No. 19-7318

ORIGINAL

Supreme Court, U.S.
FILED
JAN 06 2020
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN HENRY YABLONSKY — PETITIONER
(Your Name)

vs.

STATE OF CALIFORNIA
SUPERIOR COURT(San Bernardino) — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF CALIFORNIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOHN HENRY YABLONSKY
(Your Name)

480 ALTA RD
(Address)

San Diego, ca, 92179
(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED TO THE COURT

1. HOW CAN THE SUPREME COURT OF THE UNITED STATES UPHOLD CONSTITUTIONAL LAWS IF THE COURT ALLOWS STATE TERRITORIES TO PLUNDER THE CORNERSTONES OF THOSE LAWS WITH ROGUISH MOTIVES, WHO ALLOW PROSECUTORS TO MANIPULATE FACTS UNTIL THEY ARE HISTORICALLY INNACURATE.

2. IS IT THE UNITED STATES SUPREME COURTS INTENTION AND IN THE BEST INTERESTS OF THE UNITED STATES TO ALLOW PROSECUTORS TO MANIPULATE/ MANUFACTURE EVIDENCE UNTIL THEY ARE HISTORICALLY INNACURATE IN ORDER TO COERSE VERDICTS THAT ARE UNRELIABLE WHEN THE TOTATLITY OF ALL OTHER EVIDENCE RELATED TO THE CASE WHICH ARE INCULPATING, IS LESS THAN CIRCUMSTANCIAL

3. IF THE STATE PROSECUTORS ENTIRE CASE CENTERED ON AN INTERROGATION RECORDING THAT WAS ILLEGALLY HELD, WOULDN"T THE PROSECUTOR' ALTERING REAL TIME RESPONSES INTO HISTORICALLY INNACURATE ANSWERS VIOLATE DUE PROCESS CLAUSES WHICH ARE PROTECTED BY FEDERAL LAW UNDER THE XIV AMENDMENT UNITED STATE CONSTITUTION NAPUE V ILLIONOIS 360 U.S. 264

4. IS IT IN THE BEST INTEREST OF THE UNITED STATES TO ALLOW TRIAL COUNSEL TO ESCAPE FIDUCIARY DUTIES TO FULLY INVESTIGATE MATERIAL EVIDENCES WHICH ARE TANGIBLE AUDIO RECORDINGS AS WELL AS SCIENTIFIC DNA EVIDENCES BEFORE THEY MAKE CRITICAL STRATEGIC DECISIONS WHICH FORFIET DEFENDANTS RIGHTS TO PLACE PROSECUTORS CASES TO EFFECTIVE AND MEANINGFUL ADVERSARIAL CHALLENGES UNITED STATES V CRONIC 466 U, S 648

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

DEPUTY DISTRICT ATTORNEY JOHN THOMAS (SAN BERNARDINO)
DEPUTY PUBLIC DEFENDER DAVID SANDERS (SAN BERNARDION)
(EX) COUNTY DISTRICT ATTORNEY MICHAEL RAMOS (SAN BERNARDINO)
SAN BERNARDION COUNTY SHERIFF ROBERT ALEXANDER
SAN BERNARDION COUNTY SHERIFF GREG MYLER
THE HONORABLE JUDGE JOHN TOMBERLIN
THE HONORABLE JUDGE GREGORY S. TAVILL
THE SUPREIOR COURT OF CALIFORNIA (COUNTY OF SAN BERNARDINO)

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CONSTITUTIONAL AND STATUTORY PROVISIONS

UNITED STATES CONSTITUTION XIV AMENDMENT § 1

> All persons born or naturalized inthe united states and subject to the jurisdiction therefore, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any l;aws which shall abriugde the privilege or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property wiothout due process of law or deprive to any person woithin its jurisdiction the equla protectiions of the laws

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[XX] For cases from **state courts**:

The date on which the highest state court decided my case was 11/15/2019. A copy of that decision appears at Appendix D.

[X] A timely petition for rehearing was thereafter denied on the following date: 11-9-2019, and a copy of the order denying rehearing appears at Appendix C.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

SWORN DECLARATION MADE
UNDER PENALTY OF PERJURY BY
JOHN HENRY YABLONSKY, AN INNOCENT MAN

I John Henry Yablonsky an adult of the age of consent swear under the penalty of perjury to the following, according to belief and knowledge that;

