

1 JOHN HENRY YABLONSKY  
#AL0373/ 2309342444  
2 9500 ETIWANDA  
R.C., CA. 91739  
3 IN PROPRIA PERSONA  
4  
5  
6

7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF SANBERNARDINO

9 JOHN HENRY YABLONSKY,  
10 PETITIONER

Case No.: FVI900518- PC1172.6

11  
12  
13  
14 vs.

**PETITIONERS NOTICE OF MOTION  
EXPANDING THE TRIAL RECORD NOW  
INCORPERATING REQUIRED AUTHORITY  
DIRECTLY AND LEGALLY RELATED TO  
PETITIONERS ELIGIBILITY PURSUANT TO  
PC1172.6(D)(3), PC1473(B)(1-3) THE ENTIRE  
RECORD IS NOW VULNERABLE AT THE  
PRIMA FACIE STAGE GARCIA 46 CA5TH 123  
KIRBY 174 US 47 POINTS AND AUTHORITIES**

15  
16  
17 THE PEOPLE OF CALIFORNIA,  
18 RESPONDENT

**DATE;MAY 9, 2025  
TIME;0830  
DEPT;V-3**

**THE HONORABLE ENRIQUE GUERRERO**

19  
20  
21 **TO: THE SANBERNARDINO COUNTY DISTRICT ATTORNEY  
JASON ANDERSON AND ALL INTERESTED PARTIES**

22  
23 If it pleases the Court John Henry Yablonsky (PETITIONER) now moves this  
24 court with hybrid legal petitions seeking relief from a now legally invalidated judgment pursuant  
25 to senate bills 775, 1437, based on change in law PC 188-189. There is a valid verified petition  
26 before this Court PC1172.7(a) “That if petitioner was tried today under the new felony murder  
27 laws that the district attorney could not convict petitioner under valid theory”. These moving

28 **RESPONSE TO DISTRICT ATTORNEY’S ARGUMENTS-1 | P A G E**

1 papers [must] now include legal authority pursuant to PC 1473(b) (1-3) “The district attorney  
2 knowingly used evidence he deliberately altered, fabricated in order to motivate a guilty verdict  
3 when there was no other incriminating evidence” Therefore this judgment is legally invalid  
4 pursuant to the laws and authority outlined within this hybrid “petition to vacate judgment”,  
5 “petition for writ of habeas corpus”. As of January 26, 2024 the entire record became testimonial  
6 subject to due process under the sixth amendment United States Constitution.  
7

### 8 9 10 **I. SYLLABUS**

11           Petitioner was tried in 2011 under the now legally invalid theory of felony murder  
12 under [outdate] law and [old] requisite burdens for a 1985 homicide of Rita Mabel Cobb where  
13 there were no witnesses to the crime. The evidence collected from the crime scene indicates  
14 seventeen separate DNA donors and only one set of fingerprints other than the victims. Sixteen  
15 separate DNA donors not matching petitioner were found on the actual murder evidence.  
16 Petitioners DNA predates these alleged crimes by days, placed there in a non-illegal manner. At  
17 least one of the DNA donors found at this scene confessed to these crimes. The singular  
18 fingerprint donor admitted that he was at the scene just moment before the crimes allegedly  
19 occurred. **THERE IS NO OTHER EVIDENCE!**  
20

### 21 22 23 **II. PETITIONERS PURSUIT WAS DILIGENT**

24           During trial petitioners demand for discovery was thwarted by incompetent counsel.  
25 Post trial challenges through state bar complaints for discovery access pursuant to Gov. Code  
26 6068 & PC 1054.9 produced an entire record through post trial Hal Smith on January 16, 2016,  
27 more than five years after the trial began. The delay in access to the entire record prevented full  
28

1 and fair post trial challenges. Since March 15, 2012 petitioner has sought, moved courts, legal  
2 authorities to discover and develop the facts now within these moving papers that exceed the trial  
3 record. It was discovered that this trial was the products of gross misconducts amounting to  
4 moral turpitude, zealous politically motivated county prosecutor, corrupt sheriff, and a  
5 prosecutor who illegally motivated this verdict through the use of evidence ~~he~~ <sup>THE DA</sup> himself  
6 manufactured to bolster his career, and convicting rate.(article 8 rules 1280, 1284 California  
7 evidence codes)  
8

### 9 III. INTRODUCTION

10 Petitioner respectfully moves this court in simultaneous hybrid petitions in pursuit of  
11 relief from an illegal judgment pursuant to PC1172.6)a) and PC 1473(b)(1-3)  
12

13 1) The 2012 conviction for this 1985 homicide was based on unreliable  
14 uncorroborated extrajudicial statements that were altered by DDA John Thomas who  
15 misrepresented the evidence as original and unaltered. (RT 403, 455, 508) MORRISON 34  
16 Cal.4<sup>th</sup> @717, BOWEN 13 Cal.4<sup>th</sup> @ 135 (EXHIBIT A, I) CRPC rule 5-200(A-B) PC 118, 132,  
17 134 PC 1111  
18

19 2) There is a lack of physical and forensic evidence which links petitioner to these  
20 1985 crimes except for DNA that predates these crimes by days. (RT 317,491) (COA -17)

21 (DSM4; 1) **THE DISTRICT ATTORNEY OFFICE DOES NOT DISAGREE!**

22 ALDAMAT 8 Cal.5<sup>th</sup> @7-8(2019)

23 3) Petitioners trial was held in violation of EX POST FACTO principles when the  
24 court permitted this case be tried under proposition 115 in such a way it deprived petitioners of  
25 rights. A law that did not pass until four years after this crime allegedly occurred in 1985  
26

27 (PROPOSITION 115 ENACTED ON JUNE 5, 1990) (PH36; 7) (EXHIBIT C3-4)

1 4) The district attorney was permitted to amend this complaint to include PC  
2 190.2(a)(17) adding special circumstances for this 1985 homicide in violation of EX POST  
3 FACTO principles (EXHIBIT C3-4) YOSHISATO 2 Cal.4<sup>th</sup> @ 984-987(1992)

4 5) The amended complaint was not a true bill because it was not verified by a  
5 natural person. PC 1009 SALAZAR 226 Cal.app.2d 113, CARMEL 529 US @ 530 (EXHIBIT  
6 C3-4)

7 6) The district attorney in this case committed prosecutorial misconduct when DDA  
8 Thomas knowingly fabricated false information in states key evidence, knowing the alteration  
9 would mislead the jury about facts, then requested special jury instructions about this altered  
10 evidence (CALCRIM 358, 359, 362, 520, 540A, 640, 700) (RT403, 455, 508)

11 7) Petitioner was deprived of full and fair hearings under state and federal  
12 constitution due process when the district attorney knowingly withheld exculpatory evidence,  
13 used unreliable evidence, used unreliable testimony by key witnesses, including his lead  
14 detective SBSB Robert Alexander to motivate a verdict of guilty out of the hopelessly  
15 deadlocked panel of jurists who were looking. (NAPUE V ILLINOIS, GIGLIO V UNITED  
16 STATES, BRADY V MARYLAND) United States Constitution sixth and fourteenth  
17 amendments.

