1) The evidence to be tested is available and in condition that would permit DNA testing requested in the motion
- 2) The evidence to be tested is the subject to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced or altered in any material aspect
- 3) The identity of the perpetrator of the crime was or should be a significant issue in the case
- 4) The convicted person has made a prima facie showing that the evidence sought to be tested is material to the issue of the convicted persons identity as the perpetrator of, or accomplice to, the crime, special circumstances, or enhancements allegations
- 5) The requested DNA testing results would raise a reasonable probability that, in light of all evidence, the convicted persons verdict or sentence would have been more favorable if the results of DNA testing would have been available at the time of the conviction. The court discretion may consider any evidence whether or not it was introduced at trial

- 6) The evidence sought to be tested meets either of the following;
- A) The evidence was not tested previously
 - B) The evidence was tested previously, but the requested DNA testing would have provided results that are reasonably more probative and discriminating of the identity of the perpetrator or accomplice or have reasonable probability of contradicting prior testing results.
- 7) The testing requested employs a method generally accepted within relevant scientific fields of community
- 8) The motion is not made solely for the purpose of delay.

STATEMENT OF THE CASE

Petitioner had met Rita Mabel Cobb in 1985 when he rented an apartment from her with his wife and their son. Petitioner had become sexually involved with Rita Mabel Cobb (Cobb) after a few months and carried this relations with her for several months before and after he and his wife moved out. Petitioner had been sexually involved with Cobb on the last date, on or about September 17, 1985, and was involved with Cobb and another woman at that time, and was in the home of Cobb when it occurred. This fact remains undisputed by states case and leading experts. (RT 317) (RT 490)

On September 20, 1985, just a couple days after petitioner had been involved with Cobb and the other party, Cobb attended on Friday a party at her friends house named John Sullivan, at the mini springs ranch (RT 409,425) Mrs Cobb was found that following Monday by her son on September 23, 1985 (RT104) after he had been summoned by her on September 20, 1985, leaving a message on his machine that someone had scared her and she needed his help.. Party goers stated that she had arrived at the party on that Friday drinking more than usual (RT407) and Bruce Nash stated he offered to drive her home from the party , but Cobb refused the ride, stating that she was not going home, but was going to a bar instead (RT398,400, 410). Deputy McCoy arrived at the scene and drew diagrams of the scene and took photos of the scene (RT221). It was determined that Cobb had been found in the moderate state of decomposition (RT232-233).

There was clothing located on the floor next to the bed Cobb had been found (RT238) and officers determined there was no force of entry to the Cobb home. (RT 242-243)

That same day 9/23/85 Criminalist Jones arrived at the scene and collected evidences (RT254) including a watchband pin located underneath the victims head(RT255,293). He collected vaginal swabs and blood samples from a bedroom door jamb(RT260,262,264,293)

The criminalist testified during the trial that he examined the DNA that had been collected from inside the vaginal cavity and determined that he could not pin point a certain day that it had been placed there, but provided that several days had passed and then she died, and that he was certain of this(RT317) The state also provided another expert. Dr. Saukel, the states pathologist who also testified about the DNA ,located inside the vaginal cavity and determined this to be the result of an encounter that occurred as much as one and a half days before Cobb had been killed(RT490) This expert also provided the Court that there was no proof Cobb had been raped.(RT468, 491) Dr Saukel stated that he located shorts over the victims mouth (RT439) and opined that she had been dead for about two days.(RT44) Dr Saukel then added that this type of DNA (sperm) lasts up to a period of a day or two "before they start" to lose their tails. That they broke off. And in this case all the tails had been found without their tails (RT487-49)

Several officers canvassed the town of Lucerne Valley and spoke to neighbors as well. Nobody seen the crime occur, and several statements had been taken about the victims character as well as her habits. The scene detectives located underneath the victims head , a watch band pin (CT13) that had been located underneath the curvature of her head as she lay atop her bed, on a sheet that was barren, except for her nude body(. They located hand prints on her bedroom door smeared into her blood(RF9-10)

but the prints were unreadable. Her own son Daryll Kramer had stated that she had this Jeckyl and Hyde personality (CT61) and that her favorite drink was burboun (CT770) Years later her son would recount the exact same things, adding that he knew his mother to have been sexually involved with the neighbor named John Sullivan (CT80-82)

A neighbor named Don Stow stated that he believed her to be an alcoholic and was a ball buster when she was drunk (CT63). This same neighbor stated that he believed he seen a flat bed truck in the driveway on September 19th or 20th 1985(CT114)

Officers spoke to John Sullivan whostated that he last seen Cobb when she arrived at his party, drinking a bottle of burboun herself on September 20, 1985(RT266) and that after she drank that bottle he offered her some white lightnening.. Mr.Sullivan stated that he had fallen asleep before Cobb left the poarty and that he had fallen asleep at 10:30 p.m. that Friday night (CT65)Sullivan's statements then was the same as everyone esle at that party to include his own wife Francesca Drake/Sullivan.

Bruce Nash told detective Myler of the sheriff department in 2011, that he had offered Cobb a ride home but that she refused his offer and stated to Nash that she was not going home and was going to a bar called the Zodiac Lounge instead. (CT270-71)(CT117) The detectives interviewed a man named Joseph Saunder who admitted to being at the Cobb residence on 9/20/85, but that he arrived when she had already gotten home. He stated that when he arrived she offered him a drink of water, and then invited him to a party later that night at the mini springs ranch., The Sullivan home(CT78-79). Saunders was intervieweed by another officer who reported that Sullivan admitted that he attended the Sullivan party, and

Cobb had reinvo^lted him back to her place, but that she was only interested in a platonic relationship.(CT110-111) Sullivan stated he did not return back to the Cobb house, but had at some point after the crime committed suicide, leaving detectives to believe he may have been involved with the crime against Cobb.(CT146)

A gentleman name Gregory Randolph had arrived at the local police station uninvited and stated he believed they were looking for him, to get his help solving the crime against Cobb. (CT65-67) Randolph stated that the last time he seen Cobb was about two weeks before she had been killed (CT 68) telling the officers he never had sex with Cobb. This same individual eventually confessed to the crime about three years later, which was recorded by the We-Tip organization(CT978) This confession influenced further developments of the evidences, that began on August 11, 1988 when officer Polacios made certain investigatiosn as a result of the confession (CT 219) and decided to personally interview this person at his address(CT220)(CT210) After interviewing Randolph at his home address the officer found there was probable cause to arrest Gregory Randsolph fopr the crime of murder of Rita Mable Cobb (CT 221,225)

Because evidences had not been processed at that time the officer had to release this person but left him remaining as a suspect and offered him a code name William Backhoof because hewas at thie time a county ~~coroner~~^{coroner}. After the release, the state still had not developed this persons DNA or matched him to the crime . Randolph/Backhoff eventually committed suicide and his DNA was collected (CT358-59) It was not until after the suicide that his DNA was in fact matched to the Cobb scene (see exhibit R) while officers thats earched his home after the suicide they located

several trophies at his trailer rental((see exhibit Q) Randolphs DNA had not only been matched to the Cobb residence, but he was a suspect for the aHelen Brooks case as well. A person that had been killed in the same time frame as Cobb , and killed in the same manner as Cobb. (CT753,,37,38,751, 910, 895, 992,993)(see exhibit R)

There were eight cigarette butts located at the scene,of which Mr.Randolph had been matched to two.(CT379). Fingerprints were located at the scene, with two positive matches, coming back to Rita Mabel Cobb and Joseph Saunders (ONLY)(CT 380-381) showing that petitioners prints were not located at the home where Cobb had been found. There was one person that had been interviewed who stated he was the propane repairmen for Cobb, and the last time he seen her he had arrived at her home and noticed that she was being attacked in her own driveway. It was not until after her stopped the attack, that he learned the person attacking his customer was her own son. Darll Kramer (CI107. Officers spoke to Cobbs boss at the Silver springs country club who offered she had been sexually involved with at least two of her co-workers (CT124) While other bartenders admittedto having sexual relations with Cobb on several occasions (CT165)217)(CT106)One of the v bartenders stated that she overheard Cobb in an argument with someone that stated" I'm going to kill you some day (CT123) and related this as one of Cobbs boyfriends that said that to her in the bar.

WHY DOES ANY OF THIS MATTER??