1) I did not kill Rita Mabel Cobb
2) That I did not know who killed Rita Mabel Cobb nor do I know who killed Rita Mabel Cobb
3) That my sexual relationship with Rita Mabel Cobb was consentual and non violent,
4) That I knew Rita Mabel Cobb because myself and wife were her tenants prior to her death, renting her studio apartment behind her house
5) That I have not, nor have learned who was the actual killer of Rita Mabel Cobb
6) That I have personally helped Rita Mabel Cobb when she was accausted at her home by Frank Leftwhich, taking him off her property because he was harrassing her
7) That I lied to the detectives about my sexual relationship with Rita Mable Cobb because the sexual relationship was private, had nothing to do with her murder, and I was being questioned about a murdered woman whom I had been sexually involved in front of my wife,mother-in law and children. When i was transfered to the police station I did not change my statement for fear of being accused of lying.
8) That I told my attorney I was inncoent before he announced trial readiness, that I was told by my attorney David Sanders he was going to investigate all DNA for this case, that I told my attorney the transcripts were innaccurate before they used them for trial and was told that if this case went to tria that verbatim transcripts would be used, that the 3oo pages of discovery given to me on June 2009 was all the dicvoery to the case outside my DNA paperwork.

9) That all the DNA examinations were done before I agreed to allow my attorney to place this case onto the court clanedar for trial to begin on April 2, 2010 to begin on or about June 2010, was what I was told by my attorney

10) That I did not give my attorney permission to alter the interrogation recording or transcripts that were created on March 8, 2009, or at any time with regards to statements made by me to the detectives of this case.

11) That I was made to beg for discovery from my trial counsel prior to trial, after my trial had begun, after my trial occured.

12) That I am visually impaired which affects my ability to read for periods of time more than one hour, causing headaches, eye irritations, blurred vision and discomfort.

13) That I am factually innocent of this case, that I ha had nothing to do with the planning of, , preparing for, actual invlvement with the murder of Rita Mabel Cobb who was killed by someone other than myself. I do not know who did this outside the information I learned fromthe states records which were piece= mealed to myself by trial counsel over a period of seven years until January 2016, EIGHTY months after my first demand to see the states entire file.

The above stated facts are true and accurate knowledge of myself John Henry Yablonsky, and if asked, will state the same under the penalty of perjury in any Court of reasonable law within this entire Country. That everything I stated within my applicatiuons for relief is the truth and according to knowledge I have learned over the last eleven years, as a convicted innocent man!

January 6, 2020 John Henry Yablonsky

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[XX] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix B to the petition and is

[X] reported at WHCJS-1800338 (10-9-18); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the CALIFORNIA SUPREME COURT (11-15-19) court appears at Appendix D to the petition and is

[ ] reported at S256961; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

STATEMENT OF THE CASE

As a result of a murder upon Rita Mable Cobb which occured on September 20, 1985, the state of California filed charges upon petitioner John Henry Yablonsky on March 8, 2009, twenty five years after a murder occured, because DNA located inside the victim was matched to petition through CODIS. On March 11, 2009 petitioner John Henry Yablonsky entered a plea of not guilty. As a result of amended information filed by DDA John Thomas which included the charges of P.C. § 187 murder in the first degree. John Henry Yablonsky (petitioner) was found guilty by way of unreliable facts, evidneces on January 2011 , convicting petitioner of first degree murder and sentenced petitioner to Life Without Parole. Petitioner filed timely appeal which was denied on or about March 2014. Petitioner filed petition for review which had been denied based on the facts before the trial court at that time. Petitioner filed timely habeas petitions previous to the direct appeal charging state proscutor and trial counsel with several acts of misconduct which included failure to investigate, altering evidnece. Petitioner was forced into litigations with San Bernardion prosecutors appellate division DDA Ferguson who mistated facts of the evidnece and case which at that time petitioner was not able to dispute because of the withholding of discovery by trial counsel. When full disclosure was permitted on January 2016, petitioners habeas corpus efforts had excluded facts related to the case which disprove the a) prosecutors theory b) the prosecutors evidences, which

ultimately denied relief regarding issues [now] before this court stating that petitioner did not have enough proof to support his allegations made within the habeas corpus avenues.

DELAY IN FILING THIS
SECOND SUCCESSIVE PETITION
BY ACTIONS OUT OF PETITIONERS CONTROL
SUPPORTING DOCUMENTS WERE
FILED WITHIN PETITIONERS HABEAS WRIT
(SEE EXHIBITS FILED WITHIN)

1) As soon as petitioner was arrested and appointed counsel, petitioner requested full disclosure.Trial counsel release 300 of the 5400 pages on June 2009 (EXHIBITS 1, 2, 3, 4)

2) On March 2011 after the trial occured counsel released another 1300 pages different than the first 300 pages, still witholding 3800 pages (EXHIBITS 4)