18 8) Petitioner was deprived of a verifiable third party defense when the district  
19 attorney refused to inform the jury there was a confession by Gregory Randolph/ William  
20 Backhoff whose DNA was found at this scene in a location it should not have been, left there on  
21 the day of these crimes. (EXHIBIT E)

1                   9) Due process was violated when exculpatory evidence was destroyed by the  
2 district attorney office after the conviction, after demands to preserve the states record and  
3 evidence, but, before post trial challenges;  
4

5                   \*CALIFORNIA V TROMBETTA 467 US @ 485(1984) The government has a duty  
6 to preserve exculpatory evidence to preserve fairness

7                   \*ARIZONA V YOUNGBLOOD 488 US 57-58(1988) When failure to preserve was  
8 done in bad faith (RT 403, 455, 508) (EXHIBIT I)

9                   \*BRADY V MARYLAND 373 US 83(1963) The suppression and destruction of  
10 Material evidence which potentially exculpates is unconstitutional

11                   \*As a result of lost and destroyed evidence petitioner is incapable of presenting  
12 Exonerating collateral attacks

13                   \*The burden of proving relief and actual innocence becomes significantly more difficult  
14 depriving petitioner of the opportunity to seek relief he is legally entitled.  
15 (EXHIBIT I) **THREE SEPARATE AND DIFFERENT TRANSCRIPTS  
16 CREATED ON THE SAME DAY, UNLIKE ONE ANOTHER, UNLIKE REAL  
17 TIME RECORDINGS**

18                   10) The ability to produce evidenced because of these destructions of actual trial  
19 evidence created on January 26, 2011 creates a fundamentally unfair advantage to dispute these  
20 evidences in the PC1172.6(d)(3) proceedings. On January 26, 2011 DDA Thomas created two  
21 separate states exhibits 49A (audio/text) 49A(113 page text) of the March 8, 2009 interrogation,  
22 which now is altogether [missing]] according to the district attorney office. (DSM 3;5-8);

23                   \*HERRERA V COLLINS 506 US 390(1993) Petitioner was a right to produce  
24 newly discovered evidence which exculpates him.

25                   \*HOUSE V BELL 547 US 58(2006) The destruction of evidence has significant value  
26 of proving entitlement to relief.

27                   \*SCHULP V DELO 513 US 298 (1995) That this constitutional violation to achieve  
28 an illegal conviction was founded by the alterations of states evidence then  
destroying it before it's truth found a court room.

1 \*California Constitution Article I section 28(f)(2) petitioner was deprived of the  
2 opportunity to produce truth in states evidence because of the destruction.

3  
4 11) The loss of, destruction of this key evidence is structural, undermining the  
5 integrity of petitioners ability to defend his liberty interests when after the district attorney's  
6 office had been notified by petitioner that he intended on challenging this conviction. The record  
7 is generously sprinkled with petitioners efforts through post trial challenges since the verdict  
8 resulted in the sentencing on March 12, 2012;

9 \*CHAPMAN V CALIFORNIA 386 US 18 (1967) this type of structural error requires  
10 Automatic reversal because the prosecutor actions affects the entire framework of this  
11 trial, proving petitioner could not be convicted of first degree murder if he were tried  
12 today under new felony murder laws.

13 \*US v GONZALEZ – LOPEZ 548 US 140 (2006) “any error that renders the judicial  
14 process unfair cannot be harmless

15 \*Cal Const Art I sect. 28(f) (2) “petitioner was deprived truth in evidence by deliberate  
16 acts that violated codes of ethics CPRC rule 5-200(A&B)

17 \*Petitioner cannot obtain comparable evidenced by other means. (TROMBETTA @ 485)

18  
19 12) This conviction rests squarely upon the fact that the verdict exists solely on the  
20 now legally invalidated theory that petitioner is guilty under natural probable consequence  
21 instructions which attach to known false and misleading evidence presented the jury as if it had  
22 not been altered. (RT 33; 16, 403, 455, 508)

23  
24 13) The conviction is now legally invalid for the above stated reasons, therefore the  
25 district attorney office may not imply the verdict was the product of fair and just applications of  
26 the state's evidence codes and laws. This case was reduced to a farce and sham as a result of the  
27 district attorneys actions now being called into question

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

#### IV. STATEMENT OF THE FACTS

##### 1) There is alibi and timeline conflicts;

\*On September 18, 1985 petitioner and Amanda engaged in consensual sex with Rita in Rita's home between 3-5 p.m... **(THERE IS ALIBI WITNESSES)**(RT317, 491) (COA-17)(DSM3; 5-8)

\*Petitioner then drove to Downey California arriving at 7p.m. that same day where there Was at least seven eye witnesses to that arrival, two of which were officers of the court?

\*Petitioner remained in Downey California between September 18, 1985 and September 23, 1985 and could not have committed these crimes (COA-17) **"IT IS POSSIBLE THAT SOMEONE OTHER THAN YABLONSKY KILLED RITA"**

##### 2) The crime scene investigations produce exculpatory evidence:

\*There was sixteen separate DNA specimen donor evidences found at this crime scene On the actual murder evidenced, none of which were matched to petitioner. (DSM4; 5-8)(RT245, 267, 287) (COA-4)

\*Petitioners DNA was only found in a consensual context, capacity, deposited at least one Full day before these alleged crimes and there is no other evidences contradicting that Conclusion. (RT317, 491) (DSM4; 1))(COA 4, 17)

\*The FBI linked this crime to several potential killers which include Gregory Randolph/William Backhoff, Robert Mark Edwards, Robert Wortman, one of which left His DNA in a location at this scene that would prove he was there on the day of these Crimes. (EXHIBIT E, F) (ITEMS A2-A3 matched to H2-H3) (CT376-77)(CT327-28)

##### 3) There is a confession by Gregory Randolph

\*Gregory confessed to this crime admitting motive, opportunity and intent (EXHIBIT E)

\*Gregory left his DNA in a location that would lead the prudent investigator that the Evidence was left there on the day of the murder (discussed above)

\*The jury never heard this information which would have convinced the reasonable jurist Who was in the deadlocked panel to keep voting not guilty?



