

Original entry and questions:

We're going to ask a series of factual and legal questions and we need your help in authoring a post trial attack on a California felony murder verdict in a 2011 trial.

Facts of the case: A homicide occurred in 1985 where there were no available witnesses to the crime. Detectives recovered 56 separate pieces of actual evidence related to the crime. 54 of those evidences were directly related to the actual murder itself and had 16 separate DNA specimens not matched to John. John's DNA was located on two pieces of evidence that were determined as being two days older than the homicide and unrelated to the actual murder. Twenty five years after the homicide, John was interrogated without proper Miranda, by twelve officers from three police agencies, in John's home, in front of his family, four days after the lead investigator authored an affidavit to arrest John for the homicide. The original recordings of the interrogation were never made available. The original complaint filed against John under PC 187, PC 1192.7 (c) on March 10, 2009. Five months after John made a plea of not-guilty, the District Attorney filed an amended complaint to now include PC 187 & PC 190.2(a)(17) without being verified by a natural person. On November 23, 2010, the District Attorney created three separate and different transcripts of the March 8, interrogation with as much as 23 pages difference from each other, and unlike real-time recordings. The transcripts edited John's custodial effort to avoid going to the police station from all copies. On two of the copies of the transcripts, they altered John's answers to place incriminating evidence in John's possession digitally and electronically. On Jan. 26, 2011 during John's trial the District Attorney took John's statement evidence home and created two more transcripts matching each other, but were unlike the Nov. 23, 2011 transcripts, also unlike the real-time recordings. On Jan. 27, 2011, the District Attorney lied to John's jury that John's extrajudicial transcripts was unaltered and original media. Throughout the trial, the jury were told, mislead and instructed more than 56 times to focus on "John's statement evidence". (RG569;16) "That you could determine who committed the crime and to what degree by John's statement evidence alone" It is important to know that John's statement evidence was never corroborated by any incriminating evidence, nor did John's statement imply that he had anything to do with this crime, or knew who had been involved in the crime. The jury found John guilty of felony murder, solely on John's statement evidence alone. On Jan. 26, 2024 the District Attorney admitted that the jury found John guilty based on John's statement evidence and John's DNA, which pre-dates the crime. On Mar. 14, 2025 during PC 1172.6 proceedings the District Attorney admitted John's statement evidence used in trial has been destroyed. On Apr. 10, 2025 an expert investigator examined John's statement evidence that John's family got from post trial lawyers in 2015, and determined John was entrapped by a non-mirandized interrogation, and the District Attorney had in fact altered John's answers when they created John's statement evidence that was used to motivate the guilty verdict.

Here are our legal questions based on these facts for post trial collateral attacks pursuant to PC 1172.6 & PC 1473(b)(1)

Question 1 - Was the statement evidence illegally captured? (exhibits a, bc, cc)

Question 2 - Was the redaction of the statement evidence presented as un-altered a violation of due-process of state and federal constitutions? (exhibits i, bc, cc)

Question 3 - Was the strategic redactions of exculpatory evidence and alterations of John's answers a violation of due-process of state and federal constitutions? (exhibits a, i, bc, cc)

Question 4 - Was the loss, destruction of John's statement evidence a violation due-process of state and federal constitutions?

Question 5 - Was the District Attorney's known use of altered evidence that he knew to be false a violation of napue error?

Question 6 - Was the jury instructions related to the altered evidence was misled to the jury as being unaltered and original media a violation of due-process of state and federal constitutions?

Question 7 - Did John's trial that occurred in 2011 for the 1985 homicide under proposition 115, deprive John of legal opportunities in violation of ex post facto principals?

Question 8 - Did amending John's criminal complaint to now include PC 190.2(a)(17) for a 1985 homicide, violate due process or any of the ex post facto principals?

Question 9 - Was exclusion of confession evidence by Gregory Randolph and the fact that his DNA was found at the crime scene was never presented to the jury a violation of due-process of state and federal constitutions?

Question 10 - In light of the facts before this court, that there is no other incriminating evidence against John, than the District Attorney's altered evidence, is it possible that the District Attorney can prove John guilty, if he was tried today under current modern law PC 1172.6 (a)(3)?

Question 11 - Are there any other legal injuries according to the facts before you?

John's court is the Superior Court of California, County of San Bernardino, Case number FVI900518, hearing date is June 27, 2025, time 0830, department V3.

