

1 JOHN HENRY YABLON SKY
#2309342444
2 9500 ETIWANDA
R.C., CA. 91739
3 IN PRIPRIA PERSONA

4
5
6 SUPERIOR COURT OF CALIFORNIA
7 COUNTY OF SANBERNARDINO

8 THE PEOPLE OF CALIFORNIA,
9 Plaintiff,

Case No.: FVI900518

10 vs.

11 NOTICE OF MOTION IN REBUTTAL AND
12 MOTION STRIKING, QUASHING THE DISTRICT
ATTORNEYS STRIKING MOTION TO A VERIFIED
13 PETITION FOR ITS IMMATERIALITY, KNOWN
FABRICATED EVIDENCE AND SCANDALOUS
14 CONTENT SUBMITTED BY THE DISTRICT
ATTORNEY OFFICE FOR NO OTHER PURPOSE
15 THAN TO CAUSE IRREPERABLE 1172.6 INJURY

16 JOHN HENRY YABLONSKY
17 Defendant

DATE:OCTOBER 18, 2024
DEPT:V-3
TIME:0830

18 THE HONORABLE JUDGE OF THIS COURT

19 **TO; COUNTY DISTRICT ATTORNEY JASON ANDERSON**
20 **YOUR STRIKING MOTION IS LEGALLY IMPROPER**

21 Please take notice that John Henry Yablonsky (PETITIONER) now moves this
22 Court to strike the unverified striking motion filed by the district attorney office for its legal ~~IN~~
23 sufficiency and scandalous content, which if unaddressed will cause irreparable constitutional
24 injury. The striking motion does not rise to the requisite command by ^{TBF} legislative body who
25 changes thresholds because of cases just like this, convictions based on misconduct, improper
26 use of law. SB 1437, 775 (BANKS) (CLARK) (STRONG) (WHITHERSPOON)

1 The Court is to now take judicial notice of the filings with this Court by petitioner in
2 conjunction with the materials, laws established within this brief, filed in the pursuit of a fair and
3 meaningful adjudication of case #FVI900518. The following motions were served upon this
4 court, all parties of interest, according to the language of California Constitution art I sec. 1
5 [THAT THE DEFENDANT MAY DEFEND HIS LIBERTY] and must now be considered;
6

- 7 1) Objections to the district attorney use of trial and court transcripts
- 8 2) Motion to dismiss special circumstances
- 9 3) Motion to suppress pursuant to PC 1538.5
- 10 4) Motion to dismiss pursuant to Trombetta/ Youngblood
- 11 5) All briefs filed for January 26, 2024 hearing, with attached exhibits(records of notice)) (January)
- 12 6) All briefs filed for April 19, 2024 hearing (APRIL)
- 13 7) All briefs filed for May 31, 2024 hearing (MAY)
- 14 8) All briefs filed for July 12, 2024 hearing (JULY)
- 15 9) All briefs filed for August 16, 2024 hearing (AUGUST)
- 16 10) Sworn declaration by John Henry Yablonsky filed with exhibits (records of notice)
- 17 11) Notice of motion to take judicial notice September 30, 2023
- 18 12) Notice of contempt for SBSB refusals to grant access to real time lexis research
- 19 13) CCD 170.6 MOTION TO DISQUALIFY JUDGE WHO IS NOW
20 A WITNESS ABOUT HIS CAREER AS DISTRICT ATTORNEY
21 FOR SAN BERNARDINO COUNTY JUST THREE YEARS POLICE
22 COP 170.1 COUNSELED OPPONENT

23
24
25 September 10, 2024

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John Henry Yablonsky

1 **THE LEGAL BASIS FOR THIS MOTION ~~XXXXXXXXXX~~ RE**
2 **REBUTTING EVIDENCE RELIED ON BY THE**
3 **DISTRICT ATTORNEY OFFICE IN DEFENSE**
4 **OF A VERIFIED PETITION NOW BEFORE THIS COURT**

5 On January 1, 2019 this state enacted SB 1437 changing penal codes 188-189
6 in such a way that it necessarily called into question every felony murder conviction since 1872.
7 On January 1, 2022 our legislative body then enacted SB 775 outlining standards by which the
8 district attorney's office [shall] meet in their new requisite burdens. These standards are defined
9 by our courts (BANKS, SUPRA @ 803) (CLARK, SUPRA @ 617) (STRONG, SUPRA @ 711)

- 10
- 11 1) What role did the accused play in planning the crime/s?
 - 12 2) What role did the accused have in supplying or using the weapon that killed?
 - 13 3) Whether the accused was aware of their actions which could lead to death?
 - 14 4) Whether the accused was at the scene of the crime/s during their commission?
 - 15 5) The actions of the accused afterwards of the crime/s?
 - 16 6) The durations between the felony and the homicide?
 - 17 7) Whether the accused was aware of the actions of his potential cohort's threat?
 - 18 8) That special circumstances shall be weighed to the same degree of certainty!

19 As a direct result of the change in law petitioner filed with this court, served the district
20 attorney's office three separate times in 2022, without the district attorney office responding as
21 outlined by PC 1172.6(C). Petitioner was made to file petition for writ of mandamus with the 4th
22 Appellate Court, moving the court to force this petition be heard. On September 29, 2023 the
23 Superior Court ordered the district attorney office to respond, establishing a
24 January 5, 2024 deadline. **THAT MOTION WAS NOT FILED TIMELY!**

1 A unverified striking motion was filed with this Court on January 26, 2024,
2 alleging facts to be deduced from evidence the district attorney knew, should have known would
3 not meet their requisite burdens because ~~they~~ were insufficient on their face, immaterial,
4 irrelevant to the alleged crimes and [SCANDALOUS], asking the court to reinjure petitioner
5 with the use of manufactured evidence, asking the court to deny the verified petition before this
6 Court. (DECLARATION BY JOHN HENRY YABLONSKY) (HEREAFTER RECOGNIZED
7 AS) (DBJ) (DBJ- EXHIBIT A) This Court is required to take judicial notice pursuant to
8 (CA EV 451, 452) that these claims now before this Court are not coincidence, but as a matter of
9 proven custom and policy by the Michael Ramos administration to use unreliable and or
10 manufactured evidence to seek convictions. Kevin Cooper, an escaped inmate from Chino prison
11 charged and found guilty of murder in the first degree by the Ramos administration, sentenced to
12 death! It turned out that SBSB found Cooper's blood on the victims clothing. It then was
13 discovered that that blood sample found on the clothing had preservatives mixed into the sample
14 taken off the clothing! What this meant is that the SBSB planted blood samples taken from one
15 of Coopers medical visits and planted this onto the evidence! At the heels of Ramos after being
16 discovered, still adamantly claimed that he should still be put to death! That case was reversed
17 by the California State Supreme Court! On another note. The Ramos administration convicted
18 the Sanbernardino developer for allegedly stealing \$102,000,000.00 from the counties bank
19 accounts. Their case was posterred throughout the county in search of Jeff Burman, Jim Erwin
20 and Paul Baine. They were accused of serious crimes by the Ramos administration. Their case
21 was reversed by the California State Supreme Court when it was discovered that Michael Ramos
22 had manufactured and hid evidences that would have exculpated these developers.
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1 Society then concluded that Michael Ramos was not a true administer of justice (quoting) a 1935 United States
2 Supreme Court standard “It is not that they shall win a case, but that justice shall be done”, adding that, Ramos is
3 cultivating a win at all cost persona, despite his campaigning rhetoric, in the face of {OVERWHELMING} evidences,
4 that some of these suspects are actually innocent, and some, misguided vendettas. (EXHIBIT B) **YABLONSKY SUED**
5 **MICHAEL RAMOS FOR \$5,000,000.00 FOR USING HIS CASE IN A CAMPAIGN SMEAR!** Society then
6 declared that Ramos was creating new victims. The wrongfully convicted and survivors of the crime and their families
7 who were revictimized when the real perpetrators goes free. **Therefore there has been an established custom and**
8 **policy by the county District Attorney's office to run roughshod over the accused’s rights to fair and proper**
9 **adjudications with real time unhampered evidence. THAT IS THE CASE NOW BEFORE THIS COURT IN THE**
10 **VERIFIED PETITION! YABLONSKY FELL VICTIM TO THE MICHAEL RAMOS ADMINISTRATION**
11 **TACTICS TO WIN TO NO LIMITS!** Senate Bill 1437 enacted, permitting petitioners access to hearings through
12 verified petitions. (Seen Amend to Seen Bill no 1437) “The prosecutors may rely on the record of conviction to meet their
13 burden, but, petitioners may offer new additional evidence to meet the burden in rebuttal of the prosecutor's evidence!
14 There is no coincidence the evidence fabricated to convict petitioner was created after Yablonsky served Ramos the
15 Lawsuit. (Exhibit B).

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19 **THIS MOTION REBUTTS THE EVIDENCE ARGUED IN THE UNVERIFIED PETITION FILED BY**
20 **JASON ANDERSON!**

21
22
23 Opal Leanne Faulk case number E55002 convicted by DDA Thomas, SBSA Alexander with the use of altered transcripts
24 is expected to testify and producer her records. Her Alford plea for three years in a double murder robbery attached to
25 petitioners’ willingness to testify in her trial that Thomas and Alexander used false evidence in his trial. Thereby proving
26 the custom and policy of the Ramos administration...make evidence if you have to but get the conviction!

1
2 **THE STRIKING MOTION HAS SCANDALOUS CONTENT**
3

4 The striking motion filed by the district attorney office suggest that there are two
5 pieces of evidence, proves their burden, that petitioner committed a felony-murder as the actual
6 killer PC 189(e), in comparison to the 54 pieces of actual murder evidence found at the crime
7 scene, on the victim's body. (DSM 3; 5-8) "That Yablonsky responses in an illegal interrogation
8 and DNA are the evidences that the jury relied to find him guilty" (DSM4; 1) "That states
9 leading experts found petitioners DNA was not related to the actual murder, and was at the least
10 two days older than these crime's" (DSM4; 5-7) "That there were at least sixteen different DNA
11 profiles collected from this crime scene". These admission by the district attorney office proves
12 nothing other than the fact that petitioner was unwilling to admit to an extramarital affair when
13 he was interrogated in front of his wife and children. (1)(31; 14) These evidences which the
14 district attorney calls attention to must be stricken from the people cased in their entirety for their
15 scandalous and immaterial nature.
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17

18 FIRST, the district attorney office admits in their unverified brief, and their unverified
19 amending of the complaint, that they have no confidence in the evidence they rely, implying the
20 jury found petitioner guilty that's it and that's all. (EXHIBIT C) (CT 52-53)
21

22 SECOND, the district attorney office opines that the "STATEMENT" evidence made by
23 petitioner in an illegal interrogation amounts to "sufficient proof" beyond reasonable d9oubty
24 that Yablonsky committed these crimes alleged.
25

26 THIRD, the district attorney office openly admits an uncorroborated statement attached to
27 old DNA meets their burdens set out by SB 775.
28

1 Furthermore, the verified petition filed before this Court, served upon the district
2 attorney office is legally sufficient and {requires} a verified response in its defense. Therefore
3 the January 26, 2024 motion is legally deficient on its face. (CCP 2015.5) “Whenever, under any
4 law, rule, regulation to law of this state, any matter is required to be supported by evidence or
5 proved there required a verified writing of the person then declaring such facts, signed under the
6 penalty of perjury. **A VERIFIED PLEADING CAN ONLY BE LEGALLY OPPOSED BY A**
7 **UN** **VERIFIED RESPONSE! UNLESS THEY ADMIT THEY ARE UN CERTAIN!!**
8

9 Because of the gravity of these allegations, the significance in the evidence used to
10 prove these allegations, the district attorney’s office should at the very least swear their evidence
11 is as it is purported to be, therefore reliable. In this case the unverified unsworn amending
12 complaint must be stricken from the people’s case in its entirety for its legal deficiency. The
13 striking motion filed in defense of the verified petition filed by petitioner must also be stricken
14 from the people’s case in its entirety. Any conclusions, references to or use of these briefs,
15 motions are the fruits of poison, because nether suggest or support their trustworthiness.
16 Furthermore, neither of these papers filed by the district attorney office proved beyond
17 reasonable doubt that petitioner is the actual killer as required now under PC 1172.6 scrutiny.
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21 **2. THE PETTIONERS STATEMENT USED IN THIS CASE IS UNRELIABLE**