Because there is no empiracle evidence, or direct evidence, as to who killed Mrs Rita Cobb. There are no fingerprints on the litigature used to kill her. There are no tale tale markings

of petitioner on the body. The only evidence that exists is circumstantial, and that being the DNA that had been located inside the vaginal cavity that had been examined as being deposited there as little as one and a half days before Rita Cobb had been killed, and a collection from a desk blotter that had been found under her quilt. There were no transferences of that DNA onto the bedspread, sheets, or any other location on the body of immediate areas of the crime. (SEE EXHIBIT 6)

The people's argument was that whoever had sex with Cobb must have been the one who killed her. /Of course if she was the type of woman that was celibate, or rarely engaged into sexual congress with a variety of partners, then that "theory" might carry some weight. Only Mrs Cobb had been sexually active to the point she had had sex with pretty much every male in that town from the ages of 18 to 65. The evidences are that she had a number of boyfriends, some of who she had fought in public, or had threatened her life while in public. The evidence is that at least one of the men with an interest in her, Joseph Saunders was in the vicinity and at her house the day she had been killed and had admitted that she invited him back to her house after the Sullivan drinking party.. (RT32:13-22)

Petitioner argued that the following evidences that were collected from the crime scene are DNA qualified and would not have his DNA on them, and would point at who actually committed the crime petitioner was convicted. For DR#1331036-07 Case#FVI900518

- Item # A5 Red hair with roots attached (SEE EXHIBIT 5)
- Item# A1 Red hair with the roots attached
- Item # B3 Wire metal hanger
- Item # A15 Watchband keeper
- Item #A23 Victims blood on Jamb with handprint
- Items #H2 & H3 Cigarette butts located from the ashtray

These items are located in exhibit (exhibit P) and all are DNA qualified. These DNA's will point to who actually killed Mrs Cobb, and are itmes left behind by the actual perpetrator of this crime.

ARGUMENT

That petitioner was convicted of this crime using two pieces of evidence. The DNA that had been collected from the inside of the victim, that had been testified by two states experts who stated that this DNA was the result of an encounter that occurred from one and a half days before she had been killed (RT490) and as much as several days before Rita Cobb had been killed (RT317)

(SEE EXHIBIT G)
The state also relied on a piece of evidence that had been created on march 8, 2009 as a result of an interrogation due to an arrest warrant that was issued on March 4, 2009 to arrest John Henry Yablonsky for the murder of Rita Mabel Cobb. (see exhibit U) where the state parties manufactured answers to create exhibits 49A (113 page transcript used at trial) showing they altered petitioners answers (See exhibit 49 a compact disc "not provided here", "but available upon request") Supporting they used false evidnece to reach a verdict. There was no other evidneces provided by this state in that conviction. Petitioner provides that he intelligently asked for these records before the trial ever occurred (see exhibit O) Showing that he made detailed requests to see the states entitre file. (see exhibits O;5-8) That the counsel admitted on the records he withheld 4700 pages of the 5000 page file, and hid them from his client until July 22, 2014(see exhibit N)

Petitioner complied to all the states requirments regarding post trial DNA analysis P.C. § 1405 ((F)(1-8) and met these thresholds outlined by the state statute. The Court provided appointment of counsel who misled and mistated facts that would have afforded this right to have these examined by labratories. Only the post trial counsel Stuart O.Melveny filed this brief further prejudicing the Court and petitioner with lies. (see exhibit H). Petitioner timely file d and served the objections correcting the gross muistat ments (see exhibit I.

Petitioner argued under P.C.§ 1405 undder Burton v Suerior Court(2010) 181 Cal.app.4th 1519, that he could file this motion without counsel. He argued under In Re Steele(2004) 32 Cal.app.4th 682 that these testings are due him according to the statute he filed with the Court. In Steel, the court argued that if efforts to obtain these results were 1) unsuccessful by trial counsel a) and are material as to who committed the crime b) and that the prosecutor should have known at the time, or provided these material c)that the materials sought would have entitlted him an oportunity at the time of trial, or that petitioner specifically requested them.. Petitioner met these thresholds.

Petitio~~er~~ then argued under Richardson v Superior Court43 Cal.4th 1040 that if the following elements apply then the DNA should be allowed to be tested and those results be afforded the moving party. A) That a reasopnable probability the missing results violated the fundamental fairness at trial B) That the chain of custody did not violate due process rights afforded the defendant. Petitioner outlined these fundamental thresholds of the DNA testing and provided these records to support his argument. (see exhibit K)

Petitioner provided mirror cases that supported his movement under Jointer v Superior Court, 217 Cal.app.4th 759(2013) which raised dispute about the time DNA had been placed at the scene, because the only evidence that convicted Jointer was a fingerprint that had been located on a bottle at the scene, and the argument fell upon whether that fingerprint had been placed there at the time the crime allegedly occurred, or had it been there prior to the crime in question. The Court found Jointer qualified for the DNA testing as Petitioner should have. (see exhibit R)

Post trial counsel O'Melveny (see exhibit H) filed a brief alleging that petitioner failed to meet one of the elements outlined by P.C. § 1405. Arguing that Petitioner cannot state a prima facie case for relief (see exhibit H:10) stating that petitioner did not meet § 1405(d)(1)(A)-(D) that petitioner must provide these informations to the Court. Incorrectly arguing the threshold about whether these DNA would have altered the reasonable probability under RICHARDS. Negating the fact that petitioner DNA was more than one full day older than the crime itself. Further counsel argued that petitioner admitted to having a key to the Cobb residence.

(see exhibit H:4) "He also admitted that he and his wife had rented a room in the back of Cobbs house and he had access to the house key". (see exhibit H:11;13)

THIS IS IMPORTANT BECAUSE PETITIONER NEVER SAID THAT,

(See exhibit U) Admitting that the state placed this false evidence into the states records which was used to coerce a verdict from a jury that seen, nor heard one piece of evidence petitioner committed any crimes. Further counsel argued that the reasonable probability threshold was that of the same as IAC ineff-

ctive assistanc eof counsel. Only that wsas not the holding in RICHARDS. Petitioner explains Richardsson v Superior Court, (2008) 433 Cal.app.4th 1040 That the petitioner must show thatb the missing DNA were amount to unfairness that was fundamental. In IAC claims the petitioner must show that the error violated a right to fiarness, but that petitioner was faced into showing that but for the rror the results would have been different. Here Richardson requires petitioner to show the missing evidneces would have reasonably probability of violated the fundamental fairness.

In RICHARDSON the inmate confessed to the murder and revealed that details that had not been released. The defendant disputed the prosecutors case had evidnces presented by experts that a hair at the scene was not the inmates. The triasl Court denied the 1405 motion suggesting the DNA would not sway the prepondeerance of all the evidneces. The trial Court stated the party seeking DNA testing was not required to show favorable evidneces that would conclusively establish innocence. The Court did determine sufficient DNA testing would be relevant to the issue of identity rather than dispositive of it. Because the identity was a strong and did not depend upon hair evidnece the Court was not an abuse of discretion.

Petitionrs case is nothing like Richardson. Petitioner case is mirror to Jointer. Hwere is why. Petitioner was tried and convoicted bya therory, "only a theory".(RT32:13-22)

P- The people case is that Mr.Yablonsky interview he was given at least four oppertunities to say he had sex with the victim, and that the deteciotves were very clear, we dont care if you had sex with the victim. If you had sex with the victim , we need to know, he he repeatedly denied hav9ing sex.

C- Put a little meat on this skellatin for me because I dont see how they necessarily, how its--

P-Its bascially propinsity is what it is, from the lie the jury could infer the sex with the victim was non- consensual.. The peoples arguemtn is that im going to put forth is basically if it were consensual, he would have admitted that it was consensual.

C-No because that would have tied him to the murder .

P-Thats up for him the defense can argue, but my argument is going to b4e, basically he denied having sex

C_ So if he admitted to having consensual sex he would have been admitting that he killed her ?

P- Thats up for him.

