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In Propria Persona

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JOHN HENRY YABLONSKY,

PETITIONER

VS.

PEOPLE OF THE STATE OF CALIFORNIA

RESPONDENT

Case No.: FVI900518 - PC1172.6

**NOTICE OF MOTION AND MOTION TO
RECONSIDER AND VACATE**

EMERGENCY FILING

Date: 1/12/2026

Dept: M2

Time: 0830

The Honorable Judge James Taylor

Petitioner **John Henry Yablonsky** respectfully moves this Court for an order:

1. **Reconsidering** the Court's January 9, 2026 denial of Petitioner's post-conviction petitions;
2. **Vacating or striking** the Court's reliance on verdict-based presumptions and CALCRIM Nos. 521 and 540a; and
3. **Requiring adjudication of all pending motions and evidentiary submissions** challenging the integrity of the evidence underlying the conviction **before** further reliance on the verdict or jury instructions. **THE PEOPLES EXHIBIT 49 & 49A ARE FRUITS OF FRAUDULANT MISCONDUCT NAPUE-ALCORTA-TROMBETTA-BRADY**

This motion is based on the Court's inherent authority, due-process principles, Penal Code section 1473, governing case law, the Court's continuing jurisdiction over unresolved motions, and the record and exhibits on file.

I. INTRODUCTION

On **January 9, 2026**, this Court began denying Petitioner’s post-conviction petitions **without ruling on any of Petitioner’s pending motions, without considering newly presented evidence, and without analyzing the trial record, basing denial solely on CALCRIM Nos. 521 and 540A.**

Those instructions **presume a valid, untainted verdict.** However, at the time of denial, the Court had before it **pending motions and evidence establishing that the only incriminating evidence used at trial—Petitioner’s alleged extrajudicial statement—was scientifically proven to be false, altered, and manufactured.**

A court may not deny post-conviction relief while **assuming the validity of evidence that has not yet been adjudicated as authentic.** Doing so violates due process and renders the denial **structurally defective.**

II. GOVERNING LEGAL STANDARD

The California Supreme Court recently reaffirmed the governing rule in *People v. Patton*, 17 Cal.5th 568 (2025):

“Petitioner confronting a record of conviction that demonstrates relief is unavailable have the burden of coming forward with non-conclusory allegations that would necessarily inform the court and prosecutor what issues an evidentiary hearing would entail. The court countering the factual dispute may not resolve the issue at the prima facie stage.”

(*Id.* at p. 568, emphasis added.)

Here, Petitioner **did exactly what *Patton* requires**—and more.

Petitioner did not rely on conclusory allegations. He presented **physical, scientific, expert-verified evidence** establishing that the “original” statement evidence relied upon at trial was **fabricated decades after the crime and years before trial, and could not have been discovered earlier due to technological limitations.**

Yet the Court **resolved the dispute anyway**, at the prima facie stage, **without ruling on the motions or evidence**, and **without an evidentiary hearing**, in direct contravention of *Patton*.

III. NEWLY DISCOVERED SCIENTIFIC EVIDENCE

(Non-Conclusive, Physical, and Previously Undetectable)

The record before the Court includes **newly discovered scientific evidence** demonstrating:

1. The prosecution’s purported “original” audio statement was **manufactured approximately two years before trial, and approximately twenty-five (25) years after the 1985 homicide;**
2. Advanced forensic audio analysis using **iZotope RX6—technology not available at the time of trial or earlier post-conviction proceedings—**identified:
 - **More than 318 discrete cuts and splices** within the audio file;
 - Systematic manipulation inconsistent with analog-to-digital transfer artifacts;
3. Audio experts further determined that the **verbal slate was deliberately turned off and on to conceal the true recording date**, thereby disguising the fabrication as a contemporaneous interrogation recording.

This is **physical scientific evidence**, not argument.