22 The district attorney relies on evidence cataloged with this case as states proof
23 petitioner committed a crime. (EXHIBIT 49A- 113 page text transcript created on November 23,
24 2010 & January 26, 2011) & (EXHIBIT 49 – audio record created on November 23, 2010) both
25 these “copies” do not depict accurate context or content of the interrogation which occurred on
26 March 8, 2009. (EXHIBIT I, A) (DSM3; 5-8) “The statement which Yablonsky knew Rita is the
27

1 evidence which the jury relied to find him guilty of murder” **THE JURY DID NOT FIND**
2 **YABLONSKY THE ACTUAL KILLER!** This statement alone does not prove anything other
3 than Yablonsky unwillingness to admit to an extramarital affair while he was interrogated by
4 multiple officers in front of his entire family. (1)(31; 14) (MAY 13-33) The statement
5 “allegedly” suggest that just because petitioner lied about the affair which occurred on
6 September 18, 1985 (RT 317, 491) (COA 17) that this was a sign of guilty conscience, that
7 petitioner somehow, for some unknown reason came back two days later and killed Rita. The
8 record is silent for anything other than an empty “THEORY”!! **AT BEST THIS THEORY**
9 **AMOUNTS TO SPECULATION, AN UNACCEPTABLE LEGAL FOUNDATION**
10 **UNDER BANKS OR CLARK! THIS COURT MUST ENFORCE THESE STANDARDS!**

13 The statement was the fruits of a tactic called “entrapment”, strategies used to
14 manipulate and coerce incriminating evidence, impeaching evidence, and nothing more.
15 (INNIS 466 US 291) (VILLA-GOMEZ 9 Cal.app.5th 527) “Situations that are designed to elicit
16 incriminating evidence” ON October 2008 petitioners DNA matched with CODIS to the scene of
17 the crime alleged herein, but, not the actual murder. In November 2008 Sanbernardino Sheriff
18 Homicide division became aware of the scientific nature of that DNA hit, learning that the DNA
19 does not actually tie Yablonsky to the actual murder. They were told by two of the state’s leading
20 experts the DNA is not related to the actual crimes. (SBSD Pathologist Saukel told them that the
21 DNA matching Yablonsky was [OLDER] than the crime by days!) (RT491) (SBSD Criminalist
22 Jones stated that the DNA matching Yablonsky was the result of a sexual encounter that
23 occurred days before Rita had been killed.)(RT317)
24
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1 Knowing this the department began a sting to capture incriminating evidence and began
2 following petitioner physically and electronically. Finally after discovering there was no other
3 actual evidence, they schemed to capture and digitally make some! In January 2009 the
4 Sanbernardino sheriff coordinated a three agency investigation, placing Yablonsky's life under
5 surveillance hoping to arrest John Henry Yablonsky for the murder of Rita Mabel Cobb.
6 (APRIL @ 13) (MAY @ 17-18) (JULY @ 5-11, 13-14) (EXHIBIT D2) On March 4, 2009 SBS
7 Detective Alexander (ALEXANDER) filed a sworn affidavit of probable cause to arrest
8 Yablonsky for this murder. That probable cause affidavit resulted in an arrest warrant issued by
9 the Superior Court Judge Eric Nakata. (EXHIBIT A) After learning my work schedule and
10 family practices, the sheriff department calculated a point in time and location that they
11 anticipated would produce the most fruit, targeting Yablonsky while at home on a Sunday
12 morning when they knew he would be with his entire family for the Sunday breakfasts. It was at
13 that time that Long beach police, Signal Hill police along with Sanbernardiono sheriff
14 surrounded petitioners home and made contact. These practices were designed by policing
15 agencies to ensnare and entrap potential suspects with incriminating evidence. (EXHIBIT 12
16 @line 9) (RADIO TRANSMISSION) GM-"alright we'll be talking to him at the house"
17 (RADIO RESPONSE) "We're still going to stand by right?" GM-"Yes". **THE ENTRAPMENT**
18 **SCHEME WAS BEING SET INTO PLAY!**

19 Petitioner was under no ability to refuse cooperation with the multiple officer in
20 fear of potential obstruction charges, who asked to question petitioner about a crime! Knowing
21 they had the warrant to arrest, officers strategically refused to MIRANDIZE, hoping to coerce
22 responses they could use to incriminate. During the first few moment so the questioning
23 petitioner asked officers to give him their card so that he could call them later because the

1 questions were about an act that occurred 25 years before the questioning. Officers refused this
2 request and sat at the table. Their questions were directly related to petitioner's life and his
3 knowledge of Rita, and possible relationships with her. (EXHIBIT I4 @ line 1-3) GM-"Ever
4 have sex? Never got into any fights with her? She was a nice lady? **THESE QUESTIONS ARE**
5 **INVESTIGATORY!** Officer's state petitioner nodded his head no? Petitioner allegedly stated
6 "yea, no". To which question are officers suggesting this non-audio answer to? ("ever get into a
7 fight -vs.- ever have sex- vs.- was she a nice lady") In one series of questions having potentially
8 separate answers they attribute the answer to saying "yea no". Only they state "you're nodding
9 your head". In this country, or anywhere nodding of the head means "YES" This series of
10 questions was strategic, planned to capture incriminating and possible impeaching evidence to be
11 used at trial. **PETITIONER WAS NEVER MIRANDIZED AT THE HOUSE OR THE**
12 **POLICE STATION! EFFORTS TO INVOKE WERE REPEATEDLY REJECTED!**

13
14
15 The location and timing was impeccable to ask whether petitioner had an extramarital
16 affair while being questioned in front of his wife her mother and their children. For the record
17 family members were not allowed to leave the residence during this contact, nor was petitioner
18 allowed to leave by himself, unescorted. Petitioner moved this activity ~~at~~ outside which instigated
19 officers following at his heels, where petitioner asked to take this activity to an non-custodial
20 location. (EXHIBIT I6 @ line 3 after the word "WIFE). This conversation is completely missing
21 from all copies seen by petitioner to date, supposing none of the post-trial counsels have seen
22 this either. Petitioner was forced to the signal hill police station. Real time recording equipment
23 or storage will verify this in formation. This information as captured in violation to petitioner
24 fourth amendment right to be secure in his person.
25
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1 (OROZCO 394 US 324)"custodial not limited to station" (LOPEZ 163 Cal.app.3d 602(1985)
2 "functional equivalent to an arrest" (DAVIS 7 Ca4th 797(2003) "defendant sole suspect is
3 enough" (ARGUELLO 65 Cal.2d 768(1967) "Inducing statements". In this case there were 14
4 officers in both plain clothes and uniforms! Petitioner not free to leave while forced to the locked
5 station,
6

- 7 A) The Fact petitioner denied sex with Rita on 9-18-85 has nothing to do with any crimes
8 that occurred to her days later on 9-20-85 (RT317, 491) (COA 17) "That[A] could have
9 had sex with Rita on Thursday and been killed by [B] on Saturday"
10 B) The record is silent for anything suggesting the actions on 9-18-85 were in any form
11 related to or connected to any acts that occurred on 9-20-856
12 C) The record is abundant, proving these digital recording copies, transcripts were
13 manipulated;

14 (RT455; 4)(DA) I am redacting Yablonsky invoking MIRANDA

15 (RT455; 24)(DA) I have to cut the evidence so that it sounds good

16 THE PROSECUTORS THEORY

17 (RT32; 23)(DA) Why would anyone lie about consensual sex?

18 (RT34; 12)(DA) From the lies the jury could infer guilt

19 (COURT) Is there any evidence of the felony (DA) there is nothing

20 Speculation drawn from inferential evidence [only] establishes a fact if it were true!

21 (STORY 2008 LEXIS 326); (RALEY 2 Cal.4th 820(1992) (MORRIS 46 Cal.3d 1(1988)

22 "Inferential evidence is sufficient only if it were substantial and of solid credible value"

23 (ELIZALDE 61 Cal.4th 523) "was not free to leave"(LOPEZ 163 cal.app.3d 602)"functional
24 equivalent to arrest" (DAVIS 7 CA4th 797) "defendant sole suspect is enough"(Arguello 65
25 Cal.2d 768"inducing statements"
26
27

1 POE & CHAT GPT ARTIFICIAL INTELLIGENCE

2 **IF A WARRANT TO ARREST A SPECIFIC PERSON WAS ISSUED**
3 **BEFORE POLICE INTERROGATED THE SPECIFIC PERSON ARE**
4 **POLICE REQUIRED TO MIRANDIZE BEFORE ASKING QUESTIONS?**

5
6 The answer is [YES] there are key factors to be considered;

- 7 1) Warrant issued for the person arrest indicting probable cause was established by
8 affidavit. (EXHIBIT A)
- 9 2) Any questioning after warrant issued would be custodial even if not yet physically,
10 (attachment #1)
- 11 3) Custody means freedom of action is restricted to a degree.(attachment #2)
- 12
- 13 4) Interrogation is questioning to elicit incriminating responses.
- 14

15 In this case petitioner was not permitted to leave his house alone, and not allowed to exit
16 the locked station, nor was he permitted to terminate the interrogation. (Real time recordings will
17 verify this) ((EXHIBIT I4- I6) 1) The responses in this case were digitally altered
18 2) Petitioners responses were blatantly changed from one answer to another 3) Petitioners
19 invocation was completely redacted from all copies as discussed above. 4) The merit of this
20 activity is supported by states own evidence (EXHIBITS 49 & 49A) Already serviced upon the
21 court and the district attorney office. (THIS COURT MUST ORDER ACCESS TO ADUCIO
22 EXPERTS) (THE RECORD NOW BEFORE THE COURT EXHIBITS 49 & 49A PROVE
23 THIS)

24
25 Therefore the district attorney office cannot honestly nor legally suggest a lie about
26 an affair amounts to proof of a felony-murder, because the n on-incriminating evidence now used
27

1 13

2 Is severely outweighed by the actual physical evidence which incriminates another person than
3 Yablonsky. The prosecutor's theory then and now is not legally satisfied by any evidence which
4 actually incriminates the petitioner, and therefore this petition should be addressed as such.

5 There is no physical or scientific evidence that supports either theory, then or now!

6 POE & CHAT GPT

7
8 **IF A PERSON TRIED IN 2011 FOR FELONY-MURDER WITH SPECIAL**
9 **CIRCUMSTANCES BUT THE PROSECUTOR USED EXTRAJUDICIAL**
10 **NON-INCRIMINATING STATEMENTS TO PROVE THE FELONY IF**
11 **THE ALLEGED CRIME WAS COMMITTED IN 1985 WHEN THERE**
12 **IS NO OTHER PROOF OF THE FELONY OTHER THAN THE**
13 **STATEMENT? (ATTACHMENT 7)**

- 14 1) The non-incriminating statement may not be admissible, especially if they are
15 not [directly] incriminating.
16 2) Statute of limitations are applicable. In 1985 crimes prosecuted in 2011 may be
17 barred by expiring statutes.
18 3) Other evidence is [required] to prove the underlying felony, rather than solely
19 relying on the statement.
20 4) Convictions are to be based on [reliable] admissible evidence.
21 5) The statement must be relevant to proving elements.
22 6) Proof beyond the statement is required with corroborating evidence, without
23 them, the burden has not been met.
24 7) Defendant may challenge admissibility of the statement. (MAY @ 13-33)
25 (JULY @ 4-6, 13-19) (There is a standing PC 1538.5 motion).

26 **IN A MURDER TRIAL IN 2011 CAN THE PROSECUTOR REDACT?**
27 **THE DEFENDANTS STATEMENT BEFORE SHOWING IT TO THE**
28 **JURY, THEN INSTRUCT THE JURY THE STATEMENT WAS ACCURATE**
AND ORIGINAL MEDIA?

(RT455; 4)(DA) "I am redacting Yablonsky invoking MIRANDA"

(RT455; 24)(DA) "I have to go through everything and find out where I got to cut the
Interview and make sure it sounds good"

1 (RT548; 12)(COURT) “Miranda is an issue for the Court to decide not the jury, if the
2 Judge determines Miranda rights are to be given but were not the jury would not hear
3 The statement.”

4 (RT550; 23)(COURT)” I told you go by the transcript, see if it helps you understand
5 What’s on the tape, but, the tape recorded media is the original.”