C- I dont think you can do that. I dont think you can say thats up to him

There was no evidence to the case other than an illegally collected piece of evidence outside the petitioners fourth amendment, but more than that they altered this evidnece to, place ev idnece into the possession of petitioner .("a key tothe victims house after he moved away") Federal rules of Civil Procedure Rule 60 (b)(3) Interinsic fraud

Moreover counsel infered that these evidneces were overwhelming and they were not. After the states case, all the witnessdes and evidences of a murder, the jury deadlocked. Meaning that if there was any evidences that placedc another person at that house, on the weapon, or the red hair that had their entire roots attasche, and certainly the watchband pin which had been pulled from the killer, when they committed this crime. There is not a juror in the entire world that would

have convicted petitione~~r~~. There was no evidnece. Counsel then added that the prosecutor had more ev idnece. , but could offer nothing to what he felt they may be and figure that since he was lying he could throw the kitchen sink too.

This case is nothing like RICHARDS. This case mirrors Jointer as outline earlier. Counsels gross mistatements further injured petitioner Strickland v washington466 US 663(1984) regarding conflict of interests. Petitioner outlines thjat conflict here (see exhibit **I**)Cuyler v Sullivan (citation ommitted) This goes agaisnt the ruels of professional conduct Rule 5-22 and 3-500 California rules of professional conduct U S v Schwarz(citation ommitted) Ca;lifornia Rules of Professional conduct rule 5-200(A) state matters presentewd to a tribunal, shall employ, for the purpose of maintaining the causes to the member such means only as are the truth. (B) Shall not seek to mislead the judge, judicial officer, or jury by [any] artifice or false statements of facts or law.

Here Mr.O'Melveny clearly mistated the use'of Richards as petitioner outlined the Courts findings regarding "elements" of the intended findings. Counsel argued that my case was very alike to Richards, because of the overwhelming evidneces. Only counsel hee either did nto read the motion filed by petitioner, did not seek to investigate the meaning of the exhibits that were attached tothe motion and then decided to "parrot" the same statements filed by DDA Ferguson who blatantly lied tothe Courts during habeas proceedings in 2012 for case #WHCSS1200311. Supposedly that same liar there filed yet anoither brief for this motion that petituioner had not seen. But the tell tale signes of the first lies were repeated in this Nunc Por Tunc brief filed by O'Melveny. There is no way

to elaborate on the evidence that was presented in petitioners trial to embellish the findings. The experts statements were clear and unchallenged./ That the DNA belonging to petitioner was the result of an encounter that occurred before the crime had been committed to Rita Cobb. The prosecutor knew this when he asked the first question of the pathologist. (RT489) "Is the DNA matching Mr. Yablonsky as much as a week older than the case?" The Dr. responded "That it would be shorter than that. That the DNA matching Yablonsky was the result of an encounter that occurred as much as one and a half days before she had been killed!!!!" (RT490) It was the states dilemma since he placed three witnesses that seen Mr. Cobb two days after Yablonsky had been with Cobb, at the Sullivan drinking party. All those witnesses gave testimony consistent that Mrs Cobb arrived at the party alive. (emphasis added)

That alone makes everything found at the murder scene very culpable as to who committed the crime, relevant evidences had been collected that were material as to who the actual killer is. This is the meaning of P.C. § 1405 as petitioner argues. Just because there are a few zealous attorney's trying to make names for themselves in their respective office as "Team players" don't change the facts of the case, or the trial that occurred. The language of 1405(f) "The Court shall" This statute is not suggestive, or ~~non~~ discretionary. It is clear language that "if a convicted person" requests these DNA testings on evidence and meets the eight thresholds the testing shall be done. The counsel O'Melveny would argue that petitioner had not met this threshold of prima facie. This is odd because the black's law states "Prima Facie" "Sufficient to establish a fact, or raise a [presumption] unless disproved or rebutted" then goes on to say. The establishment of a legally required rebutted

presumptiopl. A party's production of enough evidence to allow the fact trier to ^v infer the fact at issue and rule in party's favor.

The fact alone that there was no evidence used in this DNA case that placed the petitioner at the crime scene the day the crime occurred makes this a prima facie argument. But petitioner went far beyond that scope and made specific allegations, regarding very specific evidences, "THAT WERE LEFT ON THE VICTIMS BODY BY THE ACTUAL KILLER, OR IN HER BLOOD ON THE DOOR JAMB OF THE CRIME SCENE. These allegations are superior to the egregious misstatements by counsel O'Melveny, and do support that petitioner met the requirements of 1405 to every degree as outlined by petitioner's motion filed here as (exhibit J, K) addressing [all] the requirements of 1405.

Because the question arises as to who these items belong to. The red hair with the entire roots attached, that were located on the victim's naked torso atop her sheets of the bed. Raise very suspicious questions the same color as the hair. "RED" because they were located on a crime scene the state was prosecuting a blonde defendant. This would explain why they withheld their existence and color from the Court. The watch band pin located underneath the curvature of the victim's head as it lay atop her barren sheet, nude. The prosecutor relied on this evidence and presented it at trial, telling the jury it belonged to petitioner, even though the state's expert criminalist Donald Jones stated that he had not matched that evidence to the defendant (RT300-317). This same expert stated that he also had not matched the defendant's DNA the murder weapon that was located around the victim's neck, and used to strangle the victim to death. Then there was the victim's blood that had been smeared into the door jamb of the room she had been killed. There were handprints, but they could not read

the fingerprints, even though they could see there had been smudges into the victims blood. None of these have the petitioners DNA and according to the states prosecutor were "left behind by the killer, making this a bonafide question as to who done it ??"

Just because the prosecutor said they belonged to petitioner he withheld those results because he knew they had not, violation to due process rights outlined V,VI amendments at the time of ~~trial~~. The fact the state appointed an attorney from the pool only explains why he withheld the facts from his client that had to beg for them for "YEARS !!" That attorney gave petitioner 300 pages before the trial (so he could help the prosecutor) convict a man they only believe was guilty because he lied during an illegal interrogation. Then after trial released another 1600 page, but still withholding 3100 pages of the case to prevent these facts from being discovered in the direct appeal. Then after 350 letters, motions, cases, ~~deas~~ to Courts and counsel did he release yet another 1600 pages on July 22, 2014, three years after the case had been decided, taking a mans life away with fake, and misleading evidences.

The state created this law 1405 and when petitioner met each and every threshold, they presented more liars to deny that due process he was afforded under the fourteenth amendment.

This is why the testing should have been granted, and why petitioner deserves this Court to order the lower courts to abide by their laws, within the meaning of due process. That is the meaning and purpose of the XIV Amendment. That no state shall make or enforce any law....Nor shall any state deprive any person of life or liberty or property without due process.

It is when the trial Court ignored the brief filed by petitioner, and appointed another party to write a brief called Nunc Pro Tunc, then for now, who knowingly seen the case at first hand. The trial judge witnessed everything petitioner placed into his brief, including the manufacturing of interrogation transcripts, as well as the states experts. In petitioners brief (motion) he outlined conversations the judge had with prosecutor about these facts and that there was (NO!) evicenece in this case at all, other than faulty recollections of an occurance that occured 25 years before theywere asked to tesify.

When the Court was made aware of the contents of the motion and the exhibits attached, the Cour then was made known what the "facts" were. Yet the Court allowed the mistatements inthe briefs by O'Melveny and DDA Ferguson stand, knowing they were asque, and "not quite right" . Certainly when petitioner filed the objections, the Court was made known of the facts, and shoudl have agreed that petitioner was in fact protected by the XIV amendment as well as the P.C. § 1405 outline by petitioner when he asked to ahve the "crime evidence" examined.

By denying this afforded privelege, thatb was protected by the XIV amendment due process, and that this due process protected liberty, yet the Court still denied the motion without explanation. (see appendix D) The Court had an obligation to take notice of the facts, since the Court was the one who asked for nunc pro tunc. It was the duty of the Court to protect the liberty interests which was protected by the XIV amendment, and they did not. Further injuring petitioner unjustly.

REASONS FOR GRANTING THE PETITION

This Court now has the language of the statute petitioner wishes to enjoy. Petitioner was not afforded the due process rights outlined by the statute P.C. § 1405 and this Court sees that petitioner had met the thresholds outlined by the state statute indicating that petitioner deserves these evidences be tested. Depriving petitioner of the due process afforded him under the XIV Amendment U.S. Const.

DECLARATION.

I John Henry Yablonsky am an adult over the age of 18 years of age and swear under penalty of perjury that the afore stated facts outline in this petition for Certiorari are the truth according to belief and understanding of the facts and swears as much. I John Henry Yablonsky am a party to this action and also swear that I am innocent of these charges that I had been convicted and the results of these DNA's that petitioner and self ask would support that claim.