3) Petitioner filed motions pursuant to P.C. § 1054.9 with state bar, trial counsel which instigated another release by trial counsel on July 2014 of 1600 more, and still different pages than the two previous releases, still witholding 1800 pages. (EXHIBITS 5, 6, 8, 9, 10)

4) Petitioner provided post trial counsel with state bar complaint regarding discovery rellated to the case which instigate the release by Hal Smith of 5400 pages along with a compact disc of a copy of the illegal 3 3/4 hour interrogation, supporting the allegations of fraud in this action. These discoveries were released to petitioner on January 2016, while petitioner was recovering from a stroke which left him permamnently visually diabled. (EXHIBITS 8, 11)

5) Petitioner remained within medical units of the department of corrections between October 8, 2015 and June 2016. This housing was related to medical complications as a result of the stroke which left petitioner mobility constrained, visually impaired permanently. These restrictions hindered petitioners ability to validate, research and compare the volumnous 5400 pages of discovery released on January 2016. This restriction also hindered petitioners ability to access law library research engines.

6) Petitioner was ultimately transfered as a "HIGH RISK" medically restricted inmate to R.J.Donovan where he currently is detained.

7)These painstaking restrictions upon plaintiff were beyond petitioners control hindering the results with a) Library access b) double vision c)access to petitioners files without interruptions

8) Petitioner sought through collateral attacks and other fact developing features through the Court which had not been decided completely until October 2019.Petitioners United States Supreme Court CERTIORARI was not decided by this Court until June 2017, case# 16-8771(THIS IS A PUBLISHED RULING) Petitioners malpractice suit in state Court was not decided by the Court of appeals until where parties admitted to allegations of breech of fiduciary duty as well as altering evidneces. Case #CIVDS 1506664.

9) Petitioner filed second successive petition for writ of habeas corpus under "FACTUAL INNOCENCE" P.C. §1473, senate bills 1134, [illegible], and 261 regarding newly discovered evidence, prosecutor misconduct, juvenile offender laws relating to this conviction petitioner challenges. (SEE APPENDIX B) Filed October 24, 2018

10) Petitioner is an inmate housed on a correctional facility which practices mandatory minimal access to the law library which affords inmates the minimal access pursuant to title 15 CCR § 3123, that inmates with active cases will be allowed a maximum time limit of four hours per week if they have court initiated deadlines. If they do not have deadlines then the inmate will be afforded two hours of access per week. These access are not defininate and are dependent on regular uninterrupted program. Petitioner was made to appeal the lack of compliance to this regulation, which instigated a host of retalliatory acts that included absolute lockouts from the library, to the taking of petitioners legal files, forcing other appeals to regaing access to his files. These appeals are actively being disputed in the Southern District Court. (3:18-cv-01122-CAB-AGS) These interferences began in October 2016 and are consistant until today January 2020.

11) As a result of petitionmers medical condition, housing restrictions, petitioners ordinary course of collaeraly attacking his wrongful conviction, he has been forced into missing established deadlines, momentum of research and file practices, and psychological harrassments by correctional staff in order to chill his legal pursuits.

STATEMENT OF THE FACTS BEFORE THIS COURT TODAY

As a result of petitioners efforts to correct the injustice from which petitioner suffers at the gross misconducts by state parties who colluded to reach a conviction at [any] cost when they manipulate facts, coersed witnesses and blatantly lied

to the Court and panel of jurist regarding material and relevant facts surrounding petitioners innocence to "GET THE CONVICTION". Petitioner was made to creatively develop these facts post trial where he experienced fiduciary breeches by trial counsel who hid discovery, lied about the discovery in his case in order to allow the prosecutor to reach a conviction was anything but reliable.

Petitioner was convicted by less than circumstancial evidence which most were coersed mistatements, or blatant false and manufactured evidences as discussed in the petition for writ of habeas corpus. (APPENDIX B) The facts outlined within this petition were accurate and were supported by exhibits collected from state litigation efforts by petitioner over a course of five years. Petitioner filed post trial developing statutes to gain access to the true DNA results from relevant and material evidences located at the scene regarding;

1) The murder weapon which had DNA on it that did not match petitioner. Petitioners DNA was and is not on that evidence.

2) The watchband pin located underneath the victims head which state experts determined was placed there when the victim tore it from her assailants wrist. This has DNA on it that does not match petitit-ioner. Petitioners DNA was and is not on this evi-dence.

3) The red hair with the entire roots attached that was located on the victims dead body on a bed that had material evidence. This red hair with the root has DNA capabilities and that DNA will not match petitioner. Petitioner is blonde. Petitioners DNA was not and is not on this evidnece.

4) The blood smears on the victims bedroom door jamb which had been smeared by an ungloved hand which will have DNA capabilities. The DNA in this blood will not match petitioner. Petitioners DNA was not and is not in this evidnece.