6 (RT508; 28)(DA) “Q- As far as recording 49A, which is the transcript of the recording,
7 Do you believe that that’s accurate to the best of your ability?” (SBSD)A- Yes!”

8
9 Our strongest intelligence on this found. The prosecutor would generally be able to
10 redact the statement before presenting it to the jury as long as the redactions were appropriate
11 and did not prejudice the defendant’s case. The portions of statement presented [must] be
12 relevant and admissible as evidence. The defendants’ rights [must] be protected. Prejudicial
13 redactions are forbidden and redactions cannot conceal the rights to a fair trial. The jury must be
14 properly instructed that there statement was redacted, omitting what and why, unless the reasons
15 themselves are and sue for the jury to consider.
16

17 (1)(RT34; 14) “Questioned in front of entire family”

18 (RT599; 28) (DA) “The only reason for the lie is to distance himself from the crime”

19
20 The prosecutors experts clearly fo9und petitioners DNA older then the crime/s by more
21 than one and a half days. (RT 317, 491) The prosecutor can instruct the jury the statement is
22 accurate and from original media, however, the instruction bust be truthful, jury are to be made
23 aware of content, including redactions. (Emphasis added) If the redactions are misleading or if
24 the jury is not properly informed, “**IT COULD AFFECT THE OUTCOME OF THE TRIAL,
25 UNFAIRLY PREJUDICING THE ACCUSED OF THE RIGHT TO A JUST VERDICT**”.

1 The instructions must be truthful and not misleading and based on actual evidence
2 being presented. (ATTACHMENT 4-5) Ensuring the fairness includes defenses right to
3 challenge the redactions, and, the way the evidence is presented. (PEREZ @ 7)"failure to object
4 waived" (DYER 45 C3d 26)"Court to relieve burdens of stipulations if no good faith occurred"
5 (HICKORY @ 417) (WEBSTER 5 CASH 295) "an innocent man may resort to deception to
6 avoid such proofs."(HEITER 149 f2d 105(1945) "error to charge jury to presume guilt from
7 flight".
8

9 In this instance the statement attached to the 9-18-85 innocent act (RT317, 491) does
10 not convert to an illegal act which occurred days later on 9-20-85. The jury were manipulated,
11 misguided and mis-instructed the statement was the only evidence. Therefore it is highly
12 prejudicial to hide facts within the statement, but then tell the jury that the statement is accurate
13 and original media when it was anything but.
14

15 POE CHATGPT

16 **IN A 2011 TRIAL FOR FELONY MURDER SPECIAL CIRCUMSTANCES** 17 **CAN THE PROSECUTOR USE DEFENDANTS NON-INCRIMINATING** 18 **STATEMENT TO PROVE THE FELONY IF THE ALLEGED CRIME** 19 **OCCURRED IN 1985 WHEN THERE IS NO OTHER PROOF OF A FELONY** 20 **OTHER THAN THE STATEMENT?**

21 The extrajudicial statement may not be admissible, especially if it were not [directly]
22 incriminating. There is statute of limitations which must be respected, barring the charge of an
23 expired crime. When there is a complete lack of incriminating evidence other than the statement,
24 prosecutors [must] establish the underlying felony through [independent] evidence, other than
25 the statement. (ATTACHMENT 6-7) There must be relevance in the statement which [prove]
26 elements to the felony.
27

1 Relying solely on the statement is [insufficient] if there is no corroborating
2 evidence proving special circumstances in the felony murder is crucial since the felony [proven]
3 does not need to prove any of the elements of the homicide. (ATTACHMENT 8-9) In this case
4 state relied solely on PC 190.41 to escape burdens of proof, a statute enacted four years after the
5 crime allegedly occurred. The fourteenth amendment guarantees due process to the accused.
6 Ensuring fairness, which in this case includes having prosecution meet the requisite burdens with
7 sufficient and reliable evidence that is relevant.
8

9 So, with all that being said.....

10 The illegally seized, coerced statements and manipulated transcripts cannot be the
11 only proof of the felony, especially when the statement has [nothing] to do with the actual
12 felony. Yet, to take the statement and color it until it suits the prosecutor but prejudices the
13 accused, presents proof of an agenda, misleading the jury of the truth in evidence. PC 132-135
14 CRPC Rule 5-200(B) in this case on 11-23-10 SBSB created three separate versions of the
15 interrogation, unlike one another and unlike real time recordings. Then, on 1-26-11 the district
16 attorney claimed that he had to create transcripts so that he can make the evidence sound good,
17 making two more sets, unlike the 11-23-10 sets, the real time recordings does imply [INTENT]
18 to mislead. The copies made by the district attorney office were text and audio text so that the
19 jury could be impressed, the copies made on 1-26-11 were identical in content. States witness
20 Dianne Flagg testified that she seen a specific car in front of the crime scene on the day of the
21 murder, stating that she seen a silver Pinto parked in the driveway. (RT202-204, 615; 20) Trial
22 counsel cleverly pointed out detectives already knew [petitioner had a dark blue Pinto. But, he
23 did not say, you heard the defendants statement, he owned a dark blue Pinto, because that portion
24 of the statement was redacted!
25
26
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16

1 Trial counsel then pointed out where the statement was made, telling the jury “where
2 was the statement made, who was present, you heard her voice” (RT634; 5) what you did not
3 hear him tell the jury “You heard her tell the detectives her name was Melody, she was in the
4 statement you heard”. Why didn’t he tell the jury this? Because Melody’s conversation with
5 detective was redacted....so everything sounded good! (RT 455; 24) (OPPER 345 US 84)1954)
6 (RAMONA 37 Cal.3d 802(1985) “The statement cannot be used in the prosecutors case in chief”
7 (RT599; 28) (DA) “Why would someone lie about sex?” These redactions prevented the jury
8 from hearing thasty Yablonsky’s car was not seen at the crime scene, but, to redact that content
9 allowed the jury to believe that Yablonsky owned a silver Pinto, and it was seen at the scene. The
10 redactions premitted the prosecvutor to impress the jury that Yablonsky’s statetement was not
11 the product of discretion. The copy shpown to the jury was audio and trext played during trial on
12 the overheard projector. The second set was crestaed as states exhibit 49A a 113 page text sent
13 into the deliberations room. The set shown to thje jury on 1-27-11 is not what was placed into the
14 states record. The set shown to the jury was 113 pages and two hours and fifty five minuites in
15 length, but the states exhibit 49 (copmpact disc) is three hours and forty five miniutes long.

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19 **WHERE IS THE SET SHOWN TO THE JURY?**

20 **THEREFORE THE STATEMENT USED TO COERCE PRODUCED**
21 **AN UNRELIABLE VERDICT WHICH IS BEING USED NOW!**

22
23 **3. THE DISTRICT ATTORNEY ADMITS STATEMENT EVIDENCE IS**
24 **ATTACHED TO OLD DNA THEREFORE UNCORROBERATED**

25 (DSM3;5-8) It is and always was the district attorney’s theory that the DNA found
26 inside Rita attached to the statement is the only evidence necessary to meet their burdens,
27 proving Yablonsy as the actual killer, regardless of the actual murder related evidence discovered

1 at this scene. (DSM3; 9) (Items A1, A5 Red hair with their roots attached found on the victims
2 nude body, now being hidden from the blond defendant) (A15 Watchband keepr found beneath
3 the victims head, to her right side left there by a right handed killer, now being hidden from a left
4 handed defendant) (Items H2 & H3 cigarette butts belonging to the man who actually committed
5 this crime, confessed to this crime, being hidden from the record to prevent the exercise of right
6 to a full defense) (Item ~~A#8~~⁸³⁻¹ the actual murder weapon found attached to the victim, placed onm
7 her by a right handed perpetrator by the ature of the twists and location made, to her left side,
8 now, being hidden from a left handed defendant) {NOTHING] ijn the states entire arsenal of
9 actual proof, or revealed in this entire records proves, much less implies the 9-18-85 consensual
10 act is related to the 9-20-85 felony. The evidence does not prove this. The district attorney never
11 made that allegation, nor did his experts make that showing, yet, the jury were deliberately
12 mislead to speculate from unreliable evidenc e and unsupported theory, that now attaches to
13 evidence manufactured on January 26, 2011. (DSM4; 1-7) The record does make clear a very
14 important fact. **THAT THERE WAS AT LEAST SIXTEEN OTHER, SEPARATE DNA**
15 **SAMPLES COLLECTED FROM THIS CRIME SCENE THAT DO NOT MATCH**
16 **PETITIONER! THEREFORE THE STATEMENT CANNOT BE ATTACHED TO OLD**
17 **DNA TO MAKE THE DISTANCE OF TIME FROM 9-18-85 TO 9-20-85 WITHOUT**
18 **RAISING SOME VERY GOOD POINTS OF LAW WHICH IF CONSIDERED HERE,**
19 **IMPLY THE DISTRICT ATTORNEY HAD NOT MET THEIR BURDEN HERE!**
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1 **4. THE DISTRICT ATTORNEY OFFICE CANNOT PROVE TRUST-**
2 **WORTHINESS OF THE STATEMENT EVIDENCE**

3 As described above the statement evidence (EXHIBITS 49 & 49a) were originally
4 recorded on PUMA5 recorders. (TROMBETTA MOTION EXHIBIT A-8) These copies,
5 memory cards, tapes have never been legally processed into SBSB evidence vault. (EXHIBIT A-
6 7) Response by Signal Hill police evidence officer. "The tape is the responsibility of the hosting
7 party to store evidence which in this case was turned over to the SBSB no other copies have been
8 made". This admission tells us there is a cassette video and audio tape that was never mentioned
9 within this record. Furthermore the entire record is silent for any evidence testimony in how the
10 statement was actually captured. (EXHIBIT A-8) The SBSB responded to demand for public
11 record about what type of equipment was used to record this interrogation.

12 "SBSB has concluded its review of the public records act request wherein you seek the type and
13 name of the sheriff recorders used in your interrogation on March 8, 2009. These VERSATILE
14 PUMA5 recorders are capable of editing content, deleting portions of content, can insert &
15 override recordings, but, must be stored according to policy. (SBSB 2.454.25) Musty be
16 maintained using labels with date and time and documentation shall be maintained. (SBSB
17 2.454.35 (FASHION 21 117 Cal.epp.4th 1138) (IN RE BROWN 17 Cal.4th 873)"Destroying
18 favorable evidence violates due process". With this being said, there is sufficient proof that the
19 interrogation was recorded, then without proper exercise of policy, was then altered from
20 original content, making three separate and different copies than one another than different than
21 real time content, in clear violation of due process rights afforded the accused. **THE**

22 **DISTRICT ATTORNEY OFFICE CANNOT PROVE THE 11-23-10 COPIES MADE**
23 **ARE ACCURATE TO THE REAL TIME RECORDING DEVICES WHICH CAPTURED**
24

1 **CONTENT DIFFERENT THAN MEMORIALIZED BY THE THREE COPIES MADE**
2 **BY AN OFFICER OF THIS COURT.** (BAUSTIA 162 cAl.app.4th 762 (2008); (COOPER 53
3 C3d 771(1991) ;(CRUZ 16 CA4th 322(1993) “Failure to preserve and protect violate due
4 process. (VERIFY) (EXHIBIT I-113 page text & 136 page text created on same day) These
5 copies are “NOTHING” like real time recordings, allegedly memorialized in states (EXHIBIT 49
6 compact audio disc) there is a suppression motion before this Court that [MUST] be addressed.
7 The statement evidence is on its face insufficient to prove petitioner committed any crimes other
8 than lying about an extramarital affair in front of his entire family. Answers were changed and
9 completely redacted at that stage, which were recreated on 1-26-11 by the district attorney
10 himself. Therefore the statement evidence is unreliable and any conclusions found that relied on
11 that statement evidence are as equally unreliable.
12
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16

17 **5. THE DNA SAMPLES FOR DR#1330136-07 ITEMS A11 & A18**
18 **ARE HISTORICALLY AN LEGALLY UNRELIABLE**

19 Any party relying on the introduction of evidence, or the results of test conducted on
20 such evidence must establish that the evidence was within continuous chains of custody from the
21 time of its discovery to its production at the hearing or trial. This requirement ensures that
22 evidence was not tampered with or altered before it being presented in Court. The proponent of
23 this evidence is not required to negate all possibilities of tampering, however, he has the burden
24 of showing to the satisfaction of the court that, taking all circumstances into account,
25
26
27

1 Including the ease and difficulty which the evidence could have been altered, contaminated, it is
2 reasonably certain that there was no alteration of or substitution. (JIMENEZ 165 Clap 75 (2008))

3 First; the chain of custody is often required for fungible evidence because these items have no
4 unique characteristics. Results would be obtained if the witness conceded that he or she had not
5 noticed unique characteristics or could not recall them at trial. In addition, the nature of these
6 items frequently makes them particularly susceptible for tamper, contamination or loss.