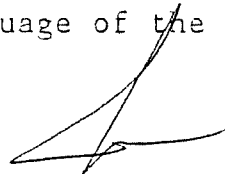
February 21, 2018



John Henry Yablonsky

- 1) according to the proof in this petitioner petitioners Due Process rights afforded under the XIV Amendment were violated by the state of California
- 2) according to proof, the Superior Court of California violated procedural due process under the language of the XIV amendment

2/21/18

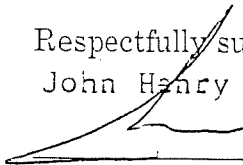


CONCLUSION

For the afore stated reasons, law, statutes as well as exhibits attached herein, this Court should grant Certiorari

The petition for a writ of certiorari should be granted.

Respectfully submitted,
John Henry Yablonsky



Date: February 20, 2018

EXHIBIT COVER PAGE

ABC
EXHIBIT

Description of this exhibit:

YABLONSKY 9-29-20
STATE BAR COMPLAINT RESPONSE
TO DDA FERGUSON 2020 REPLY
DEMAND DISCOVERY

Number of Pages to this exhibit: 11 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

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 discrepencies 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 thah: 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 toexhibits 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 moption
- D.....Psa 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 FVI900518 which Det Alexander lied about its content, existance
- 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.....Authentication of sqtates exhibit 49 to 49A

John Henry Yablonsky CDCR#AL0373
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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 20-0-07464 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-H-A THRU C) are extremely innaccurate 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 exxhibit 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 petitioners 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")
DDA FERGUSONS ANSWER IS ALSO FALSE. (EXHIBIT O)

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 COMPLAINEE" 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" (A EMPHASIS)

When they changed the answers they changed the meaning. Furthermore the stipulations to redact did not include "STIPULATION *CHANGE IN* 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 - C)
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 (CIVDS 1506654 Superior Court) as well as (EC68775 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 COMMITTING FACTS) to coerce the Court. *(MISTATING FACTS)*

With regards to (number #2) you now stated that you would not tell the court that my DNA was located underneath the victim. Again you 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 then 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 victims 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 to coerce 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 Randolphs 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 dining 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 OBSURD 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 recanted, 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 COBB!!

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 "PARROTED" 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 CDCR 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 California's 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 victim's 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 Ferguson's 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 answers 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 SAN BERNARDINO ON SEVERAL OCCASIONS)

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 DEA 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 separate versions of transcripts from the March 8, 2009 interrogations which occurred for case #FVI9C0518
- 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 ACKING 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 FV1900518 and (DR#1331036-07) I demand the production of all forms of communications 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 discoverries.

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 evidneec 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 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 witholds 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 Sanbernardia as an audio expert. I am now pleading with you to make available me through this expert all evidneces 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 evidneces with regards to the interrogations evidneces.

- 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 evidnecy storage so he and a helper may examine and authentic these evidneces. 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 COVER PAGE

ABCD
EXHIBIT

Description of this exhibit:

10-2-20

ADDENDUM RESPONSE
TO 2020 ODA REPLY

Number of Pages to this exhibit: 11 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

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

October 2, 2020

RE: TRIAL CASE NO.#FVI900518
HABEAS CASE WHCSS1200311
STATE BAR COMPLAINT NO.# 20-0-07464
JOHN HENRY YABLONSKY VS ERIC MICHAEL FERGUSON(DEPUTY DISTRICT)
(ATTORNEY)

Dear Chief Trial Counsel;

Recently respondent Eric Michael Ferguson (FERGUSON) filed a response to discovery demand pursuant to p.c.§ 1054.9 which I John Henry Yablonsky (PETITIONER) served upon him on May 22, 2020.

On September 29, 2020 I provided yourself as well as respondent a reply to his egregious re-mischaracterizations of the facts of the case as well as his 2012 briefing. I offered 20 separate exhibit from case no.#FVI900518 as well as two separate exhibits pertaining to his 2012 briefing which he deliberately embellished facts to coerse a court. Violations to California rules of professional conduct rules 5-200(A) 5-200(B) , 1-200 when Ferguson deliberately and for the purpose of persuading a court in a hearing where sentence was for LIFE WITHOUT PAROLE.

In my response dated September 29, 2020 I offered many discrepancies to both fergusons briefs, which I take this opportunity now to expand as well as elaborate with regards to either brief filed with Court or this Chief Trial Counsel to persuade with false nature information not supported by either state records, before during or after trial.

Ferguson knew that petitioner sought these discoveries prior to hebaes briefing, and formal requests at the hebaes as well as appellate levels, then ultimately at the state bar complaint filed in 2015 (See Bar Complaint(No.#15-29186 YABLONSKY VS SANDERS)

DILIGENCE IN DEVELOPING THESE FACTS

In March 2009 petitioner made formal written as well as in person demands for the states entire case file for case No.FVI900518 (DR#1331036-07). In June 2009 david Sanders (SANDERS) gave petitioner 300 pages telling petitioner that was all there was to this case. During trial Sanders deception was discovered that he had withheld more than 97% of the states file. Formal demand was again made in the court room where sanders admittd petitioner begged!

Not until after trial and during a marsden hearing did Sanders admit on the record he withheld 97% of the states files and that petitioner had to beg for the discovery many time, that Sanders then agreed to release another 1300 pages from the states files which contained more than 5000 pages. Petitioner was sentenced with this 1600 pages from the 5400 pages to states discovery in this case.

Petitioner filed petition for writ of habeas corpus in 2012 where he moved the Court as well as DDA Ferguson for the states records explaining how Sanders had withheld so many pages, making it simply impossible to know the entire truth of this case because of government deliberate omissions in how many pages existed to this case. During this time petitioner entered into briefing stages against DDA Ferguson who filed a 28 page riddles with false data which the Court as well as many other parties within our justice system relied as being accurate. It was anything but. (see exhibit A)

During this briefing stage petitioner made specific allegations which the states records prove, yet because they had been withheld by trial counsel as well as ferguson petitioner was faced with the stateement (PETITIONER HAD NOT PROVIDED ENOUGH PROOF TO SUPPORT HIS ALLEGATIONS). The historical records prove petitioners arguments as well as petitioners position at this time "THAT DDA ERIC MICHAEL FERGUSON DELIBERATELY LIED DURING THE 2012 BRIEING". !(DISCUSSED AT LENGHT LATER)

After the loss in this habeas petitioner , petitioner exhausted the remainder of the states courts, entering into the United States District Court with 42 FEDERAL CONSTITUTION VIOLATIONS which occured by the conviction petitioner suffered.

It was at this point that petitioner sought the remainder of the states discxovery, mostly because of the lies that ferguson told, suggesting there was something wrong with the states record as well as trial record. Exposing that fraud had occured. Up until then I had neever seen the 136 page version of the interrogation transcript as well as numerous other material pages of discovery which were relevant to petitioners innocence. (DISCUSSED LATER)

I filed a state bar complaint against david sanders which this body influenced the release of [other] records, but did not release the fll states discovery to this case for case No.FVI900518. Sanders releasded another 1600 pages from the more than 5000 pages, but still withheld exculpatng materials then told your body that he fully complied. Petitioner filed response to this deception, which this body stated he was fully transparent. "HE WAS NOT"!

It was not until after petitioner for writ of habeas corpus was denied at the United States District level that petitioner sent requests to post trial counsel Hal Smith explaining about my dilema with seeing this entire case so that I could intellugently argue my issues with historical facts supported by tangible records. On January 2016 hal Smith released the states entire file 5400 pages along with a compact disc copy of states exhibit 49 for casde no. no.#FVI900518

At the time of this release I was recovering from a major stroke which left me in a wheelchair, incapable of walking and with permanent double vision. Extreme difficulty reading, to verify the 5400 pages against the 3200 pages I had received up until then. I then sent that compact disc to relatives who arranged to have it authenticated against the 113 as well as the 136 page transcript created on November 23, 2010 by Detective Robert Alexander as a way to retaliate against petitioner for suing the county district attorney in September 2010.

Upon the authentication of states exhibit 49 compares to the 113 as well as 136 page transcript, shows "EXTREME DECEPTION" where answers made by petitioner in recording did not match answers transcribed by the detective. As stated in my previous response. Changing my answers to place evidence into petitioner's possession..

