

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO

In re

JOHN HENRY YABLONSKY,

Petitioner,

on Habeas Corpus and Petition for Resentencing

(Penal Code §§ 1473(b)(1)-(3) and 1172.6)

Case No.: WHCSS1200311 Dept.: V3

Hearing Date: June 27, 2025 Time: 8:30 AM

PETITIONER JOHN HENRY YABLONSKY'S BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS AND PETITION FOR RESENTENCING

I. INTRODUCTION

Petitioner John Henry Yablonsky seeks this Court's intervention to vacate his 2012 conviction arising from a 1985 homicide, pursuant to Penal Code §§ 1172.6 and 1473(b)(1)-(3). Petitioner contends that he is entitled to relief based on legislative changes enacted through Senate Bills 1437 and 775, which fundamentally reformed felony murder liability in California, and on the grounds that his conviction was secured through the use of false, fabricated evidence by government actors. Furthermore, Petitioner's delayed filing is justified due to newly enacted statutes providing retroactive relief, as well as systemic misconduct, including suppression and destruction of exculpatory evidence, that was beyond his control and precluded earlier action.

Petitioner asserts that he is actually innocent of the crime for which he was convicted, and that no reasonable juror, considering the absence of any unaltered, credible, or corroborated incriminating evidence, would convict him today.

II. FACTUAL BACKGROUND

John Henry Yablonsky was convicted in 2012 for a homicide that occurred in 1985. He was tried under prospective laws that did not exist at the time of the alleged crime, including Penal Code §§ 190.2(a)(17) and 190.41, which permitted the prosecution to bypass 1985 evidentiary burdens. The only evidence used to convict John was a series of altered custodial statements and DNA evidence that predated the crime.

On March 9, 2009, detectives redacted and overwrote two minutes of a custodial recording from a March 8, 2009 interrogation, producing a "master copy" for transcript purposes. Using this altered master (Copy 1A), Sheriff's Deputy Alexander created two mutually inconsistent transcripts (Copies 1B and 1C) on November 23, 2010, both containing digital alterations falsely placing a key linked to the victim in John's possession.

On January 26, 2011, during trial, District Attorney Thomas removed the State's master copy and Copy 1A to his home and fabricated additional versions (Exhibits 49 and 49A, also known as Copies 1D and 1E), which further altered John's statements, redacted key exculpatory content (e.g., a reference to Miranda, the existence of a blue car, and admissions by others), and misrepresented these transcripts to the jury as original and unaltered.

After the verdict was reached on February 3, 2011, DA Thomas destroyed the trial exhibits (1E and 1B) and substituted copies 1A and 1C—versions never shown to the jury—effectively erasing the record of the actual evidence upon which the jury deliberated. Records and expert analysis now confirm these facts.

Further, 54 pieces of evidence were recovered from the crime scene. None contained John's DNA or fingerprints. Sixteen DNA profiles were found on the murder evidence; two matched Gregory, a third party who confessed to the crime but committed suicide before trial. Gregory's confession and DNA evidence were never disclosed to the jury.

The jury was shown the murder weapon but not informed that John's DNA was absent from it. Instead, prosecutors presented the altered statement evidence as unaltered, and the court instructed the jury to use that statement to determine guilt and degree of offense under a series of CALCRIM instructions designed for post-1985 legal standards.

Despite a deadlocked jury, the altered transcripts were submitted as the only incriminating evidence, ultimately resulting in a guilty verdict. These altered transcripts were the centerpiece at trial and the foundation for post-trial decisions. During collateral attack proceedings under WHCSS1200311, the DA's office submitted briefing and arguments based on the altered evidence and incorrect factual assertions, compounding the injury and denying John access to relief.

It was not until the enactment of Senate Bills 1437 (2019) and 775 (2022) that John had a legal vehicle to raise these issues under Penal Code § 1172.6. He filed his verified petition in December 2022. On January 26, 2024, the DA responded, acknowledging the verdict relied solely on altered statements and DNA predating the crime and that 16 other DNA contributors were found on the murder evidence. The DA further admitted that the January 2011 transcripts had been destroyed.

In March 2025, expert analysis confirmed that the State's key evidence was illegally obtained, entrapped, and strategically altered to remove exculpatory content and plant fabricated evidence.

Petitioner now seeks relief based on the retroactive statutory changes and due process violations stemming from prosecutorial misconduct, fabricated evidence, improper jury instructions, and actual innocence.