7 (JIMENEZ) The proper handling of these evidence are vital as to the integrity of their values.

8 The use of locking seals that are marked and when used breaks the seals forcing the use of new
9 seals. Second if the preservation of an exhibit depends on its subsequent laboratory analysis,
10 identification by police markings made at the scene does not provide a sufficient foundation to
11 be deemed reliable. The markings establish that the exhibit in court is the item seized, but a chain
12 of custody [may] be necessary to establish that the item seized was the item analyzed by the
13 laboratory. For example in (ROBINSON V COMMONWHEATH 212 VA 136(1971), the Court
14 reversed a rape conviction due to a break in the chain of custody. The mere fact that the blouse
15 and the panties were identifies by the victim at trial did not prove the chain of custody now
16 required...

17 Third; if the condition of the object, not merely its identity is the relevant issue a chain of
18 custody may be required to establish that the object had not been altered or contaminated. This
19 requirement is a necessary safeguard for evidence that is ^{SUSCE} ~~six~~ acceptable to undetected
20 contamination or deterioration such as blood samples and substance subjected to neutron
21 activation analysis. Contamination issues also arise from DNA evidence. In any DNA
22 proficiency test, out of 50 samples, 2 firms each declared 1 false match that could have resulted
23 in the conviction. The errors arose out of the handling procedures problems.

1 (STATE V MOREL 676 A.2d 1347(1996) "In the preservation and testing of DNA evidence,
2 careful attention and proper handling of the crime samples by police and scientists are crucial in
3 defending the chain of custody issues" Thus, the admission of DNA evidence raises a number of
4 concerns, including ; 1) the occurrence of band shifting, which is the tendency of DNA garments
5 to migrate during electrophoresis, at times different rates at different times; 2)The quality of the
6 forensic samples may become degraded, contaminated, or available in small amounts producing
7 erroneous results and affecting accuracy; 3) the absence of data on the extent to which the DNA
8 is inherited in a population, thereby rendering statements made about the probability that two
9 people would have matching DNA prints questionable.
10

11
12 **WITH ALL THAT BEING SAID**

13 In this case any evidence being suggested as being reliable raises serious question on
14 integrity, because petitioner claims that there is no chain of custody available to verify where
15 they found these DNA's other than statements "THAT WE COLLECTED THEM".

16 (GOLDSMITH 59 C4th 258(2014) "The purpose this threshold is to ensure the principle
17 evidence is authentic prior to its admission. In this case the record is silent for proof the chain is
18 not broken or nonexistent.
19

20 (Q- Questions of the state's experts)((A-SBSD Criminals JONES) (RT3; 5- 23; 10)

21 Q- Did you collect item A11 from the victim?

22 A...- Yes [we] did

23 Q- Did you mark those with specific numbers?

24 A...- Yes sir [we] did

25 Q- Did you collect them properly and properly seal them?

26 A...- Either in an envelope for some sort of package

27 A...- I don't have specific descriptions for this collection
28

1 Q-Did each item of evidence get packaged separately?

2 A...- I don't recall...multiple items is same packages

3 Q- Did you package clothing together?

4 A...- Same thing...it was collected as one and submitted as one

5 (JONES TRIAL TESTIMONY) (RT 289-318)

6 Q- Do you know if someone kept logs of people who investigated, came, left the scene?

7 A...I don't know

8 Q- Nobody showed you a log?

9 A...No sir, but in terms of a log I don't remember seeing one

10 Q- And you haven't seen one since? (1985)

11 A...That's correct

12 A... I received the sex offense kit from one of the detectives who attended the autopsy

13 (RT 297; 26) (LARRY BROWN) (NO CHAIN OF COSTODY RECORDS!!)(CT 35)

14 Q -Did you analyze those findings?

15 A... No sir, with regard to the sex offense kit the only thing we attempted to do with

16 Anything with was the reference to the blood type. **THE BLOOD ITSELF WAS TOO**
PUTRID TO DO ANYTTHING WITH.

17 Q- The evidences were contaminated from being put into same bags?

18 A... Yes (RT19; 13, 20; 18, 263; 25, 283; 7, 293; 3, 301; 19- 302; 8)

19 Q- The item A18 was damaged by another officer?

20 A-. Samples were cut from the item by another officer (RT 283; 17-24)

21 (MONICA SEIWERTSEN -CRIMINLIST) (RT 328)

22 Q- Did you extract DNA from ITEM A11?

23 A... I did not, that DNA was previously extracted

24 Q-So, you made copies of A11 (329; 10)

25 A... Yes I did

26 Q- You did not extract samples, the samples were just given to you in a little vial?

27 A... That's correct

1 So, with all that being said there were multiple questions that experts clearly stated
2 “WE” collected the evidence, even the alleged rape kit collected by someone at the autopsy that
3 was passed to SBSJ Jones by Larry Brown. Who is Brown, what role did he play in this
4 collection. More on point is that Item A11 and B4a were collected at the same time, but, the sex
5 kit was too putrid to test, and the vaginal swab wasn't. (EXHIBIT E10) Records that Jones
6 collected items B4a and A11 at the same time. Then on 1-15-09 all these evidences were strewn
7 across some confine table at the sheriff department by Greg Myler. (EXHIBIT E2) Certainly this
8 is not the standard of preservation necessary to make these evidence reliable.
9

10 So, if the vaginal swab was collected by the same person, who were they? What were
11 their credentials, and was they properly trained.
12

13 (Q- ABOUT COLLECTING THE EVIDENCE)(A – PATHOLOGIST SAUKEL)(RT464; 13)

14 Q-Did [you] collect the vagina swabs? (470; 25)

15 A-. Yes [we] did

16 Q- Did you examine the vagina swabs?

17 A-. Examined a smear from the swab.

18 (DSM 4; 4-7) That at least 16 separate DNA profiles were collected from this crime
19 scene. How many of those “donors” would match the actual murder evidence in this case? Better
20 question yet, how many of them denied being sexually involved with Rita? Even better yet, how
21 many of those denial's occurred in front t of their daughters, their jealous wife?
22

23 **WE JUST DON'T KNOW BECAUSE THEY LET THE DNA SAMPLES**
24 **GET TOO PUTRID TO TEST OTHER THAN BLOOD TYPES!**

25 1) They can't prove who collected the vaginal swab, there's no record

26 2) They can't prove who actually found the tan desk felt pad, there's no records
27

- 1 3) They can't establish who actually extracted the DNA from the vaginal swab there's
2 no chain of custody!
- 3 4) They have not and cannot produce an unbroken chain of custody for these evidence
4 because they never created one. They didn't even know who processed the actual
5 crime scene.
- 6 5) They can't prove that item A11 actually came from inside the vaginal cavity of Rita,
7 where did it actually come from? Is it possible that it came the felt pad, someplace
8 else, we just don't know

9 As such petitioner is entitled to call this evidence into question (ROMERO);

10 (HERRERA): ((HOWARD-ARIAS) :(GOLDSMITH: Under the principle of fair adjudication
11 petitioner is entitled to the facts supporting the claims made by the district attorney eye office;

- 12 a) Who collected ITEM A11
- 13 b) Who collected ITEM B4a
- 14 c) Who damaged ITEM A18
- 15 d) Where are the integrities of these evidences

16 Any breaches in this generations of logging everything {shall] require this Court to
17 discard any evidence that the chain is broken, or missing altogether, as such petitioner is entitled
18 truth in this evidence and whether their integrities are reliable. Especially when all the actual
19 murder evidence, scientifically proves that Yablonsky DNA is not related to these alleged crimes
20 and as such....**PETITIONER IS NOT LEGALLY THE ACTUAL KILLER!**

21 All conclusions made from evidence that does not have a chain of custody or had been
22 broken, not one continuous connection [shall] be stricken from the people cases entirely

2 **IF A PERSON WAS TRIED IN 2024 CAN THE PROSECUTOR USE**
3 **DNA THAT IS OLDER THAN THE FELONY AND MURDER TO**
4 **PROVE THE PERSON PERPETRATED THE FELONY OR MURDER**
5 **IF NO OTHER EVIDENCE EXISTS PROVING THE PERSON**
6 **COMMITTED THOSE CRIMES**

7 In most jurisdictions DNA evidence can be admissible in criminal trials, even if it
8 predates the alleged crime, as long as the evidence was properly collected, analyzed and
9 preserved. The key factor question this is whether the older DNA evidence, in the absence of
10 other corroborating evidence, is sufficient to [prove] the defendant's involvement in the felony or
11 murder beyond reasonable doubt. Prosecutors would need to establish clear chain of custody for
12 the DNA evidence and demonstrate that it is highly likely to have originated from the defendant
13 and connected to the crime. They would also need to account for any potential contamination or
14 other issues that could call the reliability of the evidence into question.

15 However, in a felony murder case where no other evidence directly links the
16 defendant to the crime, relying solely on older DNA evidence may face challenges. Courts may
17 be hesitant to convict based on DNA alone, especially if there are questions about how the DNA
18 was deposited, or, if the defendant had a legitimate reason to be present at the crime scene.
19 Ultimately, the admissibility and weight of the older DNA evidence would be up to the judge or
20 jury to determine, based on specific circumstances of the case and the overall strength of the
21 prosecutors evidence. The defense would likely argue that the lack of corroborating evidence
22 Makes the DNA evidence insufficient to establish guilt beyond reasonable doubt.

23 The relevance of this evidence, the [link to the crime] must be established! For DNA
24 evidence to be admissible as relevant and linked to the actual crime/s, if the DNA evidence
25 predates the felony and the murder, its relevance may be questioned. The prosecutors would need
26

1 to establish a clear connection between the DNA and the crimes in question. This means showing
2 that the DNA evidence had direct links to the actual criminal activity in question and the scene!
3 Should there be any lapses in the chain of custody this could lead to reliability issues which
4 affect its admissibility. The prosecutors typically needs to present comprehensive cases that
5 includes other evidence linking them to the crimes such as motive, opportunity or additional
6 corroborating evidence. In this case the outdated DNA is irrelevant and is more prejudicial than
7 probative. The prosecutor's theory in this entire case is that petitioner had sex two days before
8 the alleged felony or homicide, but, that tying to his lying to detectives when questioned in front
9 of his wife about the affair amounts to concrete proof the petitioner committed the crime. (RT33;
10 16)(COURT) "The statement is the proof of the felony?" (DA) Uh, hmm (COURT) "Is there any
11 evidence of the rape?" (DA) "There is nothing (DA) there is Yablonsky's statement"
12 (RT599; 28) (DA) "I've never had any sexual contact or any dating relationship with the victim
13 in the case, the only one reasonable conclusion that you can come up with is that he's lying to
14 distance himself. He's lying because he had non-consensual sex with the victim. He raped her!
15
16
17

18 In this case then and even now the prosecutor is asking the fact finders to speculate why
19 that DNA was placed into Rita on 9-18-85 and why the accused lied about the sexual activities.
20 There is no need to decide whether the DNA placed into Rita was consensual or not, even though
21 it was, because it does not tie to the actual crimes committed days afterwards, therefore the DNA
22 on this issue is [IRRELEVANT]. The prosecutors case during trial does not even suggest that
23 that DNA tied to the actual crimes, therefore he presented [NOTHING] that links the 9-18-85
24 DNA to the alleged crimes that occurred days later simply because petitioner was unwilling to
25 admit to the affair with his wife sitting ten feet away hanging onto every answer, sitting two feet
26 from her daughters who were hysterically crying.
27

1 There is a logical and reasonable excuse for the lie, especially since it does not tie to the
2 actual crimes being alleged and now. (DISCUSSED ABOVE) (May @ 16-33) In this country
3 speculation is not a satisfied legal formula! For DNA to be relevant and to be admissible, **IT**
4 **MUST BE SHOWN TO HAVE DIRECT CONNECTION TO THE CRIME/S.** If the DNA
5 evidence is older than the alleged crime, the felony-murder, its relevance is now called into
6 question. The prosecutor [MUST] establish how that DNA is linked to the crime itself. In this
7 case neither then in 2011 or now, there is no links being presented, the district attorney office
8 was then and is now asking fact finders to make that link for them. Therefore this admission
9 shows that the burden has not been met beyond reasonable doubt.
10

11
12 **IF A PERSON WAS TRIED IN 2024 FOR FELONY-MURDER FOR A**
13 **CRIME WHICH OCCURRED IN 1985, CAN THE PROSECUTOR USE**
14 **PENAL CODE 190.41 TO AVOID BUREDENS OF PROOF ON THE**
15 **FELONY OR HOMICIDE USING THE DEFENDANTS EXTRA-**
16 **JUDICIAL STATEMENT WITHOUT ANYT OTHER INCRIMINATING**
17 **EVIDENCE?**

18 The underlying felony requires the prosecutors to prove the underlying felony was
19 committed. This involves the showing that the felony occurred, and that the defendant was
20 involved. They must also prove that the felony was the catalyst for the homicide and that the
21 defendant was responsible! To use out of court statements, the principles of hearsay are
22 applicable. If the extrajudicial statement is used, it must be shown as reliable and relevant. It
23 should be accompanied by [SUFFICIENT] context and corroborating evidence to support its
24 validity. Without other incriminating evidence, solely relying on the extrajudicial statement is
25 problematic! The admissibility and weight go the extrajudicial statement, **ESPECIALLY IF IT**
26 **IS THE SOLE PIECE OF SUPPORTING EVIDENCE!** Penal Code 190.41 does not directly
27 address the burden of proof underlying felonies or homicides.