(SEE EXHIBIT O)

I then filed formal motions for DNA examinations in 2017 where the Court granted OSC and appointed counsel from the conflict panel. This counsel filed a brief "PARROTING" exactly what Ferguson stated in his 2012 brief which was all false and extremely inaccurate!!
(SEE EXHIBIT C)

It is because of briefings at the state, federal as well as post trial development stages that petitioners forward momentum was hindered, obfuscated because of the "DELIBERATE LIES" told by Ferguson in 2012. Now, ten years later Ferguson repeats the same conduct, and professional integrity escapes his ability herein.

DEPUTY DISTRICT ATTORNEY
ERIC MICHAEL FERGUSON
APPELLATE SERVICES UNIT FOR SAN BERNARDINO

DDA ERIC MICHAEL FERGUSON 2012 BRIEFING

P=Page PP= Page Paragraph

DDA Eric Michael Ferguson (FERGUSON) filed a brief on October 19, 2012 for case no. #WHCSS1200311 with regards to trial case no. FVI900518 petition for writ of habeas corpus filed by John Henry Yablonsky (PETITIONER)

))1;3 Ferguson states that "NONE OF PETITIONERS CLAIMS ARE [ADEQUATELY SUPPORTED]. Suggesting he knew that discovery was not provided. Ignoring that he, Ferguson had access to the record and should if for nothing else been forthright and provided them, especially when petitioner was made to ask for them at this stage. No discovery was ever offered by Ferguson a member of the appellate unit for San Bernardino.

Ferguson on page two of this brief described the "OVERWHELMING" DNA evidences against petitioner was what linked petitioner to the case. (PP2;1) Please take notice of petitioners exhibits attached herein (EXHIBITS A-1 and A-2) state two very different impacts regarding DNA belonging to petitioner. (EXHIBIT A-1 CRIMINALIST DONALD JONES) (THAT THE DNA BELONGING TO YABLONSKY WAS THE RESULT OF SEX THAT OCCURED SEVERAL DAYS BEFORE COBB DIED, ADDING THAT HE WAS CERTAIN OF THAT) (EXHIBIT A-2 PATHOLOGIST DR SAUKEL)(THAT THE DNA BELONGING TO YABLONSKY WAS THE RESULT OF A SEXUAL ENCOUNTER THAT OCCURED AS MANY AS ONE AND A HALF DAYS BEFORE COBB HAD BEEN KILLED)

Because of Ferguson's statement, he placed the gravity of petitioners DNA as being culpable when more than one day had passed since the sex between petitioner and Mrs Cobb, knowing that Mrs Rita Cobb (RITA) had been seen at a party the night she had been killed, more than two full days after petitioner had sex with her. (exhibit A)

Ferguson then added about the nature of the interrogation which occurred on March 8, 2009 in front of petitioner wife, children and in-laws about his sexual involvement with a married woman before she had been killed some 25 years earlier. Certainly an extreme set of circumstances which would explain to the reasonable person why deception took place during that interview when petitioner denied any sexual involvement with Rita. The U.S. Supreme Court agrees with petitioners choice as many as one hundred years earlier..... that a suspect may lie when the forces against him are greater than the evidences supporting them. In this case petitioners DNA had nothing to do with the murder, and petitioners entire family did not need to hear about personal behavior which could be understood as embarrassing in front of the entire family.

Ferguson then argued that petitioner Marsden hearing was unsuccessful. (PP2;3) This is false. The Marsden hearing not only got trial attorney fired off the case, but conflict panelist was appointed name Hal Smith who read, the entire case, all the discovery, and decided IAC motions were appropriate (EXHIBIT D) This comment made petitioner seem desperate and the court did not agree there was an issue.. Yet this comment was unworthy and incorrect.

Ferguson admitted there was many DNA evidences at this scene. (PP5-6) Yet Ferguson suggested that failure to examine every piece of evidence was unnecessary because of the overwhelming evidences. Including the victims blood smeared onto a wall ((RT228). Ferguson then commented witness testified that the car she seen at the crime scene the day the crime occurred may have been other than silver. This is incorrect. (exhibit G) Dianne Flagg's testimony did not suggest the car was anything but being silver. This is starkly odd because Ferguson then argued that transcript (STATES EXHIBIT 49A) suggested petitioner had a dark blue pinto. Indicating this was proof no transcripts were altered.

This raises several flags. First if the prosecutor placed a witness on the stand who seen a silver pinto, it would be unreasonable to expect that same prosecutor to play a recording where detectives

knew petitioners Pinto back then was dark blue....."NOT SILVER". This suggests that the (113 page version) was in fact altered!!

Ferguson then stated or Saukelo added that there were no signs of genital injuries, and added that Rita engaged in sex prior to her death. This alone should indicate exculpatory factors but Ferguson did not stop there. Ferguson did state that Dr Saukel's analysis of petitioner's DNA was that it was the result of sex that occurred as many as one and a half days prior to the death of Rita (PP6;3)

Ferguson then added that the DNA belonging to petitioner were cut from a felt pad that had been collected from underneath the victim's body. (RT267-284) This is extremely inaccurate, and now in 2020 Ferguson admits this was not accurate, but in his 202 response he stated he never told this to the Court

AGAIN HE IS A LIAR!

In this comment Ferguson placed petitioners in an awkward location, especially if it was in fact one and a half days older than the murder. But the Court did not catch that, nor did anyone who defended this case from Yablonsky's collateral attacks of factual innocence. Ferguson knew his comments were inaccurate and that petitioner would more than likely not be able to contradict it. Knowing that request for discovery had been thwarted by Sanders, and even Ferguson refused access when petitioner sought this at the time of briefing stage was in play. (see exhibit A-1, A-2)

Ferguson then goes on to say (PP7;2) that criminalist Donald Jones (JONES) could not determine how long the DNA had been inside Rita before she had been killed. Stating "HE COULD NOT DETERMINE HOW LONG THE SPERM HAD BEEN PRESENT, NOTING THAT SPERM CELLS ARE FAIRLY HARDY AND SEEMED TO SURVIVE SOME TIME"

THIS IS BLATANT CONTRADICTION TO JONES TESTIMONY!

(RT317)(EXHIBIT A-1)

Q- Q_ Okay in other words, from the information that you had, the sexual experiences of the victim could ~~XXX~~ have been at the time of death, hours before the time of death, or after death ?

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

O- Right

A- I'm fairly certain of that.

O- Okay

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

I am uncertain where Ferguson learned English, but in Jones last sentence he clarifies what he meant by the "SEVERAL DAYS PASSED AND THEN SHE DIED FACTOR". Telling the Court to ensure that the Court too understood he added "IF YOU TAKE THOSE DAYS AND SHRINK THIS DOWN INTO HOURS AND SO FORTH, I CAN'T TELL!!"

This comment does invite a host of possibilities like how many is several. Well in the english class and amth classes I took some means many, a few means three or four. A couple means two, and when someone says several, one has to believe that it meant more than two or three and certainly as many as more than four. When the word few comes into play every one believes that to mean three or four, because the languafge of a couple means two.

I have offered Jones portfolio where in ten pages this many incriptions of expertise from the LA police station, S.B Shefiff department all the way into training by the FBI in quantico. Makes this expervious to ridicule or interpretations. Ferguson deliberately misquoted this to infer that the numers placed into the record shrunk the time Jones placed on the DNA found at the scene to as little as one day before the crime took place. Fergusons comments echoed throught the entire court system, where petitiuoner met defeat after defeat based on that horrific lie. Then this pompous man added that Jones suggested his statement to mean "LESS THAN DAYS" (PP7;3)

Ferguson then added the testimony by CODIS EXPERT SUSAN ANDERSON who showed the jurirs a graph of petitioners DNA compared to the victims collections where there was at least seven discrepancies. Yet Fergus explained that petitioners DNA was a perfect match to this case. This is false. Petitioner did not provide these graphs they are in prison litigators storage.((PP8;2)

Ferguson commented about witnesses John Sullivan who gave a different statemwetrn to police before trial by 25 years than on the stad said he recalled his memory more clearly 25 years after the fact. That he seen Bruce Nash drive rita home after the party (EXHIBIT M) Yet in all of Bruce Nash's statements over the years as well as testimonyw as strikingly accurate, indicating his memory was accurate. (exhibit L) Only Nash testifoed incorrectly that he recalled riat was going home after the party.