5) The cigarette butts located in the dining room ashtray common area of the house which had eight butts total. The victim was a heavy smoker. These butts were located and typed by scientific evidence to match Gregory Randolph, a man who confessed to the crime and stated he had not been to the victims home at least two weeks prior to her murder. These cigarette butts will have DNA on them that does not match petitioner. Petitioners DNA was not and is not on these pieces of evidnece.

6) The cup located in the kitchen with a fingerprint located on it that was matched to Joseph Saunders. This fingerprint will have DNA on it that does not match petitioner and may match other DNA's located at the crime scene.

7) There was a desk cloth located underneath the victims bed spread that had petitioners DNA on it, this DNA was not available for examination before trial because state parties destroyed this evidnece. It is petitioners contention that the last time he was with Rita Cobb sexually he was also with another woman at the exact same sexual encounter. (THREESOME). This eidence that is still available (a 3" X 5") piece cut off a thirty by twnety inch desk cover. Proper examinations of this evidnece will prove that there was in fact another woman at that same encounter with petitioner and Rita. Petitioner does not know the other persons mame

The motion for this DNA examination was filed with Superior Court of California as a motion, not habeas . The Court filed an order to show cause and appointed counsel. The attorney never spoke to petitioner and based his motion from the states records "alone" determining petitioner had not met one of the prongs to this examination.

"THAT DEFENDANT HAS NOT SHOWN HOW THIS OTHER DNA WOULD AFFECT THE RESULTS OF THE CONVICTION"

This conclusion was more than erroneous and an absolute replica of the trial which convicted petitioner for a murder he did not committ. Petitioner filed formal objections to this counsels papers which went unheard by the Court. The motion was denied. Petitioner conviction rested on the prosecutors theory which was accepted by the trial court.

(RT 32:12-22)

"The peoples position is that Mr Yablonsky's interview he was given at least four opportunities to say he had sex with the victim, and the detectives were very clear, we dont care if you had sex with the victim. If you had sex with the victim, we need to know and he repeatedly denied having sex."

" FROM THE DENIAL OF SEX THE JURY COULD INFER THAT THE SEX HE HAD WAS UNCONSENTUAL, "IT IS PROPINCITY"

That is exactly how the prosecutor presented his case, using witnesses who prior to trial statements later coersed into different testimonies about material facts. The main issue here is that the prosecutor altered the interrogation recording he presented tothe jurists , altering it himself by changing petitioners answers from saying he did not have a key to the victims house

to saying that he did. This was done on November 23, 2010 prior to the trial occuring. This afforded trial counsel a chance to authenticate this eviodnece which was not doen, even after petitioner told him the transcript was incorrect. Then on January 2011 while the trial was in session he took this text alteration along with the compact disc copy of the interrogation recording home to create yet a third copy of these alterings so that he could "amake it sound good".(EXHIBIT 41) (RT 402-403)(RT454-456) (appendix B PP 38-42)(exhib it 40, 410, 42, 43)

In this case petitioner presented this issue to the initial habeas court Superior Court of California which was heard by The Honorable Kyle Brodie. Petitioner moved the Court, the Court of appeal and State Supreme for trial record as well as discovery to dispute the allegations made by DDA Ferguson who stated ,

"COLLUSARY ALLEGATIONS WITHOUT MORE IS INSUFFICIENT"

The compact disc that was finally released on January 2016 validatyes this allegation, that the interrogation transcript was altered.(See exhibit 65) This maliable disc had been rpeserved, validated as rel;ating to the transcript created on November 23, 2010, and proves that answers had been changed deliberately and maliciously. The entire round of collateral attacks focused on this false evidnece in their reasoning along with petitioners DNA being at the scene. Even the District Court for case EDCV-14-01877-PA-DTB. (THIS IS A PUBLISHED OPINION) None of the parties took the experts statements for their values, ignoring common sense and contradicted historical facts of the case. That petitioners DNA was not a factor in this crime to "any" degree.

Criminalist Donald Jones who had been a career type criminalist with a cache of expertise stated to the Court.(RT317) "THAT THE DNA LOCATED IN SIDE THE VICTIM MATCHED TO YABLONSKY WAS THE RESULT OF A SEXUAL ENCOUNTER THAT OCCURED SEVERAL DAYS BEFORE RITA COBB HAD BEEN KILLED."" Adding that "HE WAS CERTAIN OF THIS FINDING". The pathologist Dr. Saukel for this case offered very similar testimony stating for the Court. (RT490) "THAT IN HIS OPINION THE DNA MATCHING YABLONSKY WAS THE RESULT OF A SEXUAL ENCOUNTER THAT OCCERED AS MANY AS ONE AND A HALF DAYS BEFORE RITA COBB HAD BEEN KILLED."