Can you please help format a thorough post-trial petition pursuant to PC 1172.6 & PC 1473(b)(1-3)

Second entry and questions:

Please help John write a legal brief to defending the 1172.6 and 1473 petition to vacate the 2012 conviction of the 1985 crime. Please include legal arguments for the delay in filing based on changes in law Senate Bill 775 & 1437. Please also include John's inability to bring this action at an earlier point in time due to acts beyond John's control where government actors thwarted access due to the destruction of evidence, withheld evidence, and alterations to the evidence. Please also include the District Attorney's compounded act of fraud upon the court when they reused the false fabricated evidence, exasperating the false evidence by placing faulty information into the record during post trial challenges to overcome John's allegations of misconduct. Case Number WHCSS1200311. Please write this formal brief to meet California rules of court, statutory deadlines caused by misconduct of government actors, and John's claim of actual innocence which is supported by the District Attorney's failure to produce any incriminating evidence against John other than the manufactured evidence by the District Attorney on Jan. 26, 2011. At a time John could not have reasonably known, or been able to authenticate the altered evidence without interfering with John's right to a continuous trial, and other due process violations.

Third entry and questions:

John was tried in 2011 under prospective law that didn't enact until four years after this crime allegedly occurred, under PC 190.2 (a)(17) and PC 190.41 allowing the District Attorney to circumvent the laws of 1985. On March 9, 2009 detectives redacted and overwrote a two minute custodial recording of the March 8, 2009 interrogation creating a master copy for transcript purposes. On November 23, 2010, using the master copy, S.B Sheriff's Dept. Alexander, then created two transcripts unlike each other, each redacted differently yet both had altered answers digitally planting a key into John's possession to imply his intent to commit a crime. The master copy was 3h 40m 20s, this copy is now identified as 1A. Alexander created a 136 page text transcript unlike the master copy, or real time recording. This copy is identified as 1B. Alexander then created a 113 page text transcript unlike the master copy, or real time recording. This copy is now identified as 1C. Then during trial where no incriminating evidence or testimony was presented by Jan 26, 2011, District Attorney Thomas took the states master copy and copy 1A, home to manufacture incriminating evidence, creating two identical copies unlike any of the Nov 23, 2010 copy, also unlike the real time recording. Thomas created States Exhibit 49- Audio/Text with altered answers to incriminate, redacting Melody's conversation to hide Miranda as well as an excuse that defeats the State's Theory. Also redacting the fact John owned a blue car, so State's witness, who seen a silver car appearing to incriminate John. Also redacting John's multiple attempts to invoke Miranda to hide the illegality of the interrogation. This copy is now identified as 1D. Thomas then created States Exhibit 49A, a 113 page text transcript altered exactly like exhibit 49. This copy is now identified as 1E. The January transcripts were shown to the jury on Jan 27, 2010 during trial, then the text transcript portion was sent into the deliberations room. On Feb 3, 2011 after the guilty

verdict was achieved using the Jan 26, 2011 transcript, the District Attorney John Thomas destroyed the transcript copies 1E & 1B, then replacing them with transcript copies 1A & 1C, transcripts that the jury never seen. There are records and expert witnesses now available proving these facts. In this case there was 54 pieces of evidence found at the scene none of which had John's DNA or prints, while the District Attorney now admits there were 16 DNA's found on those evidences, and this fact was withheld from the jury. Two of those evidences were matched to Gregory who confessed to this crime, but committed suicide before he was brought to trial. Gregory's confession and the fact that his DNA was found at the scene was withheld from the jury, depriving John of a 3rd party defense. The jury was shown the murdered body where a weapon was used to kill the victim, implying that John committed this crime. The jury never heard the fact that John's DNA nor prints were not found on the weapon. This fact or these acts allowed the jury to infer that John was guilty solely based on altered statement evidence. In this case the jury were instructed by the prosecutor and the court that the altered statement was unaltered and original media. The court instructed the jury to use the statement evidence to determine who committed the crime and to what degree. Issuing Calcrim instructions 355, 358, 359, 362, 370, 520, 521, 540A, 700, 704, & 730. These instructions contradict felony murder laws for crimes committed in 1985. This record explicitly proves the District Attorney admitting to redactions of the States centerpiece evidence, then lying to the jury that it was unredacted and was original media. John's deadlocked jury were forced into deliberating with the State's altered evidence as the only incriminating evidence until the reached a guilty verdict. Because the transcripts were altered, John was deprived of a fair direct appeal and deprived a fair post-trial challenges. Under collateral attack at the Superior Court, Case number WHCSS1200311, Deputy District Attorney Ferguson implanted false information into the record that contradicts crime scene evidence and States expert testimony. Between 2012 and 2022 every post-trial reviewing court based their decisions on the false statement evidence, and misleading statements by District Attorney Ferguson. The reuse of the false evidence and mis-statements of fact compounded the injury depriving access to relief. In 2019 and 2022 Senate Bills 1437 & 775 made it possible for John to file verified petition under Penal Code 1172.6. John filed that petition in December 2022. On Jan 26, 2024, the District Attorney filed a 10 page response along with 2800 pages of the trial record, alleging that John was ineligible for resentencing. The District Attorney's brief admits the verdict in this case solely rested on the altered statement evidence and John's DNA, which predates this crime. The District Attorney also admits there were 16 other suspects who left their DNA on the murder evidence. The District Attorney argues that John's jury were legally instructed under Calcrim 520, 521, & 730. Citing Verdugo, 44 Cal.App.5 @327, Lewis 43 Cal.App.5 @113, Lopez 78 Cal.App.5 @13, Gentile Cal.5 @842, and Offley 48 Cal.App.5 @598. Allegedly this argument implies the 1985 crime tried in 2011 was legally competent and that the 2011 verdict is still legally sound under modern law. During briefings on Mar 14, 2025, the District Attorney now admits that the Jan 6, 2011 transcripts were destroyed. This forced John to hire experts who have now scientifically proven that States key centerpiece evidence was in fact illegally seized, information was entrapped, then they