THIS IS A LIE

Sullivan testified that he seen Nash giving rita a ride home, even though early that day of testimony Nash stated that he died not give Riat the ride home. (PP9-11)

THIS TO IS A LIE

Ferguson then admits answers by petitioner suggested he admitted to, having a key to the victims house. (PP10;1) This raises several red flags, Fisrt being the only way that record says that is that if petitioenrs answers were in fact changed. (exhibit O) Because ferguson stated this to the Court and his comments echoed throughout the entire judicial system , petitioner was faced with the burden of having to disporve some thing the state could not prove wass tru either with "REAL TIME HISTORICAL' records. The authentic real time recordings will verify this. In fact by the time chief trail counsel reads this it wilol haver a copy of states exhibit 49 (COMPACT DISC) for case #FVI900518 for verifications themselves. Pewtitiuoner anserrr were changed.

Ferguson admitted that there was at least four jurors who wanted this case to end in an acquittal. (PP12;1-3) This indicates that after the states entire case, all the evidences, that at least four jurors did not believe that guilt was the correct choice. making this case a close case, suggesting that if there was other evidences before them to rely may have convinced them to stand in deadlock or convince others that acquittal was correct.

Ferguson admits that the mail flyer sent out by the county district attorney was conducted just prior to the trial. yet offered that none of the jurors felt the mailer was prejudicial. (((PP 14) This is inaccurate. There was at least seven jurors who commented prejudicially implanting perjury into those who at that time took no point, but could have been coerced because of comments."THAT WHEN THERE IS THAT MUCH SMOKE THERE MUST BE FIRE" " THAT THEY WOULD BELIEVE THE COUNTY HAD R PROOF OF GUILT BEFORE THEY SENT OUT MAILERS LIKE THAT " THAT YABLONSKY GOT SHAFTED"
THE ENTIRE PANELS WERE PREJUDICED

Although Ferguson admitted to the confessions existence he bellowed that Gregory Randolphs DNA was not located at this crime scene. (PP19;3) (exhibit K) Mr Randolphs DNA was at the crime scene, and by telling the Court that it was not was tantamount to calling petitioner a liar about the red hair, or that Randolphs DNA was at the crime scene. Although Ferguson admits that there is no sign trial Sanders had anything with regards to DNA being tested, he implied that Randolphs DNA was not at the crime scene.

Ferguson then went on about petitioners DNA one more time about being located underneath the exact spot Rita had been killed (PP21:1-3) "MOREOVER ANY SUCH EVIDENCE PALED BY COMPARISON TO THE DNA EVIDENCE THAT MR YABLONSKY, ALONE, LEFT EVIDENCE OF SEXUAL CONTACT AT THE SCENE" " THE PERSON WHO ACTUALLY HAD SEX WITH MRS COBB, AT THE VERY SPOT WHERE HER NUDE BODY WAS FOUND, WAS MR YABLONSKY"

These repeated comments about petitioners DNA being in a place where it was not located was to direct the Court as well as anybody else who read this brief that petitioners DNA and only petitioner DNA was located at this scene, and only petitioners DNA was located under the victims body where she had been killed!

c

THIS IS A BALD FACE LIE

Look at exhibits (A-1 and A-2) Neither of these experts located anything belonging to petitioner under the victim, even though they found a watchband pin that was not matched to petitioner, or the red hair located on the victims body, which also does not match petitioner. Ferguson is a pathological liar!!
Especially since his 2020 response stated he never said that!!!!

In Fergusons 2012 response to O.C.S with the Court for his expert analysis of the facts in case#FVI900518, which he Ferguson "EXPECTED" the Court as well as "ALL OTHER " parties who would read into petitioners collateral attacks on this case as Fergusons "VERSION" would withstand scrutiny. Expecting all others to accept his VERSION OF THE TRUTH, irregardless of the accuracy.

In the 2012 response Ferguson placeed petitioner into a position with regards to fact disputes where Fergusons "VERSION" completely contradicts the "HISTORICAL TRUTHS" , "EXPERTS ANALYSIS OF THE EVIDENCE", ~~BY STATING EGREGIOUS LIES~~ by an experienced litigator for the state. Knowing that his lies would go unchallenged, because he witheld the facts and truths from Court and petitioner.

It is in the peculiar manner which Ferguson explained the facts of the case, which were "incredibly innaccurate", while he knew that petitiuoner could not accurately dispute them because he and his cronies witheld the "TRUTHS" from Court and petitioner. Knowing that petitioner would not be able to defeat Fergusons lies with any level of certainty. It is because Ferguson spoke to trial counsel DFD David sanders, DDA John Thomas as well as SBSB Detective Robert Alexander and SBSB Detective Greg Myler before he "entered these" lies, that he "BELIEVED HE WOULD GET AWAY WITH SUCH ACTS !!!"

With the knowledge that his innaccuracies would go undefeatable, DDA Ferguson created a 2012 "VERSION OF THE FERGUSON FACTORS IN THIS CASE". Filing those falsities on October 19, 2012. This 2012 brief "COMPLETELY CONTRADICTS THE HISTORICAL FACTS AND EXPERTS IN CASE FVI900518, BY STATING LIES THAT"

- A) Petitioners DNA was located under the body
(EXHIBIT A-1-A)(EXHIBITS A-1, A-2)
- B) Petitioners DNA was placed there at the time of the murder of Rita Mabel Cobb on September 20, 1985
(EXHIBITS A-1, A-2)
- C) That the expert Donald Jones could not determine how long petitioners DNA had been inside the victim, adding that the experts findings were that the DNA was "POSSIBLY THERE LESS THAN DAYS". (EXHIBIT A-1)
- D) That there was only one set of interrogations transcripts to this case identified as states exhibit 49A (113 page) version and there is "SIMPLY NO PROOF ANOTHER SET EXISTS!!!"
(EXHIBIT O)
- E) That Bruce Nash did not commit perjury when he stated that Rita Cobb had been headed home after the Sullivan drinking party on September 20, 1985
(EXHIBIT L)
- F) That John Sullivan did not commit perjury (EXHIBIT M)
- G) That Dianne Flagg gave questionable testimony about the color of the car she seen at the Cobb scene the day the crime ocured. (EXHIBIT G)

H) That there simply is no proof DNA belonging to Gregory Randolph was located at the Cobb scene. (EXHIBIT J)

I) That there simply was no proof that the hair located on the victims body was red, or that it had an antire root attached (EXHIBIT H)

In all, the deceptive and deliberate "INNACCURACIES" by Ferguson when compared to "HISTORICALLY ACCURATE" records, testimony, and experts "suggest" Ferguson's ability to "stick to the truth" and facts totally escaped him in this instance, for the 2012 briefing for case #FVI900518 and post trial collateral attack in case #WHCSS1200311. In fact his "EXTREME INNACCURACIES" were parroted throughout the states defense. Where the Habeas Court repeated them. The Attorney General for federal review repeated them. The United States District Court Magistrate repeated them. The post trial DNA request conflict panelist repeated them. And the Superior Court rulings for the DNA request as well as other habeas attack repeated the exact same lies DDA Ferguson created on October 19, 2012.

" THE DDA ERIC FERGUSON FACTOR"

DDA ERIC FERGUSON 2020 BRIEF REGARDING L.W.O.P. DISCOVERY REQUEST

(FR-FERGUSON RESPONSE)

On May 23, 2020 petitioner filed and served with the San Bernardino district attorney office, demand for discovery pursuant to P.C. § 1054.9 In Re Steele. (EXHIBIT A-2_A) On September 23, 2020 DDA Ferguson filed the following discrepancies with this body.

To petitioners first demand for all the discovery for states exhibit 49, 49A, Ferguson admits now after the 2012 briefing there is another set besides the 113 pages version. (EXHIBIT O) Although Ferguson still claims there is no proof that anything had been altered, he cannot explain how on November 23, 2010 Detective Robert Alexander created two different versions of these recordings. Ferguson also cannot explain how in 2011 government bodies stipulated to redactions, or how that stipulation covered altering petitioners answers. Ferguson now admits there was a 136 page version, yet in his 2012 brief he stated no such "OTHER TRANSCRIPTS EXISTED".