1 The prosecution would need to prove the underlying felony and the murder beyond
2 reasonable doubt. While the statement can be used as evidence, they require corroborating
3 evidence and must meet evidentiary standards to be effective in Court. If the statement is not
4 corroborated by other incriminating evidence **IT MAY NOT BE SUFFICIENT TO PROVE**
5 **THE PEOPLES BURDEN!**
6

7 **(ATTACHMENTS 1 THROUGH 15 ARE HEREBY INCORPERATED)**
8 **(CALIFORNIA EVIDENCE CODES 451- 453)**

9 Therefore the evidence relied on by the district attorney to prove the jury concluded
10 the verdict, and that's all shall be questioned. First being, that the jury were mis-instructed about
11 the credibility of these evidence, therefore their conclusions based on this evidence carries no
12 weight and [MUST] be considered now as an unreliable verdict. Secondly being, that the
13 evidence used during trial was insufficient on its face, to the point this panel of jurists who were
14 looking found themselves **HOPELESSLY DEADLOCKED!** This tells us that they were not
15 convinced at some point, forcing us to look at the actual instructions given to them by the Court.
16

17 FIRST ISSUE; (RT531; 14- 532; 15) the jury asked about MIRANDA! (DA)(RT534; 5)
18 "In the past I used to do drug cases where the issue of MIRANDA came up and we asked the
19 court to instruct what is lawful" (RT548; 16) (COURT) "Whether or not a statement is in
20 violation of MIRANDA rights is a decision for the judge and not the jury" "If the judge
21 determines that MIRANDA should have been given but were not the jury would never hear the
22 statement. I would simply say that the statement can't be heard by the jury". Therefore the jury,
23 who were looking into the credibility of the evidence were deliberately and illegally mislead
24 about the integrity of the statement evidence and whether it was in fact illegally seized.
25 (DISCUSSED ABOVE) The fact that the jury asked, and the invocation existed, but the jury
26
27

29

1 were misled supports the jury's conclusions about the nature and use of that evidence is now
2 highly questionable. More importantly is that we all now know, after years of delay for access to
3 the states entire record, there is proof the invocation occurred and the prosecutor illegally
4 redacted that from the evidence (RT455;24) "so it sounds good". Petitioner never waived
5 MIRANDA nor did he authorize the redaction of invoking. Therefore the verdict which rested on
6 the instruction by the court was unreliable. Therefore should not be considered here!

8 **ONLY IN THIS CASE WE NOW KNOW THAT MIRANDA WAS INVOKED!**

9 **(RT455; 4)(DA) "I am going to redact Yablonsky's invoking of MIRANDA!"**

11
12 SECOND ISSUE; The Court and prosecutor teamed up on the jury misleading them
13 about the integrity of the statement evidence which was misleading. (RT550; 18) (COURT) "I
14 haven't been in the 21st century for long yet, I'm kinda low tech generally. Remember when you
15 saw the transcript, I told you to go by what's on the transcript, to see if it helps you understand
16 what's on the tape, but the tape recorded media is the original!" (RT570; 13) (COURT) "The
17 people are not required to prove defendant had a motive to commit the crime changed. "
18 (RT569; 25) (COURT) "If the defendant made a statement that was false or misleading before
19 this trial relating to the charged crime, knowing the statement was false or intended to mislead,
20 that conduct may show he was aware of guilt and you may consider him guilty".

21
22 In this instance that series of instructions was improper because the Court knew the
23 statement was protected, that petitioner invoked, but, also knew that the prosecutor redacted the
24 invocation. More important, more on point the Court stated that the false misleading statement
25 was related to the charged crime...**AND IT WAS NOT!** This reckless misrepresentation of the
26 actual statement, which in one fashion only proves that petitioner unwilling to admit to an affair
27

30

1 in front of his wife, which confidently is supported by actual physical and scientific evidenced in
2 this case. (RT317 SBSB Jones “several days passed and then she died”) (RT 491 SBSB Saukel
3 “at least one and a half days passed and then she died) These profound experts went
4 un-contradicted, and were in fact memorialized by the 4th Appellate District Court of Appeals.
5 (COA 17) “According to the forensics evidenced, Cobb dies no later than noon Saturday but she
6 could have had sex as much as a day and a half before her death. Therefore, she could have had
7 sex with [A] on Thursday night but have been killed by [B] sometime after that” (RT 620-21,
8 633) (MEMORIALIZING) (RT 491) “Whether she actually went to a bar was an issue for the
9 jury to decide. Cobb could have driven to a bar and been waylaid by someone in the parking lot.
10 Or she could have went to another bar than the one the witness patronized.”
11

12
13 Therefore the use of the statement to mislead the jury was catastrophic, forcing the
14 deadlocked panel to decide guilt for a crime when the statement was unrelated to the actual
15 crime. Which in this case, and again, after years in hiding, the truth revealed itself that the
16 statement evidence had been manipulated, apparently unbeknownst to the Court, in a manner
17 which does suggest conclusions that the district attorney office digitally manipulated the content
18 of that evidence by changing petitioners answers, digitally altering context, digitally eliminating
19 true custodial markers, in a scheme to coerce the verdict for a case there is absolutely no other
20 incriminating evidence. More on point, the statement evidence was not corroborated by anything
21 other than misleading instructions about the lack for the need of actual proof. The statement
22 evidence may very well show guilt about the affair, which the scientists in this case and Court of
23 Appeals have concluded, identical conclusions of fact, supporting the fact that the statement
24 evidence sat in that courtroom alone, with no other evidence that incriminates petitioner.
25
26
27

31

1 THIRD ISSUE; in this motion there is sufficient showing that the district attorney office
2 is relying on scientific evidence that is incredibly unreliable. Their own experts clearly tells us
3 that "THEY" collected the evidence, but, "THEY DON'T KNOW WHO" collected it. They
4 placed numerous pieces of evidence into the same bags then transported them and re-bagged
5 them at the sheriff department. They "THEY" collected the DNA sample from Rita, but, they are
6 not certain who did! More importantly "NOBODY" knows who extracted the DNA cells from
7 the states exhibits A11, B4a, only that "THEY" got it from the victim's body, allegedly, but,
8 nobody actually knows other than some detective at the states morgue named Larry Brown is the
9 one who gave the sample to SBSJ Jones. We don't even know if Brown was employed by the
10 same sheriff department, only that his name is attached to being a detective. Then we have the
11 actual scientist who stated that "SOMEBODY" gave her a vial marked A11 that she did not
12 extract the DNA herself, that "SOMEBODY" else did, but she made copies! What is most
13 striking about this data is that she clearly stated that she did not extract the DNA cells, therefore
14 we have no way to conclude who did, and what they extracted them cells from, only that
15 "THEY" gave her a vial to test. Jones stated he did not collect the sample. The pathologist stated
16 that he did not collect the sample, and that he only examined a smear of the sample. What is
17 most damning about this evidence is that Jones clearly stated that the entire sexual assault kit had
18 been too putrid to even examine, but they got blood sample types, and because of this
19 contamination they did not look any further! This is not an accepted practice buy our scientific
20 community and therefor it's integrity is now called into question, because uncertainty is
21 unacceptable by our scientific communities.

26 1) Who actually collected that DNA evidence, when and where from

27 2) Who actually extracted the DNA cells and whether they followed scientific practices

- 1 3) Who then handled that evidence afterwards throughout the years
- 2 4) Whether there are any breaks in those chains of custody
- 3 5) Were bands replaced accordingly when the evidence had been handled
- 4 6) Whether contaminating activated occurred during the handling of the DNA samples

5 These are important questions because we now know that there was at least 16
6 different DNA samples collected from this crime scene, according to testimony by Jones,
7 admissions by the district attorney office, and if I am reading the law on this correctly, any
8 breaks in those chains shall motivate this Court to discard that evidence altogether. From this
9 record, there was no chains of custody created other than a "WE" chain, and this too is an
10 unaccepted scientific practice.
11

12 Now the district attorney office attempts to cause irreparable 1172.6 injury telling us
13 that the jury made their decisions and that's it! Who cares whether the record has any actual
14 proof of guilt, who cares if acceptable standards of scientific practices were followed, so long as
15 the jury decided. Well... in this case that jury did decide, but, they decided with the improper use
16 of evidence, misleading guidance by the Court because the district attorney office mislead the
17 Court about integrity of the statement evidence. Under the PC 1172.6 principles a declaration
18 stands in this Courtroom that was verified declaring and now declaring;
19
20

21 **THAT JOHN HENRY YABLONSKY WAS CONVICTED BY THE THEORY**
22 **OF FELONY MURDER BECAUSE OF THE NATURAL AND PROBABLE**
23 **CONSEQUENCE DOCTRINE, AND THOSE LAWS CHANGED ON**
24 **JANUARY 1, 2019 ALTERING BURDENS SET OUT UNDER PC 188-189,**
25 **AND, IF JOHN HENRY YABLONSKY WAS TRIED TODAY THE DISTRICT**
26 **DISTRICT ATTORNEY OFFICE COULD NOT CONVICT ME OF FIRST**
27 **DEGREE MURDER IF I WAS TRIED TODAY, BECAUSE OF CHANGES**
28 **IN LAW!**

1 Therefore the states use of the statement evidence now (DSM 3;4-8) tells us that they
2 legally have to agree with these findings, and cannot today prove to this court beyond reasonable
3 doubt that John Henry Yablonsky killed Rita simply because Yablonsky was unwilling to admit
4 to an affair while being interrogated in front of his entire family!

5
6 **AND IT WAS AN INTERROGATION BY MULTIPLE OFFICER!**

7 Senate Bill 1437 states that the prosecutor [must] rely on the record, but, the
8 defendant may reach beyond the record to [protect the attack on the verified petition. In this case
9 petitioner has e made a colorable showing that the district attorney office is using scandalous
10 evidence to deceive and mislead the Court? The statement evidence is remarkably unreliable!
11 The statement evidence is irrelevant in nature and context. The statement evidence has no
12 relevance to the crimes which occurred on 9-20-85 and the DA's office has proved that!
13

14
15 **DECLARATION BY JOHN HENRY YABLONSKY**

16
17 I Henry Yablonsky an adult over the age of consent now declare under
18 Penalty of perjury that the forgoing statements made within this attack
19 On the integrity of the district attorney's striking motion is true and
20 Accurate according to belief and knowledge. I further declare that I had
21 Nothing to do with any crimes that occurred to Rita Mabel Cobb on
22 September 20, 1985. I further declare that the arguments now before this
23 Court since January 26, 2024, attached to the verified petition were not
24 Readily available at the time of the trial which occurred in this case, and
25 [ONLY] after hundreds of demands through correspondence, attacks
26 Through the state bar did these facts become available in the capacity that
27 They are being disputed here and now. I declare these facts under the
28 Penalty of perjury and if called to testify will state the same under oath

September 14, 2024


John Henry Yablonsky

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COUNCLUSION

That the forgoing claims support that the staking motion before this Court Carries proof that the district attorney office is attempting to move this Court with known fabricated evidence related to the statement evidence Which the district attorney himself "MANIPULATED" until it was unreliable. That the use of this false evidence was scandalous. That the district attorney Office claims that the verified petition carried no merit was an unverified document, and for these reasons the striking motion filed by the district attorney office should be stricken from this record. It proves no crimes had been committed, the requisite burdens established on January 1, 2022 (SB 775) The striking motion does not satisfy the commands set out by (BANKS) (CLARK) OR (STRONG) This motion attaches to the entire series of attacks made upon this case, post trial, according to our legislature, "THE ACCUSED SHALL BE PERMITTED TO DEFEND HIMSELF".