Neityher of these expetrts were contradicted by an expert, and the only contradiction to this evidence was created by a member of the prosecuting team . DDA Ferguson who stated during briefing at the Superior Court level "THAT YABLONSKY"S DNA WAS LOCATED UNDERNEATH THE VICTIM" This information was false and not supported by any historical evidnece, real time expert statements and was a conclusion she came to on her own as a litigating party defending allegations of misconduct on her co-workers, and outside the trial record. Petitioner filed objections to this, but that "BELL HAD ALREADY BEEN RUNG, ECHOING THROUGHOUT THE ENTIRE COURT SYSTEM".

Because petitioner was forced into creative litigations using the civil discovery act to develop facts relating to the misconducts by state parties DDA John Thomas, DPD david Sanders, S.B.S.D Robert Alexander, S.B.S.D. Greg Myler, DPD Geoffery Canty, petituiomer filed a billion dollar suit for malpractice, negligence, false light, fraud. These parties did not deny the alleahgations

thereby admitting them. Relying on the settlement of the conviction, and rested on the "HECK THEORY" that redress was impossible until, the case had been recalled, or exoneration was met.

Because of the harrassments by state parties, department of corrections full and fair hearings were denied because of lack of access to resources to research meaningful legal writings which would have supported petitioners historical theory,"THAT THE STATE PROSECUTOR, STATE PUBLIC DEFENDER convicted petitioner by false evidnece..

Petitioner filed a second successive petion for writ of habes corpus as soon as he was fully prepared basdd on his current medical complications and restrictions from law libary where he could research authority by which relief could be granted. The state of Cal;ifornia did not enact the Senate Bills 1134, newly discovered evidence, 1909, prosecutor using false evidnece until 2017 when petitioner was waiting for the United States Supreme Court to rule. (discussed above) Petitioner filed the writ at his earliest convenience with the Superior Court,judge Tavill ruled this petition as untimely, while still ringing that DNA bell which DDA Ferguson placed into the record by mistating facts . (see APPENDIX B) Petitioner charged the prosecutor with subornation of perjury, perjury, manufacturing evidnece, and misconduct of witholding evidnece. Charging trial counsel for acts of incompetance for failing to investigate the evidences discussed above as well as other acts that included collusion of fraud and witholding evidences from his client who was made to beg for them for several years..

The Superior Court violated due process rights afforded by the XIV amendment when the Court stated;

(APPENDIX B)

1) This case was setteled based on the facts before the Court of appeal.(2013 -WL6271920) These allegations nor the evidnece within this appliaction were ever before the Court of appeal. Adding facts related to the case,

a) That Rita Cobb was killed by wire hanger
b) The evidnece was still available
c) Petitioners DNA was matched to the crime scene
d) Petitioner admitted he knew the victim
e) That petitioner denied having sex with her
f) That the denial of sex is what connects defendant to the murder
g) This is the evidnece the jury relied when they found defendant guilty
h) That petitioners argument had been reviewed several times including direct appeals suggesting petitioner had had a full and fair hearing based on the facts now before the court
i) That the petition before the Court at this time was based on factual innocence claim
j) That petitioner took too long in light of the full and in great detail of the collateral challenges explained within the petition before the Court.

The Court added that considering all these allegations, the Court completely ignore the fact that the interrogation answers given by petitioner in the evidnece shown to the jury who decided was altered and therefore unreliable and should have been supressed by counsel who knew the answers were altered before they were shown to the jury. Relying that there was a stipulation between Counsel and prosecutor to used the damaged recording. (emphasis)

In light of the allegations made by petitioner that the evidneces directly tied to the actual murder had DNA on them admittingly by experts, DDA Ferguson, which did not match petitioner suggesting that even though there is another man's DNA on these items other than petitioners does not raise severe discrepencies in who they belonged to when the question before the Court was "WHO COMMITTED THE CRIME".

Furthermore these are in fact the exact responses by DDA Ferguson who stated;

a) Just because there is another mans DNA on items located at the scene related to the weapon used and elft behind by the actual killer does not mean they killed "anybody'.

b) That because petitioner cannot prove the DNA on the watchband pin belonged to someone specifi his argument fails

c) That because petitioner cannot prove these DNA belonged to the man who confessed Gregory randolph his argument fails

d) That there is no proof that the hair collected off the victim that had its entire roots structure attached was in fact actually red, therefore the argument fails.

e) That maybe the victim collected watchband pins and saved them

f) The petitioner admitted to having a key to the victims house, therefore he admits to the crime

g) The interrogation recording used in this trial was shown to the jurors and was what they relied in their decision of guilt.