1                   **2) The altered evidenced violates due process (PC 1473(b) (1-3)**

2                   \*The fabricated evidenced by the district attorney office is a structural error  
3                   Requiring reversal NAPUE V ILLIONOIS 360 US 264(1958) (EXHIBIT I)  
4                   (RT 455)

5                   **B. EX POST FACTO VIOLATES STATE AND FEDERAL CONSTITUTION**

6                   \*Proposition 115 (enacted on June 5, 1990) has permitted the use of hearsay evidence  
7                   against petitioner in this 1985 crime, violating three of the EX POST FACTO  
8                   Principles. CARMELL 5429 US 513 (2000)

9                   \*The amending this complain on August 6, 2010 to now include PC190.2 (a) (17) as a  
10                  Special circumstance violated EX POST FACTO – (TAPIA, 53 Cal.3d @297-99)  
11                  YOSHISATO 2 Cal.4<sup>th</sup> @988 **THE SPECIAL CIRCUMSTANCES MUST BE  
12                  STRICKEN FROM THIS RECORD**

13                 \*The retroactive application of new evidentiary thresholds violated petitioner’s right to fair  
14                 Notice. CALDER 3 US (3DALL) 386(1798) “REDUCING QUANTUM OF  
15                 EVIDENCE NECESSARY” DOMINGUEZ 166 Cal.app.4<sup>th</sup> @866 (citing)  
16                 JONES 51 Cal.3d @317(1990)

17                 **C. DNA EVIDENCE FAILS TO MEET TODAYS STANDARDS OF GUILT  
18                 BEYOND REASONABLE DOUBT UNDER BANKS AND CLARK**

19                 \*DNA found inside the victim deposited more than one full day before the crime is  
20                 Irrelevant evidence to these crimes. (RT317, 491)(COA 4, 17)(DSM 4; 1)

21                 \*There was at least sixteen separate DNAs profiles created from DNA evidence  
22                 Collected from this crime scene, found on the actual murder evidence, yet the prosecutor  
23                 Has yet to produce one molecule of DNA evidence linking petitioner to these alleged  
24                 Crime as the actual killer or an aider and abettor. ANDERSON 70 Cal.2d 15,  
25                 26-27(1968) (COA 17 IT IS POSSIBLE SOMEONE OTHER THAN YABLONSKY  
26                 KILLED RITA)

27                 \*There is no temporal connection to these crimes time line which would allow the  
28                 Reasonable jurist to consider petitioner as a suspect much less actual killer  
                    (RT317, 491)(DSM 4; 1)(COA 4, 17)

                    \*Without additional credible evidence that is trustworthy there is no corroborating  
                    Evidence to petitioner’s extrajudicial statement linking petitioners DNA to these crimes,  
                    Therefore these evidences are insufficient to meet the new requisite burdens under  
                    CLARK, BANKS, STRONG. (ROBINSON 47 Cal.4<sup>th</sup> 1104(2010)

1  
2 **D. SUPPRESSION OF THIRD PARTY EVIDENCE WAS PREJUDICIAL**

3 \*The failure to disclose Gregory Randolph's confession, <sup>TO THE JURY</sup> that his DNA was found at the  
4 Crime scene violated due process. (CT 85,319)(RT15-16) (COA-14) **"If the report is  
5 Shown to prove, if anything what the sheriff response was to the confession then  
6 The report is not hearsay"**

7 \*The United States Supreme Court has ruled that withholding exculpatory evidence  
8 Mandated reversal BRADY V MARYLAND 373 US 83(1963)

9 **E.MISSING INTERVIEW VIOLATES DUE PROCESS AND IS STRUCTURAL**

10 **1) Petitioners interrogation recording played to the jury is now missing**

11  
12 \*The original March 8, 2009 recordings were altered both on November 23, 2010 and  
13 January 26, 2011. They were all different than one another, different than real time  
14 Recordings. The January 26, 2011 version was shown to the jury, after it had been altered  
15 And misrepresented as being accurate. The January 26, 2011 transcripts are now missing

16 \*The unedited original version was never made available to petitioner, making it impossible  
17 To verify accuracy of the prosecutors presentation of this evidence during PC1172.6 (d) (3)  
18 Proceedings. (RT 455,508) DUARTE 24 Cal.4<sup>th</sup> @618- BOWEN 13 Cal.4<sup>th</sup> @135 –  
19 MORRISON 34 Cal.4<sup>th</sup> @717

20 \*These combined acts violated BRADY which now requires disclosure of {all} exculpating  
21 Material to permit petitioner to dispute or rebut the evidence.

22 **2) Playing the altered recording to the jury as accurate violated due process**

23 \*DDA Thomas knowingly presented evidence as true and accurate, misrepresenting  
24 Evidence in a way to motivate the jury into a guilty verdict when there was no other  
25 Incriminating evidence in this case

26 \*This degree of misconduct was fraud upon the court and violates the professional ethics as  
27 It created a false admission and removed exculpatory material that would have convinced  
28 The holdout jurors to continue voting not guilty. SB 1909 (PC 1473(b) (1-3)  
(PC 118,132,134) (CRPC 5-200 A-B)

\*The permanent destruction of this evidence is structural error requiring reversal described  
As a **NAPUE ERROR 360 US 264(1959)**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

### 3) DESTRUCTION AND CONCEALMENT REQUIRES REVERSAL

\*Under YOUNGBLOOD 488 US 51(1988) failure to preserve evidence critical to the Defense constitutes due process violations causing irreparable injury.

\*If the prosecution intentionally destroyed or withheld the original recording material it Is grounds for immediate vacation of the conviction?

\*On March 14, 2025 the district attorney office stated that the evidence mentioned within This moving papers has been destroyed and unavailable;

A) Proving petitioner cannot be proven guilty as an actual killer

B) To cross examine this evidence is now made impossible under PC1172.6 (d) (3)

C) Confrontation of the district attorneys claims is impossible

### VI . RELIEF IS WARRANTED IN THIS CASE

1) Grant the petitions now before this Court and vacate the conviction entirely

2) Vacate the conviction and resentence petitioner in the remaining counts

3) Order an evidentiary hearing on all arguments mentioned herein as well as the 32 briefs now before this court

4) Suppress the entire statement evidence from this record and all references to that Evidence from the record accordingly

5) Order petitioners immediate release from custody based on there is no actual Evidence on any legal grounds to detain petitioner

6) Order sanctions against the district attorney office DDA John Thomas for failures to Preserve, failures to disclose original recordings before the altered versions were Shown to the jury

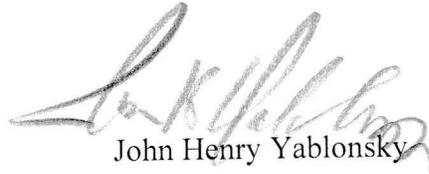
7) Strike the special circumstances from this case accordingly

8) Any other relief the Court deems appropriate under these circumstances

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

**CONCLUSION**

It is the intentional alterations and subsequent disappearance of critical key Evidence which reduced this case to fundamentally become unfair, causing a gross Miscarriage of justice, violating due process to such lengths that it amounts to moral Turpitude. AS grotesque display of what our justice system was designed for. Accordingly this court should vacate this conviction with prejudice and order sanctions Against the district attorney office as described herein

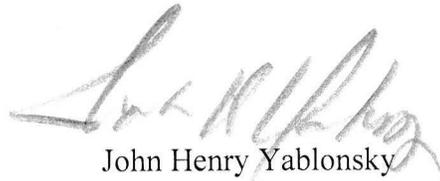
  
John Henry Yablonsky

April 2, 2025

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

That I John Henry Yablonsky an adult and party to this action now declare under Penalty of perjury that the forging facts, evidences mentioned herein are the truth According to belief and knowledge.