Ferguson also cannot explain how the court instructed the jurors who were going to listen to these transcripts, about how they were "ORIGINAL MEDIA". Leading them to believe what they seen and heard were in fact "ORIGINAL" thereby unaltered. (RT550;18-23)

Ferguson ignores that petitioner demanded all version of this recording. This would include the

- 1) Cam cord version created on 3-8-09 in Signal Hill Station
- 2) The audio text version he created on January 26, 2011
- 3) All creations on November 23, 2010
- 4) All copies of these materials

Ferguson feels that his explanation which contradicts what he said in 2012 is sufficient compliance. "IT IS NOT !!

With regards to petitioners second request, Ferguson now states that he never stated that petitioners DNA was located underneath the victim, or on the outside of the body. (EXHIBIT A) This 2020 response now claims that "HE DID NOT EXACTLY ASSERT THAT" Take notice of the 2012 brief, page 6 para, 4 as well as page 21 para 3, that this is exactly what Ferguson told the Court.

Ferguson now adds trying to minimize his lies, that "THEY WERE TRYING TO FOCUS ON THE FACT THE PETITIONERS DNA WAS FOUND INSIDE THE VICTIMS BODY". Only on 2012 Ferguson never stated petitioners DNA was only located ~~inside~~ the body, repeatedly inserting that ~~petitioners DNA is~~ "ONLY LOCATED UNDERNEATH THE VICTIM".

Ferguson now claims that after a closer look, Jones actually found the petitioners DNA at the corner of the bed, and "NOT UNDERNEATH THE VICTIM". Adding that he made that comment in his 2012 brief. This is untrue. He never stated in the 2012 brief that the DNA was located someplace other than under the victim.

Ferguson now admits that he lied during the 2012 briefing about where petitioners DNA was located. Suggesting that only because he now re-reads the evidence, has a different belief. This is not true. Ferguson knew that petitioner did not have the trials transcripts or the full disclosure of the states evidence, which petitioner would have been able to defeat these lies, when he deliberately "LIED TO THE COURT ABOUT CRITICAL FACTS IN A DNA CASE". THE FERGUSON FACTOR !!!!!!! (EXHIBITS A, A-1-A, A-1, A-2)

Petitioners third demand for discovery, that Ferguson provide all DNA evidence regarding the processing of a red hair which had the entire roots attached. Ferguson now admits that he lied to the Court in 2012 and now provides that this hair was in fact red and had that entire roots attached. Yet he still claims there is no proof this hair belonged to Gregory Randolph. Completely ignoring that petitioner is BLONDE AND NOT RED HEADED!!

Petitioners fourth request from Ferguson was that he provide all discoveries with regards to Gregory Randolph, his confession and whether Randolphs DNA was located at this crime scene. Ferguson now admits he lied to the Court in 2012, when he stated there is no proof that Randolphs DNA was located at the Cobb crime scene. (EXHIBIT J) K) Only during the 2012 briefing Ferguson stated that Randolphs DNA had not been located at this crime scene

Petitioner fifth request of Ferguson was that trial counsel did not move the Court for DNA examinations. Which in this case the 1) Murder weapon 2) red hair with roots, 3) Watchband pin located under victims body, 4) cigarette butts, or 5) smearing into victims blood onto her door jamb had not even been examined by defense expert, or that "ANY" experts were ever discussed outside the request (estimate for a DNA examination). Because Randolphs butts were located at this scene, or that petitioner being blond where a red hair had been located on the victims body, suggest any forfeiture of examinations was extremely prejudicial. Only Fergusons 2012 briefing imply no prejudice occurred in this case.

Petitioners sixth request for discovery with regards to petitioners post trial conflict counsel, and what ever their discussions about this case be provided to me. Ferguson states in his 2020 response that these type of communications are not relevant to discovry demands. This is false, because it was Ferguson's answers in his 2012 breif that wer'e being parroted by o/Melveny on a P.C.\$1405 motion hearing. Therefor extremely prejudicial

& EIGHTH

Petitioners seventh request from Ferguson were that he provided all communications between himself, trial counsel DPD Sanders, DDA John Thomas, County District attorney Michael Ramos, Detective Robert Alexander, Detective Greg Myler be provided in thier entire ty, in all forms, to include e.mail, texts, letters, and all correspondences between such parties prior to and during the life of the case. Ferguson's response is that these are not discoverable materials under Brady or Steele.

This is innaccurate. The only reason to prevent these materials is to keep hidden that a collusion to hide evidences that were manufactured, from being discovered or the many other acts of misconducts from becoming dicvovered.

SUMMATION

One has to conclude that this level of deception would have certainly altered the meaning of the facts which were being weighed against petitioners 43 federal arguments, whz'e the magistrate Judge only repeated exactly ~~that~~ crap Ferguson was pushing into their ears about facts that simply did not exist, or explaining results of evidences so contradictory than what the experts stated that anyone who views theses issues had to ask themselfe, WHY!! Why would such an actor of the stae, representative of the Court make such egregious mistakes, and contradict the facts of a case? This leads to only one conclusion. That when Ferguson spoke to either of the parties named herein they informed him that

THIS CASE NEEDS TO STAY CONVICTED AT ALL COSTS, *Help us out,*
we fucked, BUT, WE GOT YOUR BACK!!

CONCLUSION

There is a saying around my household. That it is difficult to win an argument with a smart and intelligent person, but that it is impossible to win one with a liar. That the truth is a vicious beast and will defend itself once you set it free.

MR. FERGUSON SIR YOU ARE A DISPICABLE LIAR!!

HOW MANY OTHER CASES HAVE YOU DONE THIS TO ?

Mr Ferguson sir you cannot dispute these facts, and I am now faced with how to correct the mess you created, trying to save your friends, face and your job. The only possible conclusion is disbarment. I invite you to dispute these fact sir!!

WITH TRUTH.

SET IT FREE!!!

Respectfully;

EXHIBIT COVER PAGE



Description of this exhibit:

2020
DEMAND FOR DISCOVERY
STATE BAR COMPLAINT

Number of Pages to this exhibit: 7 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



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

PROOF OF SERVICE BY AN INMATE

ACCORDING TO PRISONER MAILBOX RULE

THIS MAILING IS DEEMED FILED AND SERVED UNDER ANTHONY V. GONZALES, 236 F.3d 553 (9th cir. 2010)

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. § 2601(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

1 John Henry Yablonsky CDCR#AL0373
2 18-147
3 480 Alta rd.
4 Sandiego,ca,92179

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

9 Dear Eric Ferguson;

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

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

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

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

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 interroga-
tion recording transcripts were and are the target of
[ONE] of my post trial challenges. "THIS EVIDENCE" was
tampered with by SBSD 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 articles. 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!

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 victims 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 evidence 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 rsnponse 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!

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
murder I am now requesting that you provide to me in
paper form which indicate I was in the residence of
Mrs Rita Mabel Cobb at the time she had been killed.

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

7 I DEMAND THIS INFORMATION FROM YOU NOW, PLEASE!

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

12 I DEMAND THIS INFORMATION FROM YOU NOW, PLEASE!

13 10) Last but not the least, any and all letters,
14 e-mails, text messages, or [other] communications between
15 yourself and trial counsel David Sanders, Hal Smith
16 post trial counsel, Stuart O'Melveny post trial counsel,
17 detective Robert Alexander, Detective Greg Myler,
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.

18 I DEMAND THESE INFORMATIONS NOW, PLEASE!

19
20 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
of good faith efforts to obtain these records from trial counsel
were made and were unsuccessful, the Court shall, except as provided
24 in sub(c) order that the defendant be provided reasonable access
to any of the materials described in sub(d).