Petitioner moved the Court for an evidentiary hearing which would have been able to validate the claims made by petitioner, that if true would have afforded relief. Only those moving papers were ignored ,,and denied by Court. Therefore there was no full and fair hearing on the merits of the allegations, hence this case was not adjudicated on the historical values in petitioners application for relief. "EVER"!

2) The application to the Superior Court was ignored stating that there was not enough allegations, even if true to overcome the burden that petitioner had admitted to knowing Rita yet denuied having sex with her.....four times!

3) The added finally that this case did not even come close to the threshold outlined by federal law regarding factual inocence and therefore no federal laws were violated by state ½parties.

4) Last and most important was that the Superior Court judge did not address the manufacturing of the transcript used to coerse the jurors, even though the Court and Honorable Judge had a copy of that recordoing of states (EXHIBIT 49-Compact Disc) which when listened to would prove that answers were in fact changed to place evidnece into the petitioners possession. This alteration supported a element of the charge "ITNENT"! By having a key the the victims home when there was no reasons by a person who lived elsewhere , and had no arrangements with her had only one intent in mind. "TO RETURN TWO DAYS AFTER HAVING CONSENTUAL

C

SEX WITH HER ON OR ABOUT SEPTEMBER 18, 1985, TO RAPE AND KILLER TWO DAYS LATER"! This theory was not supported by "ANY EVIDNECE" nor was it supported by one witness who last seen Rita Cobb alive two days or more after petitioner had had consentual sex. relying;

> "THAT BECAUSE YABLONSKY DENIED HAVING SEX WITH A MURDERED PERSON HE MUST BE GUILTY OF KILLING HER TWO DAYS AFTER HAVING CONSENTUAL SEX WITH HER"..

The fact petition er had to file numerous petitions to forcibly strip the discovery from the state parties who had an obligation to release the entire file once intelligently requested pursuant to state statute. P.C. § 1054.9 which in short states that any person sentenced to Life without the possibility of parole "will" be afforded "all" discovery which would have been required prior to trial. EGRO all 5400 pages along with an exact real time recording of the 3 hour and 45 minute interrogation that occured while custodial issues were in tact.

(SEE EXHIBITS 1, 2, 4, 5, 6, 7. 8, 9, 10, 11)

Based on the allegations within the complaint of misconduct written in proper form HC-001 Petition for writ of Habeas Corpus, the Court had an obligation to allow a full and fair hearing, and adjudicate the merits of the allegations based on real-time historical facts of the case that had been witheld for several years after the actual injury occured when the Court convicted petitioner with false evidnece in violation to federally protected rights..

ARGUMENT ONE

THE STATE OF CALIFORNIA VIOLATED FEDERALLY PROTECTED RIGHTS UNDER THE FORTEENTH AMENDMENT UNITED STATES CONSTITUTION , VIOLATING DUE PROCESS CLAUSES WHEN THE COURT IGNORED FEDERAL LAWS REGARDING NEWLY DIS_ COVERED EVIDNECE WHICH SUPPORT FACTUAL INNOCENCE.

As discussed above and within the exhibits attached herein trial court, prosecutors deliberately violated fundamental protections under the United States Constitution XIV AMENDMENT due process clauses. The Califnrnia Senate established and created new laws regarding the prensetations of newly diascovered evidence, pursuant to senate bill 1134. (SEE EXHIBIT 61) The Court had an obligation to consider the evcndence before the Court and to adjudicate those evidnece, which if true would afford petitioner relief. In this matter the Court did not.

As discussed above and within the exhibits attached herein trial Court, prosecutors deliberately violated fundamental protections under Due Process Claused of the XIV Amehment United States Constitution when they ignore the new evidnece showing that false evindece were created by the state prosecutor and used to coerse a verdict, when taken in light of all other evidences presented in the trial would have provided relief. especially if the primary evidnece used to coerse a verdict was manufactured to create an ele,ment to the charge. (SEE EXHIBITS 40, 41, 42, 43, 63,64,65)
SENATE BILL 1809

POINTS AND AUTHORITIES

Pursuant to 42 U.S.C.S § 2254(d)(2), 2254(e)(2)(A)(i), 2254(e)(2)(A(ii) there should be an allowance of newly discovered evidence that was not previously available to petitioner, through no fault of his won was made unnavailable. That a federal Court

should entertain a review of an application for writ of habeas corpus pursuant to the judgment of the Superior Court. "A determination on the merits of a fgactual issue" made by state Court of competant jurisdiction. evidence by writing, written opinion, or other reliable and "adequate" written indica, shall be presented to be corrected unless the application shall establish, or it other wise appears, or the respondent admits;

1) The merits of the facts disputed were not before and responded by state court

2) The facts finding procedure was not employed by state court to afford full and fair hearing

3) The material facts were not developed at state court hearing.