  
John Henry Yablonsky

April 2, 2025

1 JOHN HENRY YABLONSKY  
#AL0373-2309342444  
2 9500 ETIWANDA  
R.C.CA. 91739  
3 IN PROPRIA PERSONA

4  
5 SUPERIOR COURT OF CALIFORNIA  
6 COUNTY OF SANBERNARDINO

7 JOHN HENRY YABLONSKY,  
8 PETITIONER  
9 vs.  
10 THE PEOPLE OF CALIFORNIA  
11 RESPONDENT

Case No.: FVI900518  
  
POINTS AND AUTHORITIES  
PC 1172.6(A)(3) PC1473(B)(1-3)  
  
THE HONORABLE JUDGE ENRIQUE GUERRERO

12 **TO: COUNTY DISTRICT ATTORNEY JASON ANDERSON**  
13 **AND RELEVANT PARTIES HEREIN**

14 The district attorney moving papers proves petitioners eligibility, causing irreparable  
15 injury, now explained within this dual hybrid response. The judgment was legally invalidated by  
16 change in law SB1437, the district attorney failed to satisfy its SB775 section I (a-d) burden  
17 admitting the use of fabricated evidence to secure a guilty verdict. PC 1473(b) (1-3). Habeas  
18 corpus is appropriate when evidence to relief is outside the record. IN RE DURAN 38 C3d  
19 @635(1974) Habeas may lie to enforce relief beyond the record. IN RE TERRY 4 C3d 911  
20 (1971) to address facts outside the record. POPE 23 C3d 142; CORONA 80 CA3d 706(1978)  
21 The district attorney's responses to the verified petition **UNLOCKED** due process access under  
22 the sixth amendment at this prima facie stage. GARCIA 46 CA5TH 123 (2020) (GARCIA)  
23 (CITING) KIRBY 174 US 47. It has now become the district attorney's legal position that the  
24 (13) LEWIS CAL 5TH 952, 972 (2021)  
25 LOPEZ 78 CAL APP 5TH 1 (2022)

1 record exclusively proves that petitioner is ineligible because facts within the record prove  
2 beyond reasonable doubt that petitioner is the "ACTUAL KILLER" pursuant to PC 189(e). This  
3 claim is the furthest thing from the truth and petitioner now explains. (GARCIA) This legal  
4 argument is very similar because petitioner was convicted pursuant to PC190.2 (a) (17) and the  
5 attorney general in GARCIA argued facts within a record of conviction to prove guilt. Under  
6 GARCIA the jury made decisions of guilt based on statements made by accomplice that a role of  
7 tape was handed to him which was used for the crime. (Id @ 135) Although GARCIA denied  
8 knowing the victims or ever being near the crime scene, phone records between himself and  
9 Austin, both accomplices who were at the scene suggesting "MAJOR PARTICIPANT" to the  
10 crimes. It was the thirty calls between accomplices that placed him in the vicinity of the crime  
11 scene at the precise time the crimes were committed. (Id @ 139) It was Austin who stated he'd  
12 handed a role of tape to his co-perpetrator knowing that it would be used for these crimes. (Id @  
13 141) In determining liability based on jury instructions under PC 190.2 special circumstances  
14 (CALCRIM 730) Austin, Garcia co-accomplices "whether the record could support the verdict"  
15 (Id @ 146) The attorney generals sought to prove liability. Under PC 190.2(b) "does not require  
16 the [actual] killer be the person who personally kills but one who proximately caused the death."  
17 (Id@ 152) Citing several liabilities theories, the attorney general ultimately sought to introduce  
18 facts within the trial record of {PREDICATE} crime committed for the benefit of the gang. (Id  
19 @ 165) Austin / Garcia argued evidence of predicate crimes violated due process as well as  
20 CRAWFORD violations. (Id @168) *GARCIA/AUSTIN CONVINCED:*

25 The Court sought guidance under (KIRBY 174 US 47) where Joe Kirby was  
26 convicted. "That Kirby received evidence stolen from the US post office in South Dakota". In  
27 Kirby's trial prosecutors only evidence that the stamps Kirby possessed had been stolen from the

1 United States was the conviction record of three other people. (EMPHASIS). The United States  
2 Supreme Court held the admission of the record of prior conviction to prove the property Kirby  
3 possessed belonged to the United States violated Kirby's right to confront. (KIRBY @54-55)  
4  
5 The Supreme Court held that if the statute under which Kirby was convicted had only one  
6 requirement, proof of the conviction, "The record would be evidence to show the conviction".  
7 (KIRBY @ 54) However the prosecutor could not prove an essential fact of the subsequent crime  
8 solely through the record of conviction alone. (SANCHEZ 63 Cal.4<sup>th</sup> @680) Whether admission  
9 of the record constituted case specific hearsay, whether the conviction of Flenaugh and Jefferson  
10 were sufficient to prove Kirby was criminally liable for the stolen stamps from the United States  
11 post office. The GARCIA/AUSTIN court was not convinced the record of conviction was  
12 exempt from the confrontation clause under CRAWFORD, but rested squarely on the fact the  
13 prosecution sought to introduce facts within the document. Kirby ultimately held that the use of  
14 the record to prove conviction was exempt, but, if the record was used to prove any fact other  
15 than the conviction itself violated the sixth amendment. To wit; "to prove facts other than the  
16 conviction itself are testimonial" thereby the use of facts within the record are vulnerable to due  
17 process rights outlined under the U.S. Constitution sixth amendment.  
18  
19

20           Petitioner's case is mirror to GARCIA/ AUSTIN in as much that during post trial  
21 "consideration" of the facts within the record, beyond the record of conviction itself are on point  
22 specific at this prima facie stage. PC1172.6(c) "That the district attorney may file a response as  
23 to whether petitioner is eligible to be resentenced pursuant to senate bill 1437, 775  
24 PC1172.6(d)(3) "The proof shall be on the prosecutor to prove beyond reasonable doubt the  
25 petitioner is guilty of felony murder pursuant to new law PC 188-189 (EMPHASIS) PC189(e)(1)  
26 as an "actual killer" under PC 190.2(a) whether the murder was committed within the  
27  
28

1 commission of a felony. To wit; the district attorney in this case specifically sought to meet his  
2 new requisite burden set out under SB 1437, 775 by submitting to this court an eighteen inch  
3 thick brick of paper, the trial and court record, over 2785 pages as proof that petitioner is  
4 ineligible to be rec=sentenced today. Had he just pointed at the miniature logs and said “look”  
5 there is your proof he’s guilty, he must have been convicted, would not have been testimonial and  
6 not subject to 6<sup>th</sup> amendment scrutiny. Instead the district attorney submitted a road map through  
7 that tiny log proving specific facts within the record, making petitioners legal point here.  
8

9 Therefore the entire log submitted by the district attorney office became testimonial and subject  
10 the due process under the 6<sup>th</sup> amendment US Constitution. District attorney striking motion  
11 (DSM) 2:8) “The record of conviction established the conviction” (DSM 2; 14) “Because the  
12 record of conviction proves petitioner acted with intent to kill, he is ineligible” (EMPHASIS)  
13