III. ARGUMENT

A. Violation of Due Process: Application of Prospective Law to a 1985 Offense

The retroactive application of Penal Code §§ 190.2(a)(17) and 190.41, which did not exist in 1985, to John's 2011 trial constitutes a violation of the Ex Post Facto Clauses of both the U.S. and California Constitutions. (U.S. Const., Art. I, § 10; Cal. Const., Art. I, § 9.) These provisions prohibit the State from increasing punishment or lowering the burden of proof through laws enacted after the offense. See *Collins v. Youngblood* (1990) 497 U.S. 37, 42–43; *People v. Alvarez* (2002) 27 Cal.4th 1161, 1167.

B. Violation of Miranda and Entrapment

John was interrogated outside the protections of Miranda after a warrant was issued, amounting to custodial interrogation without advisement of rights. This tactic allowed the State to evade the evidentiary standards required in 1985. This directly violates *Miranda v. Arizona* (1966) 384 U.S. 436 and *Rhode Island v. Innis* (1980) 446 U.S. 291.

C. Withholding and Redaction of Exculpatory Evidence

By withholding DNA matches to Gregory and redacting crucial details in John's statement, the prosecution violated *Brady v. Maryland* (1963) 373 U.S. 83 and *Kyles v. Whitley* (1995) 514 U.S. 419. These actions deprived John of his right to present a third-party culpability defense.

D. Misrepresentation of Altered Evidence as Original

The prosecution's repeated misrepresentation of the altered statement evidence as "original and unaltered" constitutes a *Napue* violation (*Napue v. Illinois* (1959) 360 U.S. 264). Presenting false evidence to the jury—then instructing them to rely on it—denies due process under the Fourteenth Amendment.

E. Post-Verdict Destruction and Substitution of Exhibits

The deliberate destruction of trial exhibits (49 and 49A) and their replacement with documents never reviewed by the jury constitutes obstruction and fraud upon the court. This deprived John of the ability to appeal or collaterally attack the verdict, in violation of *California v. Trombetta* (1984) 467 U.S. 479.

F. Reuse of Fabricated Evidence in Post-Trial Proceedings

The use of the same altered evidence in post-trial proceedings perpetuated a fundamental miscarriage of justice. Such conduct bars reliance on the doctrine of procedural default. See *Schlup v. Delo* (1995) 513 U.S. 298.

G. Misstatements of Fact by Prosecutor Ferguson in Post-Trial Briefings

Deliberate factual misrepresentations during post-trial briefing further violated due process by misleading the reviewing court, as prohibited under *Mooney v. Holohan* (1935) 294 U.S. 103.

H. Obstruction of Access to Discovery

Trial counsel's and post-conviction courts' failure to provide discovery obstructed John's ability to challenge the evidence and build a defense, violating *California Penal Code § 1054.1* and the due process right to access favorable material.

I. Misuse of Weapon Evidence to Mislead Jury

The State presented the murder weapon to the jury but withheld the exculpatory fact that John's DNA was not found on it. This omission allowed the jury to infer guilt based on speculation, violating *People v. Hall* (1986) 41 Cal.3d 826 and due process.

J. Joinder of PC 1473 and PC 1172.6 Claims

Joinder is legally permissible under *People v. Drayton* (2020) 47 Cal.App.5th 965, where habeas and resentencing issues overlap, particularly where claims of false evidence intersect with reformed standards under SB 1437/775. Combining the claims promotes judicial efficiency and prevents inconsistent rulings.

K. Fabrication of Probable Cause

Fabricating probable cause in the absence of corroborating evidence violates *Franks v. Delaware* (1978) 438 U.S. 154 and *People v. Cook* (1978) 22 Cal.3d 67. The government's actions rendered the warrant and subsequent evidence constitutionally invalid.

L. Continued Use of Known False Evidence

The DA's continued reliance on known falsified evidence violates due process under *Miller v. Pate* (1967) 386 U.S. 1, and constitutes fraud on the court. It also interferes with John's ability to challenge or authenticate the evidence.

M. Application of Imputed Guilt and Malice Without Contemporaneous Evidence

The use of altered statements to infer malice aforethought or guilt under 190.2 and 190.41 fails under modern felony murder jurisprudence post-SB 1437. See *People v. Gentile* (2020) 10 Cal.5th 830.

N. Insufficiency of CALCRIM Instructions Under SB 1437/775

CALCRIM 520, 521, and 730 are now legally insufficient to support a murder conviction in the absence of active participation, intent, or reckless indifference. The instructions allowed the jury to speculate improperly on elements now required by law.

O. Summary of Additional Legal Injuries

John's injuries include: (1) wrongful conviction based solely on fabricated evidence; (2) denial of meaningful appellate review; (3) lost opportunities for timely habeas relief; (4) obstruction of exonerating evidence; and (5) prejudice due to false legal theory.

Federal and state authorities that apply include: *Brady, Napue, Giglio, Schlup, Clark, Gentile, Drayton, Franks, Trombetta*, and *In re Hardy* (2007) 41 Cal.4th 977.