25 The findings in STEELE were that good faith efforts
26 were to be made with trial counsel. (Id at p.690) Furthermore
27 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.
6 WITHOLDING OVER 4700 PAGES
- 7 C) At the end of trial and after seeing there was over
8 5000 pages to this case, and during marsden hearing I
9 demanded the release of the entire file. On or about
10 March 2011 and after trial David Sanders provided me
11 another 1300 pages to this case.
12 WITHOLDIING OVER 3400 pages
- 13 D) After P.C. 1054.9 demands processed through state bar
14 complaints, David Sanders provided me another 1600 pages
15 in June 2014 stating that this was the states entire
16 file.
17 STILL WITHOLDING OVER 1800 PAGES
- 18 E) On January 2016 and five years after the trial and
19 seven years after the first demand for states entire
20 file, Hal Smith provided me with 5400 pages along with
21 a cromptact disc of audio informations as states exhibit
22 49, a recoridng of an interrogation created on 3/8/09

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

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

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

20 I am not the Killer of Rita Mabel Cobb. I was not in
21 the residence of Rita Mabel Cobb between September 18, 1985 and
22 todays current date. At the time Rita Mabel Cobb was killed I
23 was in the residence of Thomas and June Mullin who lived in Downey
24 Caliofornia from September 18, 1985 through September 23, 1985
25 at a famuily gathering. At this gathering Linda Mitchell , Joy
26 Mitchell, June Mullin, Thomas Mulling, Holly Yablonsky, as well
27 as several other in-laws seen my presence at this home between
28 the dates listed above. I did not kill Rita Mabel Cobb, nor do
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 discovery to this case, knowing that he withheld 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 rights when
16 Robert Alexander, DDA John Thomas altered evidence
17 which they chose to use to coerce jurors
- 18 2) The prosecutor violated due process when he used
19 unreliable witnesses Robert Alexander, Bruce Nash,
20 John Sullivan to coerce 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, to create elements
28 c) Used against petitioners fifth 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 minimum of
38 one and a half days to several days before the murder
was committed on or about September 20, 1985.
(see experts testimony/ evidence RT 347, 490)

CONCLUSION

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

" REASONABLE "

REASONABLE

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May 22, 2020

Respectfully requesting;
John Henry Yablonsky
an innocent man .

NON PARTY

PROOF OF SERVICE BY

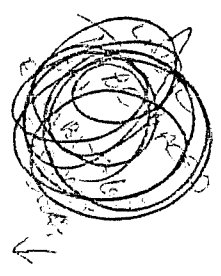
THIS MAILING IS DEEMED FILED AND SERVED UNDER ANTHONY V CANERA, 236 F.3d.563(9th cir.2000)

WHEN THIS MAILING WAS SERVED BY _____ COURT ST. _____

This service and mailing was conducted by a party and inmate of CDCR and was conducted according to California Code Regulations § 31.2 and P.C. § 2601(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;

COURT OF APPEAL
3389 TWELFTH
R.S.CA. _____
92501

btms copy



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 _____ 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) Jan 14, 2019

KEN SIG + DATE

UNDER THE PENALTY OF PERJURY
THE FORGOING IS TRUTHFUL AND ACCORDING TO BELIEF
(NAME) kenneth yablonsky (SIGNED) [Signature]

My address is 6 warm spring lane aliso viejo, ca, 92656

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

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CALIFORNIA COURT OF APPEAL
4thDISTRICT, DIVISION TWO

In Re John Henry Yablonsky,
On Habeas Corpus,

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§

CASE # *E071880*
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

ADDENDUM EXHIBIT FILING

Petitioner filed habeas corpus with this Court titled as
"Factaul Innocence" petition pursuant to P.C. 1473 alleging claims
that state parties had manufactured evidence with the intent to
present it to a panel of jurist as true and accurate for trial
Court #FVI900518. In that case the prosecutor used a recording of
the alleged "original" interrogation recording that occured on
March 8, 2009. The government identified this "copy" as states exh-
ibit 49, and after trial provided post trial counsel Hal Smith as
well as appellate counsel Richard Levy "copies" of this exact same
compact disc that was "used" in the trial. The state also placed
into states records a 113 page "version" of that recording and title
it as states exhibit 49A, which is filed herein as petitioners exhibit
63. Upon the completion of direct appeal counsel Levy provided

Not a Copy

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 protected
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 created
16 by Robert Alexander on November 23, 2010) This 136 page transcript
17 is provided in this hebeas filing as petitioenrs 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 petitioenrs 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.

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 protected
13 computer to open and listen to the contents of states exhibit 49
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25 petitioenrs 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.

POINTS AND AUTHORITIES

1
2 Section 1550(a) suggests that records that are preserved
3 as part of a business as defined in section 1270 that the follow-
4 ing types of writings are admissible;

5 3)A microfilm, microcard, or miniature photograsphic copy
reprint, or enlargement.

6 4)Any other photographic copy or reporduction or enlarge-
7 ment thereof.

8 Subsection b states the "inrtroduction" of evidnece
9 of a writing pursuant to (a) does not preclude admission of the
10 original writing [if] it is still in existance. A Court may require
11 the introduction of a hard copy printout of the document. Section
12 1550 omits the requirment , contained in section 1553i of the Code
13 of Civil Procedure., that the original writing be a business record.
14 As long as the original writing is admissible under any exception
15 to the hearsay rule, its trustworthiness is sufficient assured; and
16 the requirement that the photographic copy made in the regular course
17 of business sufficiently assures the trustworthyness of the [copy].
18 [7 cal.L.Comm. Reports 1 (1965). It is because this is an [exact]
19 copy of the compact disc released to my family that was protected
20 by official documents from Case #FVI900518 that had been in the control
21 and custody of a) S.B.S.D who recroded the original recording
22 b) made a copy of the original copies c) Provided the county prosec-
23 utors office with a copy d) a copy was placed onto the records for
24 case #FVI900518 e) A copy was released to the appellate attorney
25 Richard Levy on direct appeal f) and the appellate attorney released
26 ^{TIC} a copy to my family which is this copy here. Bracy v Gramley, supra
27 520 US at 906-09 & n.10(Harris stated that where there were specific
28 allegations before the Court show reason to believe that the petition

1 may, if the facts are fully developed. be able to demonstrate that
2 he is.....entitled to relief, [IT IS THE DUTY OF THE COURT TO PROVIDE
3 NECESSARY FACILITIES AND PROCEDURES FOR AN ADEQUATE "INQUIRY"] and
4 Habeas rule 6 is meant to be consistant with HARRIS(quoting Harris
5 Supra, 394 US at 299.
6

7 ANALYSIS

8 That the prosecutor and or attoreney general have been
9 served a copy of this motion to expand the exhibits [list] as well
10 as the actual exhibit for a) authentication b) verification which
11 wou ld be required to satisfy [T]his Courts need to see the record
12 as well to verify that state parties had in fact manufactured evidnece
13 known to be false for the puroose of coersing a verdict in a criminal
14 hearing. (emphasis) That this compact disc does supprt claims one
15 ^{ex} and two on this hebeas corpus petition.
16
17

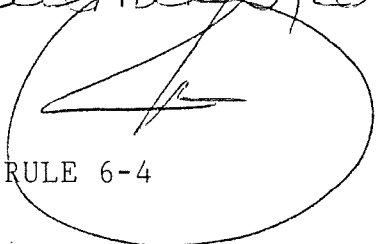
18 VERIFICATION

19 I John Henry yablonsky a party to this action am
20 the author of this motion and according to
21 belief and understanding know this to be the
22 truth of the matter as stated above and make
23 this statement under penalty of perjury. If
called to testify will submit the same in a
Court of law.

24 ~~September 21, 2018~~

25 
John Henry Yablonsky

26 ~~DECEMBER 10, 2018~~

27 
28
HABEAS RULE 6-4

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#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 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.

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 tothe 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 moarking regularly through the entire recording, especially where there was discrepancies about the sound and text. I idenified these anomolies 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 tothe text transcript and the initials used as GM or RA or JY.

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.

Handwritten marks on the left margin, including a vertical line and some scribbles.

~~SEPTEMBER 2018~~
Jasmine Date
12/19/18

Jasmine Sahwnda Jade Yablonsky
6 Warmspring lane
Aliso Viejo, Ca, 92656

Handwritten signature of Jasmine Yablonsky.

CONCLUSION

Allow this compact disc be filed within your Court and allow the attorney general or, prosecuotr authenticate.

~~September 21, 2018~~

Handwritten signature of John Henry Yablonsky.

John Henry yablonsky

DECEMBER 5, 2018

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

In re JOHN HENRY YABLONSKY

E071880

on Habeas Corpus.

(Super.Ct.Nos. FVI900518,
WHCJS1800338 &
WHCSS1200311)

The County of San Bernardino

THE COURT

The motion of petitioner filed January 16, 2019, for permission to include the trial court's exhibit 49 (a cd of a police interview with petitioner) as exhibit 65 to petitioner's habeas corpus petition is GRANTED.

RAMIREZ
Presiding Justice

cc: See attached list