14 **IF HE STOPPED THERE THE RECORD IS SAFE FROM SCRUTINY...  
15 BUT HE DID NOT!**

16 **(DSM3; 5-8) “His DNA and the fact when interviewed by law enforcement....**

17 **Is the evidence which the jury relied to find the defendant guilty”** (1) How does the DNA  
18 which predates these crimes implicate liability, was the DNA even reliable? Or have some nexus  
19 making it incriminating to this alleged crime? (2) What was said in that interview that created  
20 the nexus, and was the statement evidence corroborated by anything actually collected at the  
21 crime scene in an incriminating manner beyond [theory]? And was the statement evidence even  
22 reliable? (RT 317,491)(CCA-17)(DSM 411)(RT 403,455,508)

23 **(DSM4;1)“Relying on the forensics evidence we know the defendants DNA was  
24 as little as one and half days older than the murder”** (1)This reference alone raised serious  
25 doubt issues because there is nothing else in the record that makes the temporal connection to the  
26  
27

1 date of these alleged crimes other than an altered statement?. (2) How does DNA which predates  
2 the crime by days attach without having legal and scientific record placing it at the crime scene  
3 during the commission of these alleged crimes. (3) Was that the only conclusion of this DNA  
4 evidence, because the record implies it was unrelated? (4) In this case a separate expert found the  
5 DNA specimen was as much as several days older than these crimes. (RT317- SBSJ Jones –  
6 several days passed then she died) (5) Why are there two different time frames for this DNA  
7 evidence? (6) Was there other DNA the jury <sup>DIDN'T CONSIDER</sup> never heard about? **THE RECORD SAYS YES!**

9 **(DSM3; 21) “Dr Saukel said he’s the one who found sperm inside the victim”** (1) We  
10 clearly now know that SBSJ Jones stated that “he” collected states Item A-11, and that he got  
11 some other evidence from L. Brown at the morgue. (EXHIBIT B4) sex kit #5974 (2) SBSJ  
12 Jones then stated that the sex kit evidence had become too putrid to exam because it was too  
13 putrid. (RT 298; 3) (3) If the same sample Dr Saukel collected became too putrid to test implies  
14 his actions have credibility issues (5) did L. Brown give SBSJ Jones a separate “sex kit” from  
15 another scene, a different victim? **THE RECORD JUST DOES NOT AFFORD THESE**  
16 **ANSWERS!**

19 **(DSM3; 19) “Strangulation was committed by ligature which caused the death”**  
20 (1) There was no physical or scientific evidence found on the weapon supporting that petitioner  
21 used it (2) There are at least sixteen separate DNA suspects from this crime scene making them  
22 the more likely than not candidates to this crime

24 **(DSM4; 5) “There was as much as sixteen other DNA profiles found on the murder**  
25 **evidence that does not match petitioner”.** (1) This tells us that at least one or more of those  
26 DNA suspects are the ones who handled the weapon (2) This tells us that BRADY was violated  
27 because the identity of those DNA donors was withheld from defendant and the record.

1 (3) At least two of the DNA's on the actual murder evidence came back matching Gregory  
2 Randolph <sup>OTHER</sup> whose DNA was found on two cigarette butts placed there on the day of the crime.

3 ITEMS H2 & H3 (4) The record does not say, so, we're forced to speculate what evidences  
4 those 16 separate DNA donors were collected off of;  
5

6 ITEM H-2 Cigarette butts matching Gregory Randolph -A-20

7 ITEM H3-3 Cigarette butts matching Gregory Randolph - A 21

8 ITEM A23 & A24 victims' blood stains on the wall (not matched to petitioner)

9 ITEM A1 & A5 Red hairs with entire roots bulbs attached (petitioner is blond)

10 ITEM A15 watchband keeper found beneath victim (right handed killer, petitioner is LH)

11 ITEM A17 Gag in victim's mouth (not matched to petitioner)

12 ITEM B3 Murder weapon (not matched to petitioner)

13 **(DSM 14) "Defendants was contacted in his home"** (1) how was he contacted? Did he  
14 call, or did they show up in force? (2) How many officers and how many different police  
15 agencies arrived on the initial contact? (3) What was the motivating factor in this contact if the  
16 district attorney already knew that petitioners DNA predates these crimes by days? (4) They  
17 admit the contact was motivated by police when they filed a probable cause affidavit to arrest  
18 days before contact. **WHERE IS THE CUSTODIAL ARGUMENTS THAT WERE  
19 RECORDED WHILE THE HOME WAS SURROUNDED BY POLICE?**

20 **(DSM3; 25) "Should the court disagree with the peoples position in the striking  
21 motion the people will lodge necessary information from the appellate record" (DSM 7; 1)  
22 "The record of conviction will necessarily inform the court at prima facie stage" (COA 17)  
23 "That [A] could have had sex with Rita on Thursday and [B] could have killed her sometime  
24 afterwards" (A- John Henry Yablonsky) "That Rita may have gone to a separate bar that night,  
25 or, went to the bar she stated she was going and got waylaid in the parking lot"**

26 **THE COURT OF APPEAL RECORD GIVES ME A DNA ALIBI  
27 ESTABLISHING THIS CASE IS INFESTED WITH DOUBT ISSUES**

28 THE TRIAL RECORD IS TESTIMONIAL-6 | P A G E

1                   Therefore it is the district attorney's striking motion which proves that the  
2 district attorney office could not meet the new requisite burdens under BANKS CLARK  
3 STRONG scheduled by SB 1437 and 775 standards of proof  
4

5  
6                   **ARGUMENT ON SUFFICIENCY**

7                   FIRST; the record of conviction itself is legally invalid because of the use of an  
8 uncorroborated extrajudicial statement when it was used in its altered state. PC 1111 DUARTE  
9 24 Cal.4<sup>th</sup> @ 618 "I have to go through everything and make sure everything is taken out..... I  
10 can't leave that up to anybody else.... I got to cut the evidence so that everything sounds good"  
11 BRADY V MARYLAND, NAPUE V ILLINOIS 36 US 264, PEOPLE V SUPERIOR COURT  
12 (BOWEN) 13 Cal.4<sup>th</sup> @135 (RT 33; 16) "COURT- During an interview he makes a false  
13 statement that's your evidence of guilt? DA- Uh,huh" In this case the district attorney may not  
14 use an uncorroborated extrajudicial statement that he himself altered until it fit his needs while  
15 injuring the defendant.  
16

17  
18                   A) Authenticity rules under Ca EV 1204, 1401, 1402, 1521 require attention

19                   B) Withholding content to knowingly motivate judgment MORRISON 34 Cal.4<sup>th</sup> @ 717

20                   The most damning point in this argument is that the transcript used to motivate the jury,  
21 placed into this record, has vanished according to the district attorney. (EXHIBIT J4) (January  
22 27, 2011 minute order) The version shown to the jury on January 27, 2011 had a transcript  
23 creating date of January 26, 2011 by SBSB Debt Robert Alexander. **THIS CONSTITUTES A**  
24 **NAPUE ERROR.** (RT 508:22-509:1) Due process was violated by misrepresenting this  
25 evidence as authentic and original media, knowing that it was not. Violating CRAWFORD  
26 access. Then the district attorney office placed an entirely different transcript into the evidence  
27