4) The state Court lacked jurisdiction over subject matter

5) That constitutional rights to effective counselkwas deprived

6) That the applicant did not receive a full and fair hearing which was adequate by state court

7) That applicant was denied due process of law by state Court

8) That unless the state record issue was called into question pertinent to sufficiency of the evidence to support factaul determinatyion is produced that such factual determination is not fairly supported by the record

In Re Figueroa, 4 Cal.5th 576(2018) The California Supreme Court petitioner to have deserved relief, based on the false evidence used in that conviction of first degree murder, reducing the conviction to 2nd degree murder. (Superio Court Kern County, No. 111336 Honorable J Stuart) " A fair trial constitutes due process protections under the sixth amendment to obtain effective counsel, an opportunity to cross examine witnesses and the admissions of evidence overned by state law which are protected by federal law.

An unreasonable determination of the facts. Hittson v Chatman 135 s.ct.212(2015) In light of the evidnece presented in state court proceedings (2254[d] deciding whether a state Court decision an "unreasonable" application of federal law or was "based on " unreasonable determination of facts required by federal law. To trian its attention on the particularities reasonably both legal and factually. ("a federal court simply evaluates diffetrence is specific reasonaing of the state court)(citation) Ylst v Nunnemaker 501 US 792(1991)(whether last court of reason rested upon procedura;l default) That false testimony violated 14 amendment United States due process clause , whether or not the prosecutor knew it was false. (see Napue v Illi nois 360 US 264(1959); Kalina v Fletcher 522 US 118(1997).

The suppression by prosecutor of evidnece favorable to an accused upon request violates due process where the evidnece is material to guilt or punishment. Weary v Cain, 194 L.ed.2d 78, irrespect of good faith or bad faith of the prosecutor at 87; see also Giglio v United States 405 US 150(1972)(Clarifying evidnece that underminesd witnesses credibility) evidence qualifies as material when there is "any reasonable likelihood" it could have

have affected the judgemnt of the jury")Giglio, supra at 154(quoting) Napue v Illinois 360 US 264(1959); Smith v Cain 181 l.ed.2d 571(2012)

The prosecutor violated due process right of the accused whowas convicted on the basuis of fabriacated evidnece , or the coersion of false testimony irregardless of his knowledge before hand. In focussing on the defendants due process right to a fair trial, the standard is nto one focussing on the impact of the undisclosed evidnece ability to coerse the verdict, but the reflection concerns with justice of the fin ding of gui;lt which is reliable beyond reasonable doubt.. Grubs v Blades 2006 US Dist LEXIS 35869; UNITED STATES V Bagley(citation) where in Grubbs case the police did manufacture false evidnece and submitted it to Grubbs attorney as true. That although the logs were released, they did not receive notice the evidnece had been altereed. That evidnece was exclusivley in the possession of the police . Ninth Circuit Court of Appeals found under Brady the prosecutor had a duty to discover favorable evidence known to the actions on the governments behalf. Kyles, 514 US at 437. The Idaho Court found the experts tesimony about the los was exculpatory, that change inthe wriotijng was exculpatory. The Court found defendant counsel effective use of evidnece. Kyles US at 437. Does not nullify the inherent exculpatory nature of information that police had altereed the evidnece. The Court further found in Gantt v Roe 389 f3d 908(2001) "BRADY IS NOT CONFINED TO EVUIDBNECE THAT AFFIRMATIVELY PROVES DEFENDANTS INNOCENCE EVEN IF EVIDENCE IS MERELY "favorable tothe accused. ITS SUPPRESSSION VIOLATED BRADY IF PREJUDICE RESULTS"(emphasis)

Sanders v Cullen 873 f3d 778(2017(quoting 2254(d)(2))

Determinations of the facts was not "merely wrong" but objectively unreasonable. Taylor v Madsdox 366 f3d 992)(2254) is proper only if the panel is convinced the applicant could not reasonably conclude that the states finding was supported by the record. Id at 1000. Mooney v Hoolahan 294 US 103(1935); Napue v Illinois 360 US 264 (1959) To demonstrate a CONSTITUTIONAL VIOLATION UNDER Mooney, Napue, the petitioner must show

1)The testimony(or evidence) was false

2) The prosecutor knew or should have known it was false

3) The false evidnece was material

Reis -Campos v Biter 832 f3d 968(2016);cert den, 137 s.ct. 1447(2017) (quoting) Jackson v Brown 513 f3d 1057(2008.