altered the evidence in a strategic way to hide exculpatory evidence and to plant a key on John digitally, belonging to the victims house, to incriminate John.

Here are a few arguments we need help with:

- 1) How due process was violated based on these facts that the 1985 crime was tried under Penal Code 190.2(a)(17) and Penal Code 190.41 and how this error produced an illegally obtained verdict?
- 2) How due process was violated when John was entrapped after warrants issued, interrogated outside of Miranda to escape 1985 burdens of proof?
- 3) How due process was violated when exculpatory evidence was withheld or redacted from Statement evidence depriving John of defenses against the States Theory?
- 4) How due process was violated when the prosecutor and the court misled the jury into believing the altered Statement evidence was unaltered and original media and how this legally invalidated the jury's instructions?
- 5) How due process was violated when the actual trial evidence exhibit 49 & 49A were switched out after the verdict to hide the frauds as well as prevent access to post-trial relief, or John's now current ability to authenticate State's key evidence?
- 6) How due process was compounded by the re-use of State's altered evidence to deny post-trial relief based on the contents of State's exhibit 49A?
- 7) How due process was violated when post-trial briefing by District Attorney Ferguson, who deliberately misstated facts of evidence to defeat misconduct allegations to deprive John access to relief?
- 8) How due process was violated when trial counsel, post-trial courts and government actors refused access to full discovery to develop these facts at an earlier time?
- 9) How due process was violated when the District Attorney showed the jury the murder weapons but withheld the fact that John's DNA was NOT found on it, and somebody else's was, allowed the jury to speculate that John used the weapon?
- 10) Please provide me current and compelling legal authority that will legally permit John to joinder Penal Code 1473(b)(a) with Penal Code 1172.6 proceedings where false evidence is now being reused to deprive access to relief, so both legal arguments can be simultaneously decided?
- 11) How due process was violated when the District Attorney knowingly fabricated probable cause evidence to incriminate, in the face of the fact there was no other incriminating evidence for the jury to consider John as the actual killer?

12) How due process is now violated by the District Attorney's resubmitting the false evidence to deny John relief, refusing to correct the original use of the false evidence in the face of the fact they now admit they destroyed the evidence to deprive John access to authenticate?

13) How due process was violated when this case was tried retrospectively under Penal Code 190.2(a)(17), Penal Code 190.41 for the 1985 case which allowed the prosecutor to proceed under theory with the sole use of an illegally seized, illegally altered statement that was presented to the jury as unaltered. This allowed the jury to speculate the DNA, which predates this case, to be connected to this crime under the theory of natural and probable consequences forcing the jury to speculate that just because petitioner lied about an unrelated event, that John was the actual killer?

14) How, now under the circumstances and the gravity of these facts now before the court, if taken as true, which are directly related to the trial and appellate record, how legal conclusions under Calcrim 520, 521, and 730 are legally insufficient under modern law established by Senate Bills 1437 & 775 for a crime committed within the Carlos-Anderson window?

15) How due process was violated with a retrospective applications of 190.2(a)(17), 190.41 which allowed the prosecutors to proceed with an uncorroborated extrajudicial statement to infer guilt of a felony or the murder when there was no contemporaneous temporal connections to the crime for the jury to speculate John was guilty with imputed malice aforethought, reckless indifference to human life simply based on the content of the altered statement?

Can you please indicate any other legal injuries that John has sustained or injuries that John has suffered as a result of these facts that are relevant to this issue? Please include details of any State and Federal Authority that may apply?