1 lockers, on the record, implying BAIT & SWITCH. The record now shows a creation date of  
2 November 23, 2010, yet we know that DDA Thomas admitted on the record on January 26, 2011  
3 that he was going to create this transcript and could not let anyone else do it, because he needed  
4 to make sure that everything that needed to be taken out was removed and the remained  
5 sounded good> (DSM 3;5-8) BRADY V MARYLAND, NAPUE V ILLINOIS, GIGLIO V  
6 UNITED STATES, CRAWFORD V WASHINGTON ARE ALL APPLICABLE AT THIS  
7 POINT. *TOWLER 31 CAL. 3d @ 117 (1982)*  
8 *ALVAREZ 229 CAL. APP. 4TH @ 773 (2014)*

9 **FOR THESE REASONS THIS CASE MUST BE VACATED**

10  
11  
12 SECOND: the integrity of the DNA evidence in this case referred to by the district attorney  
13 office has to be called into question because of the trial record. (DSM3; 5, 4; 1) As to whether there is a temporal  
14 connection to these crimes alleged. (RT317, 491) (PH7; 19, 10:8) (RT 322:10) The criminalist who created the DNA  
15 profile stated that she does not know who gave her that vial, but that the vial she got had DNA extracted by someone  
16 other than her. Furthermore nowhere in this record was a chain of custody established outside the "WE CHAIN"  
17 given during testimony. Therefore the ITEM A11 that was matched to petitioner does not have any record of who  
18 collected it, when it was collected, who extracted the DNA from it, other than "SOMEONE" gave the criminalist a  
19 vial. (RISER 47 Cal.2d @ 580) "the record shall include all vital links in the chain of custody from the collection to  
20 establish continuous possession so as to escape speculation with regards to tampering" Therefore it is quite possible  
21 that ITEM A11 DNA specimen given to SBSB Seiwertsen to create a profile, after petitioner had been arrested, and  
22 after SBSB Alexander collected it from petitioners swab and placed that collected specimen into the vial to be  
23 tested. Seiwertsen was not hired until after this arrest! **THIS IS WHY THE CHAIN OF CSTDY RECORDS**  
24 **ARE NOT DISCRETIONARY!**

1            THIRD; the identities and degree of involvement by the separate sixteen donors leaves no  
2 room for speculation. (DSM 4; 1) “Yablonsky DNA is as much as one and a half days older than  
3 these crimes” (DSM 4; 5-8) these facts alone demand the Court to notice that the record itself  
4 profoundly shows there is doubt in this verdict. Without some reliable and credible evidence the  
5 DNA matching petitioner disconnects from these alleged crimes, therefore the district cannot  
6 make a temporal connection. “IF” there was sixteen separate DNA profiles found on the actual  
7 murder evidenced, “AND” petitioners is not one of them, there is “ONLY” one conclusion  
8 available. **THAT JOHN HENRY YABLONSKY IS NOT YOUR KILLER.** In fact, because  
9 petitioners DNA predates these alleged crimes the sixteen separate DNA donors are the real  
10 killers. Gregory Randolph could be your killer. His DNA is at the scene a location it should not  
11 have been. His confession gave you motive, opportunity and intent. Joseph Bacon Saunders  
12 could be your killer. His fingerprints are at the scene, in the scene on two glasses that he and he  
13 alone touched. If he did not enter the house as he says, then how did his prints get on cups three  
14 and four, found on Rita’s kitchen counter? Robert Wortman could be your killer. He was found  
15 guilty of killing Rita’s serial twin just after this trial and his DNA may very well be one of the  
16 mysterious DNA’s found on the murder weapon. In fact it is more than likely because of the  
17 language used by Gregory Randolph’s confession that his intent was actually “REVENGE”,  
18 because the actual murder evidence proves this. If she was <sup>STRUCK</sup> ~~stabbed~~ to death then why the wire  
19 coat hanger other than vengeance. **RITA REJECTED HIM FOR YEARS, BUT NOT**  
20 **OTHER PEOPLE WHO HE FELT WERE LESS WORTHY THAN HE!** Mr. Randolph was  
21 a serial killer if we accept the evidence found in his closet after he committed suicide.

22  
23  
24 **IF PETITIONER WERE TRIED TODAY THIRD PARTY CO=ULPABILITY**  
25 **DEFENSE MAKES LEGAL SENSE AT THIS TIME**

26  
27  
28 [PLEADING TITLE] - 1

21

~~21~~

1 (22) FOURTH; The foundation to fundamental fairness in this 1985 crime was abolished  
2 when the court permitted the district attorney to try this case under proposition 115 which did not  
3 enact until June 5, 1990. The purpose of proposition 115 was to reduce the conviction costs,  
4 relieve financial burdens in capital trials. Proposition 115 laws cannot be applied to retrospect  
5 cases if the use of 115 laws disadvantage to defendant in any way. RAY 13 C4th @ 341(1996)  
6 WEAVER 26 C4th @929(2001) “defendants uncorroborated statements may be used to prove  
7 PC190.2 (a) (17) burdens.” PC 190.41 (enacted June 5, 1990) “notwithstanding 190.4 or any  
8 other provision of law corpus delicti f felony based special circumstances enumerated in (17) of  
9 sub div (a) of the 190.2 statute need not be proved inpedantly of the extrajudicial statement”  
10 (PH36:4) (EXHIBIT C3-4) TAPIA 53 Cal.3d @ 301; COLLINS 497 US @ 42; CARMEL 529  
11 US @530; SUPERIOR COURT (LARA 4 Cal.5<sup>th</sup> @314 “the court was to apply the then existing  
12 law”. In this case because of change in law that diminished prosecutors burden of proof to **NO**  
13 **PROOF NEEDED**, EX POST FACTO was violated. (RT 569) (COURT) “**you can determine**  
14 **the degree of this crime and who committed it by the defendants statement evidence alone**”  
15 (DISCUSSED ABOVE) **THE STATEMENT EVIDENCE WAS TAMPERED WITH**  
16 **UNTIL IT WAS UNRELIABLE AND INCRIMINATING AS SUCH THIS CON-**  
17 **VICTION MUST BE VACATED (RT403,455,508) PC 1111 “MAY NOT USE**  
18 **UNCORROBERATED STATEMENT EVIDENCE IN CASE IN CHIEF”**  
19  
20  
21  
22

23  
24 FIFTH; The statement evidence captured in an entrapment exercise (EXHIBIT A, I) the  
25 petitioner was deprived of MIRANDA rights when three different police agencies flooded  
26 petitioners home, surrounded petitioners house, carrying warrant to arrest began interrogating  
27 outside MIRANDA . INNIS 446 US @ 297 “evidence improperly seized to capture

