

1 JOHN HENRY YABLOS NKY  
#AL0373-2309342444  
2 9500 ETIWANDA  
R.C., CA 91739  
3 IN PROPRIA PERSONA  
4  
5

6 SUPERIOR COURT OF CALIFORNIA  
7 COUNTY OF SANBERNARDINO

8 JOHN HENRY YABLONSKY,  
9 PETITIONER

Case No.: FV1900518

10  
11 vs.

**SUPLIMENTAL ARGUMENT TO VACATE  
CONVICTION BASED ON LOSS, DESTRUCTION  
OF MATERIAL EVIDENCE AND  
INSUFFICIENCY ISSUES PURSUANT TO  
SENATE BILL 775 & 1437 & 1473**

12  
13  
14 THE PEOPLE OF CALIFORNIA,  
15 RESPONDENT

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

THE HONORABLE JUDGE ENRIQUE GUERRERO

16 **TO; COUNTY DISTRICT ATTORNEY JASON ANDERSON**

17 It is necessary at this time to supplement the arguments regarding eligibility top  
18 benefit change in law, application of law that directly affects the conviction of John Henry  
19 Yablonsky (PETITIONER). Now standing before this Court is a PC 1172.6 petition to vacate the  
20 judgment based on the conviction stands on outdated and now constitutionally illegal law  
21 pursuant to changes set out under PC 188-189, affected by senate bills 1437 & 775. The district  
22 attorney filed a brief on January 26, 2024 declaring facts within the trial and clerk record which,  
23 **in the district attorney opinion**, prove petitioner is ineligible to benefit from change in law.  
24

25 **THE DISTRICT ATTORNEY IS NOW RELYING ON FABRICATED EVIDENCE**  
26 **TO MEET HIS SB 775 BURDENS (EMPHAIS ADDED)**  
27

1 **I... THE DESTRUCTION OF MATERIAL EVIDENCE**  
2 **VIOLATES DUE PROCESS UNDER TROMBETTA**

3 The United States Supreme Court in CALIFORNIA V TROMBETTA 467 US  
4 479(1984) held that the government failure to preserve evidence violates due process if;

- 5 1) The evidence possessed apparent exculpatory value before it was destroyed  
6 2) The defendant could not obtain comparable evidence by other means

7 Additionally, in ARIZONA v YOUNGBLOOD 488 US 51(1988), the Court held that if  
8 **the destroyed evidence is potentially useful**, then a **showing of bad faith by law** is required for  
9 due process violations. Here **key evidence that formed the foundation of the prosecution's**  
10 **case-in-chief was destroyed prior to trial, prior to post- conviction review**. That evidenced  
11 had obvious exculpatory value, and there is no alternative means for the defendant to reconstruct  
12 or refute its claim. **The intentional or reckless destruction of material evidence by the state**  
13 especially when that evidence was central to the conviction-violates the defendant's right to  
14 **fundamental fairness and due process clause of the fourteenth amendment.**

15  
16 (EXHIBIT I- I3- I6)) (MUST SEE SUPPRESSION MOTION FILED MARCH  
17 14, 2025) There is sufficient showing that on November 23, 2010 **BEFORE TRIAL** SBSB Det.  
18 Alexander created two separate text transcripts that are **TWENTY THREE PAGES IN**  
19 **DIFFERENCE** places this Court on notice that the destruction occurred before trial for the  
20 **intent of causing irreparable injury (EXHIBIT I-4:23) THE DETECTIVE SWITCHED**  
21 **PETITIONERS ANSWERS FROM [NO] TO [UM, YEA] "PLACING A KEY INTO**  
22 **PETITIONERS POSSESSION". (EXHIBIT I-5; 1) THE DETECTIVE SWITCHED**  
23 **PETITIONERS ANSWERS FROM [YES SHE DID] TO [NO] IMPLYING THERE WAS**  
24 **NO TRUST. (EXHIBIT I-6) THE DETECTIVE COMPLETELY ERASED COSTODIAL**