California Constitution Art I sect I (EMPHASIS ADDED)

I extend an apology to the Court and all parties, but, I am forced into Piecemeal research because SBSB practices zero real time access to Actual research, uncertainty about resource, making this paging service they provide more than incompetent and somewhat antagonistic, forcing lengthy briefs, A seemingly never ending chase for actual authority, so I sought through artificial intelligence, certainly the countries most Reliable scouring of available knowledge to make these points here. These intellectual research engines search the entirety of societies legal research communities and collectively reveal the overall points of legal precedence which is applicable to the questioning by the researcher. These queries were placed into these search engines and are now provided to this Court. Without real time research access, this data comes to me from a reliable source as true and accurate legal standing on the concepts discussed here. I challenge the district attorney office to contradict these legal conclusions.

September 14, 2024


John Henry Yablonsky

PROOF OF SERVICE BY LEGAL RUNNER

I George Yablonsky an adult over the age of consent not a part
to this action declare under penalty of perjury that I personally
Served the following parties copies of a motion titled "striking
motion on September _____ 2024 at the following

Superior Court of California
14455 civic center dr
v.v., ca. 92392

District attorney office
14455 civic center dr
v.v., ca. 92392

Date; September _____ 2024

George Vincent Yablonsky
COURT APPOINTED LEGAL RUNNER

36

POE AI network questions

Q - If a warrant to arrest a specific person was issued before police interrogated the specific person, are police required to mirandize before asking questions.

-----1st answer from POE-----

Yes, if a warrant has been issued for the arrest of a specific person, the police are required to mirandize (provide the Miranda warning) that person before conducting any custodial interrogation, even if the interrogation occurs before the actual arrest.

The key factors here are:

- 1. A warrant has been issued for the person's arrest - this indicates the police have established probable cause that the person committed a crime.
- 2. Any questioning of the person after the warrant has been issued would be considered a "custodial interrogation" - the person is effectively in police custody, even if not physically arrested yet.

Under the Fifth Amendment right against self-incrimination, as established in the Supreme Court case *Miranda v. Arizona*, the police must advise a person in custody of their rights before any questioning. This includes informing the person of their right to remain silent, their right to an attorney, and that anything they say can be used against them.

Failing to provide the Miranda warning before a custodial interrogation, even with an outstanding warrant, would make any statements obtained from the person inadmissible in court. The police must respect the person's constitutional rights during the investigative process.

If the police fail to provide the Miranda warning during a custodial interrogation, there are several key consequences:

1. **Inadmissible Statements:** Any statements or confessions obtained from the suspect during the uncounseled interrogation will generally be deemed inadmissible in the prosecution's case-in-chief at trial. The Fifth Amendment right against self-incrimination requires that statements be voluntary and made with the full awareness of one's rights.
2. **Fruit of the Poisonous Tree:** Additionally, any other evidence derived from the un-Mirandized statements may also be excluded under the "fruit of the poisonous tree" doctrine. This includes any physical evidence, witness testimony, or other investigative leads obtained as a direct result of the improper interrogation.
3. **Civil Liability:** The police officer's failure to provide the Miranda warning can also expose the law enforcement agency to potential civil liability under 42 U.S.C. § 1983 for violating the suspect's constitutional rights.
4. **Dismissal of Charges:** In some cases, a judge may go so far as to dismiss criminal charges against the defendant if the violation of Miranda rights is deemed to be egregious or to have substantially prejudiced the defendant's case.

The purpose of the Miranda rule is to protect an individual's Fifth Amendment right against compelled self-incrimination. Failure to adhere to this procedural safeguard can severely undermine the prosecution's case and lead to significant legal consequences for the law enforcement agency. Proper Miranda advisement is a critical step in conducting a lawful custodial interrogation.

-----2nd answer from POE-----

Q - If a warrant to arrest a specific person was issued before police interrogated the specific person, are police required to mirandize before asking questions.

The requirement to provide Miranda warnings before police questioning depends on the specific circumstances of the case, rather than just the presence of an arrest warrant. Here are the key considerations:

- The Miranda rule applies when a person is in police custody and subject to interrogation. The mere existence of an arrest warrant does not automatically trigger the Miranda requirement.
- If the person is arrested pursuant to the warrant and then interrogated by police, they must be Mirandized before any custodial interrogation takes place, regardless of the prior existence of the warrant.
- However, if the person is not in custody when questioned, even with an outstanding warrant, police may question them without providing Miranda warnings first. Custody is the key factor, not just the warrant.
- The courts look at the totality of the circumstances to determine if a person was in custody for Miranda purposes, considering factors like the location of the questioning, the length and manner of the questioning, and whether the person was free to leave.

So in summary, the prior existence of an arrest warrant does not automatically mean police must Mirandize the person. It depends on whether the person was in custody at the time of the interrogation. The warrant alone is not determinative, the custody status is the key factor.

-----3rd answer from ChatGPT-----

Q - If a warrant to arrest a specific person was issued before police interrogated the specific person, are police required to mirandize before asking questions.

Yes, police are generally required to provide a Miranda warning before interrogating a suspect in custody, regardless of whether an arrest warrant was issued.

The Miranda warning, which comes from the U.S. Supreme Court case *Miranda v. Arizona* (1966), ensures that a suspect is aware of their rights before being subjected to interrogation. These rights include the right to remain silent and the right to an attorney.

Here's a brief overview of the requirements:

1. **Custody**: The Miranda warnings are required if the suspect is in custody. This means that their freedom of action is restricted to a degree associated with formal arrest.
2. **Interrogation**: The warnings must be given before any custodial interrogation, which is questioning that is designed to elicit an incriminating response.

The presence of an arrest warrant doesn't change the requirement for Miranda warnings. The key factor is whether the suspect is in custody and subject to interrogation. If these conditions are met, Miranda warnings are necessary to ensure that any statements made are admissible in court.

-----4th answer from ChatGPT-----

Q - If a warrant to arrest a specific person was issued before police interrogated the specific person, are police required to mirandize before asking questions.

Yes, if the police interrogate a specific person who is under arrest, they are generally required to provide Miranda warnings before questioning the person. Here's a detailed explanation:

Miranda Warnings Requirement

1. **Miranda Warnings**:

- **Purpose**: The Miranda warnings are designed to inform individuals of their rights under the Fifth Amendment to the U.S. Constitution, which protects against self-incrimination. The warnings ensure that individuals are aware of their right to remain silent and their right to an attorney.

- **Content**: The standard Miranda warnings include:

- The right to remain silent.
- The right to an attorney.
- The understanding that anything said can be used against them in court.

2. **When Miranda Warnings Are Required**:

- **Custodial Interrogation**: Miranda warnings are required when a person is subject to custodial interrogation. Custodial interrogation occurs when a person is in custody and subject to questioning by law enforcement officers that is likely to elicit an incriminating response.

- **Custody**: Being in custody means that the person's freedom of movement is restricted to a degree similar to formal arrest. This includes being in a police station, being handcuffed, or being otherwise restrained.

3. **Issuance of Warrant**:

- **Pre-Interrogation**: The issuance of an arrest warrant does not automatically trigger the need for Miranda warnings. However, once the person is arrested and in custody, Miranda warnings become necessary before any interrogation begins.

- **Purpose of Warrant**: An arrest warrant authorizes law enforcement to arrest the specific person but does not in itself impact the requirement for Miranda warnings during interrogation.

Exceptions and Considerations

1. **Voluntary Statements**: Statements made voluntarily by the person before they are formally interrogated and before Miranda warnings are given may still be admissible if they are not the result of coercion. However, any statements made after the person is in custody and before being Mirandized may be challenged as inadmissible in court.

2. **Public Safety Exception**: In certain emergency situations where public safety is at risk, law enforcement may ask questions without Miranda warnings if the questioning is reasonably necessary to protect the public. However, this exception is narrowly applied and does not generally negate the requirement for Miranda warnings in routine custodial interrogations.

3. **Waiver of Rights**: After receiving Miranda warnings, the person may waive their rights and agree to answer questions. The waiver must be made voluntarily, knowingly, and intelligently.

Conclusion

Police are required to provide Miranda warnings before interrogating a person who is under arrest and in custody. The fact that an arrest warrant was issued before the interrogation does not eliminate the need for these warnings. Miranda warnings are a critical procedural safeguard to ensure that statements made during custodial interrogation are admissible in court and that the individual's constitutional rights are protected.

ATTACHMENT

Q-In a murder trial in 2011, can the prosecutor redact defendant's extrajudicial statement before showing it to the jury, then instruct the jury that the statement was accurately transcribed and original media.

-----1st answer from POE-----

YES → In a murder trial in 2011, the prosecutor would generally be able to redact a defendant's extrajudicial statement before presenting it to the jury, as long as the redactions were appropriate and did not unfairly prejudice the defendant's case.

The key considerations would be:

1. **Relevance and Admissibility:** The prosecutor would need to ensure that the portions of the statement presented to the jury were relevant and admissible as evidence. Irrelevant or inadmissible portions could be redacted.
2. **Protecting Defendant's Rights:** The redactions could not be used to unfairly prejudice the defendant or conceal exculpatory information that should be disclosed. The defendant's right to a fair trial must be protected.
3. **Instruction to the Jury:** The prosecutor could instruct the jury that the statement was accurately transcribed from the original media, as long as this was true. The jury should be informed that the statement was redacted, but not the specific reasons for the redactions, unless the redactions were themselves an issue for the jury to consider.

Overall, the legality of the redactions and the accompanying jury instructions would depend on the specific circumstances of the case and the applicable rules of evidence and criminal procedure in the jurisdiction. A court would need to carefully review the redactions to ensure they were appropriate and did not violate the defendant's rights.

-----2nd answer from ChatGPT-----

Q-In a murder trial in 2011, can the prosecutor redact defendant's extrajudicial statement before showing it to the jury, then instruct the jury that the statement was accurately transcribed and original media.

In a murder trial, the handling of a defendant's extrajudicial statement involves careful consideration of both legal standards and evidentiary rules. Here's a breakdown of the key points related to redaction and instruction:

1. ****Redaction of Extrajudicial Statements**:**

- ****Purpose of Redaction**:** Redacting statements typically serves to exclude irrelevant or prejudicial information that could unfairly influence the jury. For example, if the statement contains information about prior criminal history or other prejudicial material, redaction can ensure that only relevant portions are presented.
- ****Court Approval**:** Redactions generally need to be approved by the court to ensure they are appropriate and do not alter the meaning or context of the statement in a way that might mislead the jury.

2. ****Accuracy and Original Media**:**

- ****Accuracy of Transcription**:** The prosecutor can present a transcribed statement and must ensure its accuracy. Typically, the original statement or recording would be available for verification if needed.
- ****Instruction to the Jury**:** The prosecutor can instruct the jury that the statement is accurately transcribed and from the original media. However, this instruction must be truthful, and the jury should be made aware of the context, including any redactions. Misleading the jury about the nature of the evidence can lead to legal issues or appeals.

3. **Legal and Ethical Considerations**:

- **Transparency**: The defense has the right to challenge the redaction and the accuracy of the statement. If the redaction is contested, it may be examined in court to ensure it's done fairly and in accordance with the rules.
- **Appeal Issues**: If a redacted statement is presented misleadingly or if the jury is not properly informed about the redactions, it could be grounds for an appeal if it affects the outcome of the trial.

In summary, while the prosecutor can redact portions of a defendant's extrajudicial statement to remove irrelevant or prejudicial content, they must ensure that the remaining content is accurately transcribed and that any redactions are properly disclosed to the jury. Misrepresenting the nature of the evidence or its transcription accuracy could lead to serious legal repercussions.