*22*

1 incriminating evidence. (384 US @ 444) (Id @ 300) Whether allowed to consult counsel without  
2 benefit of warning (Id @ 302) when police action threatened in such a way to create an  
3 incriminating response (1)(RT34;15) **INTERROGATED IN FRONT OF ENTIRE FAMILY**  
4 **PEEVY** 17 Cal.4<sup>th</sup> @ 1192 (citing) EDWARDS 451 us @ 482 “The statement must be a known  
5 and willing abandonment of the rights” (EMPHASIS) (DSM3;5-8) The district attorney position  
6 is that the statement evidence could convict the petitioner all alone in the face of DNA that  
7 predates the crimes and no other evidence exists that which incriminated petitioner. On January  
8 26, 2011 the district attorney created the trial transcript for the March 8, 2009 interrogation. The  
9 states record presented to this Court is absent that transcript which had the creation date of  
10 January 26, 2011, **NOT THE NOVEMBER 23, 2010 DATE WHICH IS NOW BEING**  
11 **USED, WHERE IS THAT JANUARY TRANSCRIPT? IT’S ABSENCE VIOLATES DUE**  
12 **PROCESS.** Furthermore Cal. Cost Art I sect. (28)(2) “The truth in this evidence was destroyed”  
13 (RT403, 455) the district attorney openly admitted that he redacted petitioner’s invocation, and  
14 edited content so that it sounded good to him. (RT508) Then the district attorney told this jury  
15 that that evidence he created was accurately transcribed and original media. **NOW**  
16 **PETITIONER IS TOLD THAT THE DIGITAL EVIDENCE WAS DESTROYED! THIS**  
17 **IS AN ADMISSION THE DISTRICT ATTORNEY USED FALSE EVIDENCE AND AS**  
18 **SUCH THIS CONVICTION MUST BE VACATED. BRADY!!**

19  
20  
21  
22  
23  
24 SIXTH; The entire case is legally and technically unreliable and invalid because the  
25 amended complaint filed on August 6, 2010 was technically deficient and “**NOT A TRUE**  
26 **BILL**” (EXHIBIT C3-4) PC 1009 “amending the complaint must be verified by a natural  
27 person” SALAZAR 226 Cal.app.2d 113; CARMEL 529 US @530 **THEREFORE THE**

23

1 **FOUNDATION OF THIS COMPLAINT IS ILLEGAL AND NONE OF THESE**  
2 **EVIDENCES MAY BE CONSIDERED AS RELIABLE AND ARE THE FRUITS OF AN**  
3 **ILLEGAL CONVICTION AS SUCH THIS CONVICTION MUST BE VACATED.**

4 TATE 55 CAL APP 4TH 663 (1997)

5  
6 SEVENTH; the August 6, 2010 amending of this complaint to include PC190.2 (a) (17)  
7 violated due process and EX POST FACTO principles. The amending this complaint with statute  
8 that did not exist at the time of the crime, and not until afterwards which enhanced sentence or  
9 reduced quantum of evidence, forbid advance warning caused irreparable injury. YOSHISATO 2  
10 Cal.4<sup>th</sup> @ 984-87 (1992) **AS SUCH THIS ENTIRE CASE WAS TRIED UNDER AN**  
11 **ILLEGAL STATUTE CAUSING ITRREPERABLE INJURY AND THE CONVICTION**  
12 **MUST BE VACATED IN ITS ENTIRETY TAPIA 53 Cal.3d @ 297-99 (EMPHASIS**  
13 **ADDED)**

14  
15  
16  
17 EIGHTH; On March 8, 2009 petitioner was interrogated by 14 police officers in front  
18 of his entire family (1)(RT34;15) On November 23, 2010 those interrogation recordings were  
19 transcribed by Sanbernardino Sheriff (SBSD Detective Robert Alexander who created three  
20 separate and different transcripts of the interrogation all of which do not match the real time  
21 recordings. (EXHIBIT I) On January 26, 2011 during trial the district attorney DDA Thomas  
22 created two more, two separate transcripts assigning them as states (EXHIBIT 49A) creating one  
23 audio text copy and one 113 page text copy of the March 8, 2009 interrogation. These two copies  
24 matched one another "VERBATIM" but did not match the November 23, 2023 transcripts  
25 created by SBSB Alexander and **DID NOT MATCH REAL TIME RECORDINGS** (RT403,  
26 455, 508) The district attorney admit tingly altered the content, redacted custodial markers,  
27

24

1 redacted MIRANDA invocation, redacted an entire custodial marker argument to imply  
2 willingness to go to locked police station, then lied to the jury that this altered transcript was  
3 accurate and original media to influence a guilty verdict when there was no other incriminating  
4 evidence in this case. **KNOWINGLY USING ALTERED EVIDENCE TO INFLUENCE A**

5 **VERDICT**

*TOWLER 31 CAL.3d @ 117 (1982)*  
*ALVARADO 229 CALAPPLTH @ 773 (2014)*

6  
7 In the face of overwhelming facts there is actual evidence that petitioner was not  
8 even at this crime scene the day of the crimes, makes this manufactured evidence relevant and  
9 material to guilt. On March 14, 2025 petitioner was told that states EXHIBIT 49A evidence has  
10 been destroyed and is unavailable to be challenged, violating due process under the sixth  
11 amendment U.S. Constitution causing irreparable injury. TRMBETTA @ 485 ; YOUNG-  
12 BLOOD @ 57-58; BRADY 373 US 83 (PC 1473(b)(1-3) relief may be sought when the district  
13 attorney knowingly fabricates evidence that is substantial to the issue of guilt, especially when he  
14 digitally altered petitioners answers, placing evidence into the equaision that did not exist until  
15 he altered this evidence. **THERE IS EVIDENCE IN STATES EXHIBIT 49A THAT DID**  
16  
17 **NOT EXIST UNTIL AFTER IT HAD BEEN ALTERED, THERE IS EVIDENCE IN THE**  
18 **REAL TIME RECORDINGS THAT DOES NOT EXIST IN THE STATES EXHIBIT 49A**  
19 **EVIDENCE. BOTH IN AUDIO AND TEXT!** The evidence fabricated was knowing,  
20 deliberate, while redacting exonerating material which existed before it had been altered but was  
21 missing afterwards. MORRISON 34 Cal.4<sup>th</sup> @ 717; BOWEN 13 Cal.4<sup>th</sup> @ 135 , CRPC Rule 5-  
22 200 A-B, PC 118, 132, 134 (RT403, 455, 508) **DELIBERATELY ALTERING THE**  
23 **EVIDENCE TO INCRIMINATE THEN TELL THE JURY THE EVIDENCE WAS**  
24 **UNALTERED. DEPRIVED THE DEFENDANT OF DUE PROCESS. THEREFORE THE**  
25 **VERDICT UNRELIABLE AT THE PRIMA FACIE STAGE. AS SUCH THIS**

*5*

1 **CONVICTION MUST BE VACATED IN ITS ENTIRETY AND SANCTIONS PLACED**  
2 **AGAINST THE DISTRICT ATTORNEY OFFICE.**

3  
4  
5 NINTH; As stated above the district attorney office had been placed onto notice when  
6 petitioner filed from CDCR while housed at Delano State Prison "NOTICE OF INTENT TO  
7 CHALLENGE THE CONVICTION AND TO PRESERVE EVIDENCE". Petitioners further  
8 notifications came during collateral attacks about this very evidence, its material values which  
9 are directly related to factual innocence claims **THAT THE DISTRICT ATTORNEY**  
10 **MANUFACTURED EVIDENCE TO MOTIVATE A GUILTY VERICT FROM A**  
11 **DEADLOCKED PANEL OF JURISTS WHO WERE LOOKING, LISTENING;**