1 **MARKLERS TO IMPLY THE TRIP TO THE POLICE STATION WAS WILLING AND**  
2 **THEREFORE “MIRANDA” WAS NOT REQUIRED. (EXHIBIT A) PROBABLE CAUSE**  
3 **AFFIDAVIT WARRANT TO ARREST FILED BY SBSB DET ALEXANDER.** The  
4 warrant issued as a result of the affidavit proving MIRANDA requirements. Therefore the case  
5 in chief evidence was deliberately altered before it was shown to the jury. **Now during post trial**  
6 **challenges on March 14, 2025 Jason Anderson states that the evidence used for this trial is**  
7 **missing, was destroyed.** (RT403, 455) DDA John Thomas during trial made it clear that he had  
8 to create a different transcript so that he could remove context that he felt would help his case  
9 while harming defendants. **“I GOTTA CUT THE INVOCATION OF MIRANDA OUT”**  
10 **“I GOTTA MAKE THE REDACTIONS MYSELF I CANNOT LEAVE THAT UP TO**  
11 **SOMEBODY ELSE” “ I GOTTA CUT THE EVIDENCE SO THAT EVERYTHING**  
12 **SOUNDS GOOD”** The version created by Thomas on January 26, 2011 shown to the jury on  
13 January 27, 2011 has the creation date on the bottom indicating it was created by “SBSB  
14 Alexander on January 26, 2011”. **ON MARCH 14, 2025 JASON ANDERSON DECLARES**  
15 **THE JANUARY 27, 2011 VERSION WAS DESTROYED.** This makes it impossible to  
16 recreate or challenge, therefore due process had been violate and petitioner deserves to be  
17 resentenced, the conviction vacated entirely!  
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23 **II. WITHOUT THE DESTROYED EVIDENCE, THE RECORD IS**  
24 **LEGALLY INSUFFICIENT UNDER JACKSON V VIRGINIA**

25 In JACKSON V VIRGINIA 443 US 307, the Supreme Court held that a conviction must  
26 be supported by **SUFFICIENT EVIDENCE TO CONVINCCE THE RATIONAL TRIER OF**  
27 **FACT OF GUILT BEYOND REASONABLE DOUBT.** In this case the conviction cannot  
28

1 stand. Whereas here the central piece of evidence has been **DESTROYED** and there is **no other**  
2 **direct or corroborating evidence, the record is therefore insufficient to sustain a conviction**  
3 **under modern law and this court [MUST] vacate this judgment.** The record is generously  
4 sprinkled with petitioner's diligence pursuing this case, pursuing the states "STATEMENT  
5 EVIDENCE" which the jury were told they could reach a verdict of who committed the crime  
6 and to what degree solely based on the content of the statement evidence alone. (RT569, 596)  
7  
8

9  
10 **III. PENAL CODE 1172.6 PROCEEDINGS REQUIRE THE**  
11 **PROSECUTION TO PROVE GUILT UNDER CURRENT**  
12 **LAW BEYOND REASONABLE DOUBT**

13 Under PC 1172.6(d) (3) once the petitioner has made a prima facie case, the court [must]  
14 hold an evidentiary hearing, and the burden is on the prosecutor to **PROVE BEYOND**  
15 **REASONABLE DOUBT THAT THE PETITIONER IS GUILTY OF FELONY-**  
16 **MURDER UNDER THE NEW STANDARDS OF MODERN LAW.** The destroyed evidence  
17 was the only material supporting the original conviction. Without it, the prosecutor cannot meet  
18 its new requisite burdens under SB 1437 & 775, which require proof that the defendant acted  
19 with specific intent as an actual killer, aider and abettor, or was a major participant. (BANKS &  
20 CLARK)

21 **IV. IT IS LEGALLY PERMISSIBLE TO INCORPORATE DUAL LAW**

22 In this case it was discovered throughout these proceedings, the revealing by the district  
23 attorney office that this case now requires the forces outlined by dual post trial collateral attacks  
24 in all these post-conviction proceedings. **IN CALIFORNIA IT IS LEGALLY PERMISSIBLE**  
25 **AND STRATEGICALLY SOUND** to incorporate arguments grounded by PC1473 (b) (1-3)  
26 within the context of these PC1172.6 proceedings, especially when those arguments strengthen  
27