It directly contradicts the prosecution’s trial theory and **undermines the sole incriminating evidence used to obtain the conviction.**

IV. THE COURT COULD NOT RELY ON CALCRIM 521 AND 540A

WITHOUT FIRST RESOLVING THE EVIDENTIARY DISPUTE

CALCRIM Nos. 521 and 540A do not operate in a factual vacuum. They are **derivative legal instructions** that assume:

- A valid evidentiary foundation;
- Authentic, truthful inculpatory evidence;
- A verdict untainted by fabrication or falsification.

Where the **only evidence supporting the verdict is alleged—supported by expert proof—to be false**, reliance on those instructions **begs the very factual question in dispute.**

Under *Patton*, the Court was required to:

1. Accept the non-conclusory allegations as true at the prima facie stage;
2. Refrain from resolving the factual dispute; and
3. Proceed to adjudication of the evidentiary challenge before denying relief.

The Court did none of these.

V. THE JANUARY 9, 2026 DENIAL IS VOIDABLE

BECAUSE IT RESTS ON UNADJUDICATED, DISPUTED EVIDENCE

The denial is constitutionally defective because:

- Pending motions challenging evidentiary integrity were ignored;
- Scientific evidence establishing fabrication was not considered;
- The Court resolved factual disputes at the prima facie stage;
- The denial relied on verdict-based presumptions that **collapse if the evidence is false**.

A ruling rendered under these circumstances **cannot stand**.

VI. RELIEF REQUESTED

Petitioner respectfully requests that the Court:

1. **Reconsider and vacate** the January 9, 2026 denial **to the extent it relies on CALCRIM Nos. 521 and 540A**;
2. **Strike or vacate reliance on verdict-based presumptions** pending adjudication of evidentiary integrity;
3. **Rule on all pending motions and evidentiary submissions** challenging false evidence;
4. **Order further proceedings consistent with *People v. Patton***, including evidentiary development as required; and
5. Grant any other relief the Court deems just and proper.

VII. REASONS THIS MOTION SHOULD BE GRANTED

a. The *Anaya* case does *not* overrule *People v. Patton*.

Different Courts & Authority

- **People v. Patton, 17 Cal.5th 549 (2025)** is a **California Supreme Court decision** interpreting **Penal Code § 1172.6** and how courts should assess prima facie eligibility for resentencing based on the record of conviction. The Supreme Court's rulings *are binding on all lower California courts.* ([Justia](#))
- **People v. Anaya** (the case you cited at 225 Cal. App. Lexis 871) is a **Court of Appeal opinion**. An appellate decision **cannot overrule a Supreme Court precedent** — it must follow it unless the Supreme Court itself has subsequently changed the law. Appellate opinions can *distinguish* Supreme Court precedent, but they do not *overrule* it.

What *Patton* Actually Says

In *Patton*, the California Supreme Court held that:

- At the § 1172.6 prima facie stage, a court may consider unrefuted evidence from the record of conviction — including preliminary hearing testimony — to determine that a petitioner is *ineligible* for relief because the person was the actual perpetrator or otherwise not entitled to resentencing. ([Justia](#))

This establishes that **reliance on uncontested record evidence can defeat a prima facie showing of eligibility** for § 1172.6 relief.

What *Anaya* Did

- The appellate court upheld the denial of a § 1172.6 resentencing petition at the prima facie stage because the record showed the defendant was convicted as a *direct perpetrator* with intent — not based on vicarious liability. ([Justia](#))
- This is **entirely consistent with *Patton*** — both cases treat clear record evidence showing direct perpetration/intent as grounds to deny relief early.
- **THE PEOPLE'S RECORD IS CRYSTAL ON THIS POINT. THERE ARE AT LEAST 17 OTHER DNA SUSPECTS TO THIS CASE THAT DO NOT MATCH PETITIONER, AND ONE OF THOSE DNA'S WAS FOUND ON THE MURDER WEAPON. A MURDER WEAPON THAT DOES NOT HAVE PETITIONER'S DNA ON IT! THE RECORD IS ALSO CRYSTAL THAT THE ONLY DNA FOUND AT THIS CRIME SCENE IN AN**