-----3rd answer from ChatGPT-----

Q-In a murder trial in 2011, can the prosecutor redact defendant's extrajudicial statement before showing it to the jury, then instruct the jury that the statement was accurately transcribed and original media.

In a murder trial, if the prosecutor wants to use a defendant's extrajudicial statement as evidence, several procedural and evidentiary rules must be followed, especially regarding redaction and jury instructions.

Here's a detailed look at how this process typically works:

1. **Redaction of Extrajudicial Statements**

- **Purpose of Redaction**: Redaction is done to remove irrelevant, prejudicial, or inadmissible parts of a statement that could unfairly influence the jury. For example, a statement might include details that could be prejudicial or unrelated to the case, such as prior criminal history or irrelevant personal information.
- **Approval by the Court**: The prosecutor must obtain court approval before redacting any parts of the statement. The defense has the opportunity to review and contest the redactions if they believe they alter the meaning or context inappropriately.
- **Accuracy and Context**: The redacted statement must still accurately reflect the content and context of the original statement. Any redactions should not misrepresent the original meaning or mislead the jury.

2. **Instruction to the Jury**

- **Transcription and Original Media**: The prosecutor can instruct the jury that the statement was accurately transcribed from the original media (such as a recording). However, this instruction must be truthful and based on the evidence presented.
- **Disclosure of Redactions**: The jury should be informed that parts of the statement have been redacted. They should understand that the redacted portions were removed to exclude irrelevant or prejudicial content. The court typically instructs the jury on how to interpret the redacted evidence.

3. **Ensuring Fairness**

- **Transparency**: The defense has the right to challenge the redaction and the way the evidence is presented. If the redactions are not properly disclosed or if the jury is misled about the nature of the evidence, it could lead to issues of fairness and potentially affect the outcome of the trial.
- **Appeal Issues**: Misrepresenting the nature of the evidence or failing to adequately inform the jury about the redactions could be grounds for an appeal if it impacts the fairness of the trial.

4. **Legal and Evidentiary Standards**

- ****Relevance and Admissibility****: The statement, even if redacted, must still meet the standard for relevance and admissibility. It must contribute to proving a fact at issue in the case and adhere to rules regarding hearsay and evidentiary standards.

- ****Accuracy of Representation****: The instruction given to the jury should accurately reflect the nature of the evidence and the redactions. Misleading instructions could undermine the integrity of the trial process.

Conclusion

In a murder trial, the prosecutor can redact a defendant's extrajudicial statement to remove irrelevant or prejudicial content, but the redactions must be approved by the court and should not misrepresent the statement's meaning. The jury can be instructed that the statement was accurately transcribed from the original media, but they should also be informed about the redactions. The process must ensure fairness and transparency, and any issues with how evidence is presented could impact the trial's outcome or lead to appealable issues.

Q-If a person was tried in 2011 for felony murder with special circumstances but the prosecutor used defendants non-incriminating extrajudicial statement to prove the felony if the alleged crime was committed in 1985 when there was no other proof of the felony other than the statement.

-----1st answer from POE-----

Based on the information provided, there are a few potential legal issues that could have arisen in this case:

1. Admissibility of the extrajudicial statement: The use of the defendant's non-incriminating extrajudicial statement to prove the underlying felony could be problematic. Depending on the jurisdiction and the specific circumstances, statements made outside of court by the defendant may not be admissible as evidence, especially if they are not directly incriminating.
2. Statute of limitations: If the alleged crime was committed in 1985, the prosecution of the felony murder charge in 2011 may have been barred by the statute of limitations. Felony murder and other serious crimes often have longer statutes of limitations, but the specific time period would depend on the applicable laws.
3. Lack of other evidence: You mentioned that there was no other proof of the felony other than the defendant's statement. This could be an issue, as the prosecution may need to establish the underlying felony through independent evidence, rather than relying solely on the defendant's statement.

Without more details about the specific jurisdiction, the nature of the extrajudicial statement, and the other evidence (or lack thereof) in the case, it's difficult to provide a more definitive assessment. The admissibility of the statement, the applicability of the statute of limitations, and the sufficiency of the evidence would all be important factors in determining the potential legal issues and the validity of the conviction.

In general, it's important for the criminal justice system to ensure that convictions are based on reliable and admissible evidence, and that the rights of the accused are protected. If there are concerns about the fairness or legality of the prosecution in this case, the defendant may have grounds for an appeal or other legal challenges.

-----2nd answer from ChatGPT-----

Q-If a person was tried in 2011 for felony murder with special circumstances but the prosecutor used defendants non-incriminating extrajudicial statement to prove the felony if the alleged crime was committed in 1985 when there was no other proof of the felony other than the statement.

In the scenario you described, where a person is tried in 2011 for felony murder with special circumstances and the prosecutor relies on the defendant's non-incriminating extrajudicial statement to prove the underlying felony (which allegedly occurred in 1985), there are several legal considerations to address:

1. ****Admissibility of the Extrajudicial Statement****:
 - ****Relevance and Context****: Even if the statement is non-incriminating, it must still be relevant to proving the elements of the felony. If the statement helps establish the context or details necessary to prove the felony, it may be admissible.
 - ****Rules of Evidence****: The statement must comply with rules of evidence concerning hearsay and relevance. Generally, statements made outside of court are considered hearsay and are inadmissible unless they fall under an exception.
2. ****Proving the Underlying Felony****:

- **Proof Beyond the Statement**: The prosecution typically must prove the underlying felony beyond a reasonable doubt. Relying solely on an extrajudicial statement may not be sufficient if there is no corroborating evidence to substantiate the felony.

- **Corroborative Evidence**: In many jurisdictions, the prosecution must provide corroborative evidence to support the charge. If the only evidence of the felony is the defendant's statement, and there are no other corroborative details or evidence, it might be challenged as insufficient.

3. **Statute of Limitations**:

- **Timeliness of Prosecution**: Since the alleged felony occurred in 1985, issues related to the statute of limitations could come into play. If the statute of limitations has expired, the prosecution may be barred from bringing charges based on the alleged crime.

4. **Legal Strategy and Defense**:

- **Challenge to Evidence**: The defense may challenge the admissibility of the statement or argue that it does not meet the legal standard for proving the underlying felony. They might also argue that the prosecution has failed to meet the burden of proof.

- **Special Circumstances**: For a felony murder charge with special circumstances, proving the underlying felony is crucial. The defense would focus on undermining the prosecution's case, especially if the prosecution's evidence is weak or solely reliant on a single statement.

In summary, if the prosecutor's case hinges solely on a non-incriminating extrajudicial statement without additional evidence corroborating the felony, it may present significant challenges to the prosecution. The defense can argue that the evidence is insufficient and may also raise issues regarding the statute of limitations. The court will need to carefully evaluate whether the statement alone is enough to meet the burden of proving the underlying felony and, consequently, the felony murder charge.

-----3rd answer from ChatGPT-----

Q-If a person was tried in 2011 for felony murder with special circumstances but the prosecutor used defendant's non-incriminating extrajudicial statement to prove the felony if the alleged crime was committed in 1985 when there was no other proof of the felony other than the statement.

In a 2011 trial for felony murder with special circumstances, if the prosecution relied on the defendant's non-incriminating extrajudicial statement to prove the underlying felony, and the crime in question occurred in 1985 with no other evidence of the felony, several legal issues would arise. Here's a detailed look at these issues:

1. Admissibility of the Extrajudicial Statement

- **Hearsay Rule**: Extrajudicial statements (statements made outside of court) are generally considered hearsay and are not admissible unless they fall under a hearsay exception. If the statement is non-incriminating, it might still be relevant if it provides context or helps establish the elements of the felony.

- **Relevance and Context**: The statement must be relevant to proving the elements of the felony. If the statement is non-incriminating but provides details that link to the underlying felony, its relevance would need to be assessed.

2. Proving the Underlying Felony

- **Requirement of Proof**: To convict someone of felony murder, the prosecution must prove not only that the murder occurred but also that it was committed in the course of an underlying felony. The underlying felony must be proven beyond a reasonable doubt.

- **Absence of Other Evidence**: If the only evidence of the felony is a non-incriminating statement by the defendant and there is no other corroborative evidence, the prosecution's case might be considered weak. Typically, the prosecution needs additional evidence to support the charge of the felony beyond just a statement, particularly if the statement does not directly implicate the defendant.

3. Statute of Limitations

- **Timeliness of Prosecution**: Given that the alleged crime occurred in 1985, issues related to the statute of limitations might be relevant. While felony murder often does not have a statute of limitations, the underlying felony might. If the statute of limitations has expired for the underlying felony, it could affect the prosecution's ability to use it to support a felony murder charge.

4. Legal and Procedural Considerations

- **Special Circumstances**: The special circumstances in a felony murder case typically involve additional elements that make the crime more severe, such as multiple murders or murder during the commission of another serious crime. The prosecution must prove these special circumstances beyond a reasonable doubt.

- **Defense Challenges**: The defense could argue that the non-incriminating statement alone does not meet the burden of proof for the underlying felony. They might contend that without additional incriminating evidence, the prosecution's case is insufficient.

5. Appeal and Fairness

- **Appeal Issues**: If the conviction relies heavily on a non-incriminating statement and lacks corroborative evidence, it could be grounds for an appeal. The defense could argue that the evidence was insufficient to support the conviction, impacting the fairness of the trial.

- **Due Process**: The defendant is entitled to a fair trial, which includes having the prosecution meet its burden of proof with sufficient and relevant evidence. A conviction based solely on a non-incriminating statement might raise concerns about whether due process was upheld.

Conclusion

In a 2011 trial for felony murder with special circumstances, relying solely on a non-incriminating extrajudicial statement without other evidence to prove the underlying felony presents significant challenges. The prosecution generally needs additional evidence to corroborate the statement and prove the felony beyond a reasonable doubt. Issues such as the statute of limitations and the sufficiency of evidence also play crucial roles in determining the outcome of the case.

EX
POST
FACT

14TH
AMENDMENT

NEW

Q-If a person was tried for felony murder in 2024 can the prosecutor use DNA that is older than the felony and the murder to prove the person perpetrated the felony or murder if no other evidence exists proving the person committed those crimes.

-----1st answer from POE-----

The use of older DNA evidence in a felony murder trial can be a complex legal issue, as the admissibility and weight of such evidence can depend on several factors. Here is a general overview of how this might be handled:

In most jurisdictions, DNA evidence can be admissible in criminal trials, even if it predates the alleged crime, as long as the evidence was properly collected, analyzed, and preserved. The key question is whether the older DNA evidence, in the absence of other corroborating evidence, is sufficient to prove the defendant's involvement in the felony or murder beyond a reasonable doubt.

Prosecutors would need to establish a clear chain of custody for the DNA evidence and demonstrate that it is highly likely to have originated from the defendant and be connected to the crime. They would also need to account for any potential contamination or other issues that could call the reliability of the evidence into question.

However, in a felony murder case where no other evidence directly links the defendant to the crime, relying solely on older DNA evidence may face challenges. Courts may be hesitant to convict based on DNA alone, especially if there are questions about how the DNA was deposited or if the defendant had a legitimate reason to be present at the crime scene.

Ultimately, the admissibility and weight of the older DNA evidence would be up to the judge or jury to determine, based on the specific circumstances of the case and the overall strength of the prosecution's evidence. The defense would likely argue that the lack of other corroborating evidence makes the DNA evidence insufficient to establish guilt beyond a reasonable doubt.

In summary, while older DNA evidence can potentially be used in a felony murder trial, the prosecutor would need to provide a compelling case to convince the court that such evidence, on its own, is sufficient to prove the defendant's guilt. The specific legal standards and precedents in the jurisdiction would also be a critical factor in how such a case would be evaluated.

-----2nd answer from ChatGPT-----

Q-If a person was tried for felony murder in 2024 can the prosecutor use DNA that is older than the felony and the murder to prove the person perpetrated the felony or murder if no other evidence exists proving the person committed those crimes.