1 the claim that the conviction is legally invalid under current modern law. PC 1473(b) (1-3) relief  
2 is available when the states judgment rests squarely on the known use of fabricated evidence;

3 **(b)(1)The conviction was solely based and obtained by false evidence**

4 **(b)(2)Previously undisclosed exculpatory evidence existed in the destroyed evidence**

5 **(b)(3) New evidence of innocence exists that would have changed the outcome**

6  
7 Therefore the integration of arguments under both PC1172.6 and PC 1473 in this  
8 resentencing scheme is strategic when post-conviction relief sought under section 1473 vehicles  
9 are overlapping with the 1172.6 vehicle especially when;

10 \*The record of conviction includes the known use of false, altered, and misleading  
11 evidence as described within BRADY and NAPUE

12 \*The petitioner's eligibility for resentencing under 1172.6 depends on a clean factual  
13 Record- i.e. one that does not rely on constitutionally tainted or fabricated evidence

14 \*The facts justifying habeas relief under 1473 also undermine the state's ability to  
15 Prove guilt beyond reasonable doubt under the new felony- murder laws 1172.6(d) (3)

16 The Court have already determined this approach as ethical and strategic. LEWIS 11  
17 Cal.5<sup>th</sup> @ 972(2021) "1172.6 proceedings the courts must consider the record of conviction and  
18 determine whether the prosecutors can still prove guilt under current law, not whether the  
19 original conviction was lawful at the time" LOPEZ 78 Cal.app.5<sup>th</sup> 1(2022) "The court may assess  
20 due process and evidentiary violations when they are intertwined with 1172.6 proceedings on  
21 eligibility" IN RE HALL 30 Cal.3d 408(1981) " habeas corpus and other post-conviction relief  
22 statutes can work **SIMULTANEOUSLY** when the fundamental fairness or innocence is at  
23 stake.  
24

25 Therefore these proceedings must capture the spirit of legislative intent when they laws  
26 under habeas corpus were written to benefit the body during post trial challenges, whether the  
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1 legislative meant for singular approaches would have been written was up to the branch, not the  
2 practitioners of these laws. Therefore petitioner now moves this prestigious Court in the most  
3 Humble way to allow petitioners the full force of both vehicles at this time.  
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6 **RESPECTFUL REQUEST OF THIS COURT**

7 That this Court consider the evidence now presented by petitioner which clearly  
8 shows that state actors before the trial even occurred created a platform which they could get the  
9 conviction based on evidence that did not exist until November 23, 2011 eight months after the  
10 original recordings were created. There is no logical or legitimate excuse for creating two  
11 separate text transcripts on the same day from the same recording. **FURTHERMORE BOTH**  
12 **TEXTS DID NOT MATCH THE REAL TIME RECORDINGS, NOR, THE STATES**  
13 **EXHIBIT 49 COMPACT DISC, WHICH TOO DOES NOT MATCH REAL TIME**  
14 **RECORDINGS.** There is no need for inquiries why, but the constitution guarantees petitioner to  
15 due process where in this case that would include whether states exhibits were true and accurate  
16 as they presented them to the jury. (RT508)  
17  
18

19  
20 April 10, 2025

John Henry Yablonsky

21 **PROOF OF SERVICE PRISONER MAIL BOX**

22 I John Henry Yablonsky an adult party to this action declare under penalty of perjury that this  
23 Supplemental motion was filed with this court according to prisoner mail box rule on April 8, 2025  
24 According to belief and knowledge hewn this motion was mailed to Superior Court and  
District attorney @ 14455 civic center dr v.v., ca. 92392

25 April 8, 2025

John Henry Yablonsky

26  
27 \_\_\_\_\_  
[Attorney Name]