UNRELATED MANNER PREDATES THE CRIME BY MULTIPLE DAYS! (RT317-CRIMINALIST DONALD JONES-“SEVERAL DAYS OLDER”) (RT491-PATHOLOGIST WILLIAM SAUKEL-“AT LEAST ONE AND A HALF DAYS OLDER”)

- **THE APPELAT RECORD CONSIDERING THE TRIAL RECORD WAS VERY CLEAR IN THEIR REVIEW OF THE TRIAL EVIDENCE.**
- **THE APPELAT RECORD ON PAGE 17 GIVES TREE VERY PROFOUND FINDINGS REGARDING THE PETITIONER’S DNA AND THE ACTUAL MURDER EVIDENCE:**
 - **FIRST BEING THAT THE EVIDENCE DOES SUGGEST A SEPARATE SUSPECT BESIDES THE PETITIONER AS THE ACTUAL KILLER!**
 - **SECOND BEING, AFTER REVIEWING THE ENTIRE RECORD THE COURT OF APPEAL CONCLUDED THAT RITA MAY HAVE BEEN WAYLAYED IN THE PARKING LOT OF THE ZODIAC LOUNGE.**
 - **THIRD BEING, THE COURT OF APPEAL RECOGNIZES THAT GREGORY RANDOLPH HAD CONFESSED TO THE CRIME, AND HIS CONFESSION LED TO SPECIAL INVESTIGATIONS, PLACING REASONABLE DOUBT INTO THE SENATE BILL 1437 AND 775 HOLDINGS.**

The fact that the People charged the petitioner in this case was consistently contingent on the People’s fabrication of the evidence where the prosecutor fabricated evidence placing keys in the petitioner’s possession to incriminate him. This is also consistent with the fact that the only reason Gregory Randolph was never tried for this case is because he committed suicide before forensic evidence corroborated his confession.

Gregory Randolph’s DNA was in fact located at Rita Cobb’s crime scene, contradicting the People’s now argument that John Henry Yablonsky is/was the only suspect. The only evidence connecting the petitioner to this crime in an incriminating way is the People’s fabricated extrajudicial statement.

The People’s sole argument in their reply, on page 3, lines 5-8, is that the only evidence the jury relied on to find the petitioner guilty is the petitioner’s DNA, which predates the crime, and the defendant’s extrajudicial statement.

This is the primary reason the forensics report for the People’s exhibit 49 is material to the issue of guilt. During the January 9, 2026, hearing the District Attorney openly admitted that the defendant’s extrajudicial statement evidence, used during trial, has

been destroyed. This now calls into question why would the District Attorney put evidence that the jury has never seen into these prima facie proceedings.

Petitioner's Private Investigator Naum Ware has physically proven that the People's exhibit 49A was illegally altered when the prosecutor planted evidence onto the petitioner by changing the petitioner's answers!

During post-trial litigations in case # WHCSS1200311, District Attorney Ferguson confirms that the trial statement evidence used in this case also showed petitioner allegedly having keys to Rita's house.

This is precisely why the integrity of the original recording, as well as any subsequent copies, must be called into question.

VERIFICATION

I John Henry Yablonsky, an adult party to the action declare under penalty of perjury the foregoing are true and accurate according to belief and knowledge.

January 11, 2026

John Henry Yablonsky

Proof of service

I George Vincent Yablonsky, an adult non-party to this actual declare under penalty of perjury that I have personally served the motion to vacate to the below stated parties on January 12, 2026.

- Superior Court of California, 6527 White Feather Road, Joshua Tree, California 92252
- District Attorney of San Bernardino, 6527 White Feather Road, Joshua Tree, California 92252

George Vincent Yablonsky