In a trial for felony murder in 2024, the admissibility and use of DNA evidence that is older than the felony and murder to prove the person's involvement would depend on several factors. Here's a breakdown of the key considerations:

1. ****Relevance of the DNA Evidence****

- ****Context and Link to the Crime****: For DNA evidence to be admissible, it must be relevant and linked to the crime. If the DNA evidence predates the felony and murder, its relevance may be questioned. The prosecution would need to establish a clear connection between the DNA and the crimes in question. This means showing that the DNA evidence has a direct link to the criminal activity or the crime scene.

- **Evidence of Involvement**: The DNA evidence must be used to establish a connection between the accused and the crime. If the DNA was found at the crime scene or on evidence related to the crime, it could be used to prove the defendant's involvement.

2. **Chain of Custody and Integrity**

- **Proper Handling**: The prosecution must demonstrate that the DNA evidence has been properly handled, stored, and maintained to ensure its integrity. Any lapse in the chain of custody can lead to challenges regarding the reliability and admissibility of the evidence.

- **Testing and Analysis**: The DNA must be tested using accepted forensic methods and the results must be accurate. The defense may challenge the testing process or argue that the evidence does not conclusively link the defendant to the crime.

3. **Sufficiency of Evidence**

- **Supporting Evidence**: While DNA evidence can be powerful, relying solely on it might not be sufficient if it does not clearly establish the defendant's involvement in the felony and murder. The prosecution typically needs to present a comprehensive case that includes other evidence linking the defendant to the crime, such as motive, opportunity, or additional corroborative evidence.

- **Other Evidence**: The absence of other evidence might weaken the prosecution's case. If DNA is the only evidence and it is not directly tied to the crime, the defense may argue that it is insufficient to meet the burden of proof beyond a reasonable doubt.

4. **Legal Challenges**

- **Defense Arguments**: The defense may argue that the DNA evidence is outdated, irrelevant, or insufficient to establish guilt. They might also question the methodology used in obtaining or analyzing the DNA evidence.

- **Precedent and Legal Standards**: Courts generally require that evidence must be relevant, reliable, and admissible according to legal standards. The judge will evaluate whether the DNA evidence meets these criteria in the context of the entire case.

Conclusion

In summary, DNA evidence older than the felony and murder can be used in court if it is relevant, properly handled, and linked to the crime. However, its effectiveness in proving the defendant's guilt will depend on how well it ties to the specific crime and whether additional supporting evidence is presented. If the DNA evidence alone does not establish a clear connection to the crime or is not corroborated by other evidence, it may face significant challenges in proving the defendant's involvement.

-----3rd answer from ChatGPT-----

Q-If a person was tried for felony murder in 2024 can the prosecutor use DNA that is older than the felony and the murder to prove the person perpetrated the felony or murder if no other evidence exists proving the person committed those crimes.

In a trial for felony murder in 2024, the use of DNA evidence that predates both the underlying felony and the murder itself, without other evidence linking the defendant to the crimes, presents several legal challenges. Here's a detailed breakdown of how this situation would be handled:

1. **Relevance of DNA Evidence**

- **Link to Crime**: For DNA evidence to be relevant and admissible, it must be shown to have a direct connection to the crime. If the DNA evidence is older than the felony and the

WITHOUT AN ALLEGATION OF SOME PATTERN WITH THE ALLEGED VICTIM IT IS IRRELEVANT IF ACTIVITIES OCCURRED BEFORE

murder, its relevance would be questioned. The prosecution must establish how the DNA is linked to the crime scene or the crime itself.

- **Establishing Connection**: The prosecution would need to demonstrate that the DNA evidence somehow connects the defendant to the crime. This might involve showing that the DNA was found at a location connected to the crime or on evidence related to the crime. Simply having older DNA without a direct link may not be sufficient.

2. Admissibility and Burden of Proof

- **Admissibility**: The court must determine if the DNA evidence is admissible under rules of evidence, such as relevance and reliability. If the DNA is not directly connected to the crime scene or the crime itself, it might be challenged as irrelevant or inadmissible.

- **Burden of Proof**: The prosecution has the burden to prove the defendant's guilt beyond a reasonable doubt. In a felony murder case, the prosecution must prove both the underlying felony and the murder. Relying solely on DNA evidence that predates the crimes, without additional corroborative evidence, might not meet this burden.

3. Corroboration and Supporting Evidence

- **Corroborative Evidence**: If DNA evidence is the only evidence presented, it could face challenges due to lack of corroboration. The prosecution typically needs to provide a comprehensive case with supporting evidence linking the defendant to the crime, including motive, opportunity, and other relevant details.

- **Additional Evidence**: If no other incriminating evidence exists, the DNA evidence alone might not be sufficient to prove the defendant's involvement in the felony or the murder. The prosecution would need to provide additional evidence to establish the necessary connections and context.

4. Legal Challenges

- **Defense Arguments**: The defense can argue that the DNA evidence is not relevant to the crimes in question or that it does not meet the standard of proof required. They might also argue that the evidence is insufficient to establish guilt beyond a reasonable doubt.

- **Statute of Limitations**: Although felony murder often does not have a statute of limitations, if the underlying felony is subject to limitations and the DNA evidence does not link directly to the crime, this could be another avenue of challenge.

Conclusion

While DNA evidence can be powerful, it must be directly relevant and linked to the crime in question. If the DNA evidence predates both the underlying felony and the murder and no other evidence exists to connect the defendant to the crimes, it would face significant challenges in proving the defendant's guilt. The prosecution must establish a clear connection between the evidence and the crimes, and the absence of corroborative evidence could impact the strength of the case.

Q-If a person was tried in 2024 for felony murder for a crime which occurred in 1985, can the prosecutor use penal code 190.41 to avoid burdens of proof on the felony or homicide using the defendant's extrajudicial statement without any other incriminating evidence.

-----1st answer from POE-----

The use of penal code 190.41 in a 2024 trial for a felony murder that occurred in 1985 is a complex legal question that would depend on the specific details and jurisdiction. In general, the following considerations would apply:

1. Statute of Limitations: Felony murder charges typically have a longer statute of limitations than other homicide charges. However, the applicable statute of limitations would depend on the specific jurisdiction and the laws in effect at the time of the alleged crime in 1985.
2. Evidentiary Standards: The prosecutor's ability to use the defendant's extrajudicial statement without other incriminating evidence would depend on the evidentiary rules and standards in place at the time of the trial in 2024. These rules may have changed between 1985 and 2024, and the court would need to determine whether the statement is admissible under the current rules.
3. Penal Code 190.41: This California penal code section allows the prosecution to avoid certain burdens of proof for felony murder charges if the defendant was engaged in the commission of a specified felony at the time of the homicide. However, the application of this statute would depend on the specific facts of the case, the jurisdiction, and the laws in effect at the time of the trial.

Without more details about the specific case, jurisdiction, and the applicable laws in 2024, it is difficult to provide a definitive answer on whether the prosecutor could successfully use penal code 190.41 in this scenario. The admissibility of evidence and the applicable legal standards would need to be carefully evaluated by the court based on the specific circumstances.

-----2nd answer from ChatGPT-----

Q-If a person was tried in 2024 for felony murder for a crime which occurred in 1985, can the prosecutor use penal code 190.41 to avoid burdens of proof on the felony or homicide using the defendant's extrajudicial statement without any other incriminating evidence.

Penal Code § 190.41 is a California statute that relates to the death penalty for special circumstances cases, but it might be worth clarifying the context of its use and how it might intersect with evidence, including extrajudicial statements. Here's a detailed explanation:

Penal Code § 190.41

- ****Purpose****: Penal Code § 190.41 specifically addresses the use of special circumstances in death penalty cases in California. It deals with the imposition of the death penalty for specific crimes, including murder with special circumstances, but it does not directly relate to the burdens of proof for proving the underlying felony or homicide.

Proving Felony Murder

In a felony murder case, the prosecution must prove:

1. ****The Underlying Felony****: The prosecution needs to prove that the underlying felony was committed. This involves showing that the felony occurred, and that the defendant was involved.
2. ****The Murder****: They must also prove that the murder occurred in the commission of that felony and that the defendant was responsible.

Use of Extrajudicial Statements

NOT RELEVANT BECAUSE IT ATTACHES TO AN ACT WHICH CREATES CRIMES
1) WAS NOT A CRIME
2) THERE IS NO MEXUS FROM 9-18-85 TO 9-26-85
BAZINETA

1. **Extrajudicial Statements**: These are statements made outside of court. For such statements to be used in court, they must meet certain evidentiary requirements:
 - **Hearsay Rule**: Generally, extrajudicial statements are considered hearsay and are inadmissible unless they fall under a recognized exception to the hearsay rule.
 - **Admissibility**: If an extrajudicial statement is used, it must be shown to be reliable and relevant. It should be accompanied by sufficient context and corroborating evidence to support its validity.
2. **Without Other Incriminating Evidence**: Relying solely on an extrajudicial statement without other incriminating evidence can be problematic:
 - **Burden of Proof**: The prosecution has the burden of proving the defendant's guilt beyond a reasonable doubt. If the only evidence is an extrajudicial statement without other corroborating evidence, it may not meet this burden.
 - **Legal Challenges**: The defense can challenge the admissibility and weight of the extrajudicial statement, especially if it is the sole piece of evidence.

Statute of Limitations and Other Considerations

1. **Statute of Limitations**: Given that the crime occurred in 1985 and the trial is in 2024, there may be issues related to the statute of limitations. Felony murder often has no statute of limitations, but the underlying felony might be subject to limitations depending on the jurisdiction and specific circumstances.
2. **Special Circumstances and Capital Cases**: In capital cases, the evidence must be particularly robust. Penal Code § 190.41 would be more relevant if discussing the imposition of the death penalty rather than the proof of the underlying felony or murder.

Conclusion

Penal Code § 190.41 does not directly address the burden of proof for underlying felonies or homicides. The prosecution would need to prove both the underlying felony and the murder beyond a reasonable doubt. While extrajudicial statements can be used as evidence, they generally require corroboration and must meet evidentiary standards to be effective in court. If the statement is not corroborated by other incriminating evidence, it may not be sufficient to prove the case.

-----3rd answer from ChatGPT-----

Q-If a person was tried in 2024 for felony murder for a crime which occurred in 1985, can the prosecutor use penal code 190.41 to avoid burdens of proof on the felony or homicide using the defendant's extrajudicial statement without any other incriminating evidence.

Penal Code § 190.41 does not allow the prosecution to avoid proving the underlying felony or the homicide in a felony murder case. Here's why:

Understanding Penal Code § 190.41

Penal Code § 190.41 in California deals with special circumstances that make a defendant eligible for the death penalty in murder cases. Specifically, it outlines how special circumstances must be found to impose a death sentence. However, it does not pertain to the burden of proof for proving the underlying felony or the murder itself.

Proving Felony Murder

To secure a conviction for felony murder, the prosecution must prove:

1. **The Underlying Felony**: The prosecution must establish that the felony, which is the basis for the felony murder charge, was committed. This involves providing evidence that the felony occurred and that the defendant was involved in it.
2. **The Murder**: They must also prove that the murder occurred in the commission of that felony and that the defendant was responsible for it.

Use of Extrajudicial Statements

****Extrajudicial Statements****: These are statements made outside of court by a defendant or other parties. For such statements to be used in court:

- ****Admissibility****: They must be admissible under the rules of evidence. Typically, extrajudicial statements are considered hearsay and are inadmissible unless they fall under a recognized exception.

- ****Corroboration****: If a statement is used, it generally needs to be corroborated by other evidence to meet the burden of proof. Relying solely on an extrajudicial statement without other corroborating evidence might not be sufficient.

Burden of Proof

****Burden of Proof****: In a felony murder case, the prosecution has the burden to prove all elements of the crime beyond a reasonable doubt. This includes:

- ****The commission of the underlying felony****: The prosecution must present evidence that proves the felony occurred and that the defendant committed it.

- ****The connection between the felony and the murder****: The prosecution must show that the murder occurred during or in connection with the felony.

****Penal Code § 190.41**** does not modify or alter these burdens of proof. It is specifically related to special circumstances in capital cases, not to the general requirements for proving a felony murder charge.

Conclusion

The prosecution cannot use Penal Code § 190.41 to bypass the need to prove the underlying felony or the homicide. The statute does not change the burden of proof requirements for felony murder. To secure a conviction, the prosecution must present sufficient evidence to prove both the underlying felony and the murder, even if the trial is held decades after the crime occurred. The use of extrajudicial statements alone, without additional incriminating evidence, would likely face significant challenges in proving the case beyond a reasonable doubt.