12 \*WHCSS 1200311 YABLONSKY V SUPERIOR COURT (2012- 2013)

13 \*CIVDS 15066664 YABLONSKY VS RAMOS (2015 – 2018)

14 \*YABLONSKY V MONTGOMERY 2016 US DIST LEXIS 26490 (2014- 2018)

15 \*YABLONSKY V RAMOS 2015 US DIST LEXIS 200820

16 \*PEOPLE V YABLONSKY 2013 CAL.APP. LEXIS 8800

17 \*YABLONSKY V CANTY 2019 CAL APP. LEXIS 5145

18 \*YABLONSKY V RAMOS 2018 CAL.APP. LEXIS 1766

19 \*YABLONSKY V CALIFORNIA 140 S. CT. 1234(2020)

20 \*IN RE YABLONSKY 2022 CAL. LEXIS 5698(2022)

21 \* THE COURT GETS THE PICTURE! **THERE ARE OVER 3800 EFFORTS !!**

22 There was sufficient showing that petitioner sought this specific evidence from the date  
23 his jury used it to verdict guilt, that this evidence was a critical piece of material evidence and  
24 was digital as well as tangible. On March 14, 2025 petitioner was told that this digital material  
25 has been destroyed, these digital recordings are no longer available to dispute. **FROM A**  
26 **COMPUTER STORED FOLDER!** Because petitioners sentence was life without the  
27

1 possibility of parole, petitioners pursuit of these evidence PC 1054.9 controls access. BARNETT  
2 50 Cal.4<sup>th</sup> @ 899 the evidence existed, but now, after challenges, disappeared! ZARAGOZA 780  
3 f3d @977 “the government has a duty to preserve video evidence” TROMBETTA @ 498 “due  
4 process is violated if the evidence possessed exculpatory value, but, was destroyed” Youngblood  
5 bad faith requirement dovetails with Trombetta, that the exculpatory value was apparent at the  
6 time of destruction. YOUNGBLOOD @ 56; SILVA 714 f3d @1172; NEWBERRY 166 Ill.2d  
7 310(1995) “where the record shows requests for access the state was on notice, invoking the duth  
8 to preserve. DUE PROCESS requires a different result when failure by state to preserve  
9 exculpating material which [might] have exonerating powers. (488 US @ 57) “There may well  
10 be a case when the defendant is unable to prove bad faith but which the loss/ destruction is none  
11 the less so critical as to render the process fundamentally unfair. (Id @ 61) **AS SUCH THIS**  
12 **CASE IN IT’S ENTIRETY MUST BE VACATED ON THESE CLAIMS OF**  
13 **VIOLATIONS TO DUE PROCESS FOR THE DELIBERATE DESTRUCTIONS OF**  
14 **STATES [ONLY] INCRIMINATING EVIDENCE THAT THE DISTRICT ATTORNEY**  
15 **MANUFACTURED HIMSELF TO GET THE CONVICTION IN THIS CASE, BECAUSE**  
16 **HE KNEW THIS EVIDENCE HAD EXONERATING POWERS.**  
17  
18  
19  
20

21 TENTH; As discussed above at length Gregory Randolph not only confessed to this  
22 crime, giving us his motive, intent and described his opportunity which attaches to the fact his  
23 DNA was in fact located inside Rita’s house, in such a way it placed him there on the day this  
24 crime was committed, grew roots that describe petitioners defense if he were tried today under  
25 modern law for felony murder. (EXHIBIT E) In this case it is the peoples argument the jury were  
26 deadlocked at one point, but to forbid the deadlocked panel of jurists access to this confession  
27

1 evidence 1) that a confession existed by a separate suspect 2) that the party who confessed to this  
2 crime left his DNA at the scene on the day of the murder 3) that he described his motive and  
3 intent 4) that when detectives processed his suicide scene they discovered several murder  
4 trophies. To deliberately deprive the jury of this information constituted BRADY 373 US 83  
5

6 Third party culpability defenses are relevant when the record is absent for other  
7 credible and material evidence tending to incriminate the defendant. But, when the record is  
8 transparent for any actual proof of guilt, third party defense are material and relevant! In this  
9 case there is direct and circumstantial evidence linking Gregory Randolph? William Back off to  
10 these crimes, and this is proof that if petitioner was tried a deadlocked panel of jurists would  
11 have more likely than not exonerated petitioner if he were tried today under modern law. **AS A**  
12 **DIRECT RESULT OF THIS FACT PETITIONER IS ENTITLED TO HAVE THIS**  
13 **CONVICTION VACATED AND TO BE RESENTENCED ON THE REMAINING**  
14 **COUNTS.**  
15

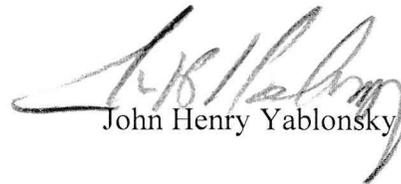
16  
17  
18 ELEVENTH; The is substantial proof within these record, outside these records that  
19 the Michael Ramos administration had created a convict at any lengths mentality that makes  
20 these claims of petitioner being convicted with the use of manufactured evidence carry weight.  
21 The infamous colonies case was convicted with the use of destroyed evidence, manufactured by  
22 Ramos's team, William Richards conviction was the basis of false evidence being used to get the  
23 conviction, then we have the Kevin Coopers case where SBSB planted his DNA evidence at the  
24 scene. Coopers blood found on the victims clothing had blood preservatives, and was not  
25 discovered until after the conviction. Ramos declared Cooper guilty anyways and should be put  
26  
27

1 to death! The same with Richards. These proofs make petitioners claims carry weight! (MUST  
2 SEE PETITIONER MOTION TO TAKE JUDICIAL NOTICE EXHIBIT A)  
3

4  
5 CONCLUSION AND DEMAND FOR RELIEF

6 The record now before this Court must be taken notice of facts that exceed the  
7 record as an expansion of the states trial and appellate record because these facts  
8 existed out of the states entire investigations, but were hidden from this record.  
9 It is because of these facts, these states records that proves petitioner is entitled to  
10 relief and the Court must vacate the conviction in it's entirety with prejudice and  
11 sanctions placed against the district attorney office.

12 April 2, 2025

  
John Henry Yablonsky

13  
14 PROOF OF SERVICE

15 I George Yablonsky an adult and not a party to this action declare under  
16 penalty of perjury that I personally served this notice of motion upon

17 Superior court of California  
18 14455 civic center dr

District attorney office  
14455 civic center dr

19 v.v.,ca. 92392

v.v.ca, 92392

20 This service was on April \_\_\_\_ 2025

Gegore Yablonsky (legal runner)