Schulp v Delo 541 US 386(1995) The petitioner must show that a constitutional violation has "probably" resulted showing;

1)Supported with relaible evidence

2)The quintessential miscarriage of justice occured convicting an innocent person

3) The merits of the case are consistant to United States Supreme Court jures prudence protections

4) That the doctrine of adherence to precedents does not preclude applications of "probability" resulted.

not

What constitutes newly discovered evidnece. Sawyer v Whit ley 505 US 333(1992)

1) The moving party can show the evidence relied on, in fact constitutes newly discovered evidence within the meaning of FRCP 60(b)

2) The moving party exercised due diligence to discover the evidnece.

3)The new evidence must be oif such magnatude that production of it earlier would have likely changed the disposition of the case.

Martinez v Ryan 566 US 1(2012) The right to effective assistance of counsel at trial is the bedrock principle of our justice system, and cannot be avoided nor neglected when assuring a fair trial, and the fundamental fairmness of applications of factual evidneces are presented, ensuring fairness beyond reason. That any person haled into court cannot be assured a fair trial without effective counsel. Gideon v Wainwright 372 US 335(1963) The right of counsel is the foundation of adversarial system. That effective counsel tess the prosecutors case to ensure that the oprocedures serve the functional equivalent to adjudicate guilt or innocnce while preserving the defendants rights. Quoting)Powellv Alabama 287 US 45 (1932) (The defendant deser ves the guiding hand at every step inthe proicess agaubst him. Without it, though he may be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. (MC QUIGGINS)SCHULP) (STRICKLAND) (CRONIC)

"THAT A DEFENDANT DESERVES A FAIR TRIAL"

ANALYSIS

The fact that petitionersd DNA was older than the crime of murder was suspect as to why the charges were ever filed, considering the victims strange charater which involved numerous lovers. The detectives knew this wheh they interrogated petitioner in front of his wife, children ona Sunday morning, assuring they would capture petitioners entire family when the interrogation occured. Relying that the question about a sexual relationshiop with a murdered person would be thwarted with denials. Police expceted this denial which "would occur" because petitioner was going to be questions

in front of his wife, mother in law and three children who would be hanging on every word as their father was being interrogated about a murdered person from his past. (see exhibit 30) These detectives had watched petitioner for several days before they entered his home with at least two different police agencies ona Sunday mornign carrtying a warrant for arrest. Injecting an interr-ogation outside MIRANDA, proposing they were being friendly and only asking questions. They were not !

They then had the fortitude to use two seperate personal recorders for this interrogation they expceted to use in their sweeping net to convict at all costs. They then created two seprraete versions of this e xact same interroigation that was conducted in two seperate locations while custodial activity was obvious. Creating two seperate versions of this transaction on November 23, 2010, months before the trial ever occured. Then after the trial had been processed and nothing suggesting petitioner was guilty to any certainty, on January 26, 2011 the prosecutor took this evcidnece home himself and re-cresated another version of audio to match the changes in text that occured on November 23, 2010.

Creating an audio/ text version he could show the juruist over a projection unit located inthe Court room while thjey were allowed to listen to the conversation on a speaker that was provided. Doing this after the states case had fallen short of the reasonable doubt threshold.

1) Bruce Nash stated several times before trial that Rita told him she was not going home after the aprty and was going to a bar called the Zodiak Lounge instead. On the stand Nash told the jurists he believed Rita to have been headed home after the poarty.

adding that he did not drive her home that September 20, 1985 night after the aprty. (EXHIBIT 13)

2) John Sullivan who on several occaisions told sheriff that he had fallen asleep before Rita left his drinking part. Yet on the stand he contradicted his statements saying he now 25 years later rememebrs bnetter that he was not asleep when Rita left his party, adding that he seen Bruce Nash drive Rita Cobb home after the party, contradicting what Nash had just told the jurists.
(EXHIBIT 14)

3) The states expert criminalist for the sheriff department Criminalist Donald Jones stated that in his expert opinion and knowledge of the facts of the case, knew the DNA found inside the victim was the result of a sexual encounter that occured severaol days before rita Cobb had been killed.
)(EXHIBIT 51)(RT317)

4) The states expert pathologist Dr. Saukel stated that in his expert opinion there was no physical or scientific evidnece Rita Cobb had been raped at the time she was killed . That in his expert opinion of the science and evidnece of the case that the DNA located inside the victimwas the result of a sexual encounter that occured as much as one and a ha;lf days bfore rita Cobb had been killed.
(EXHIBIT 51)(RT 490)

5) Dianne Flagg stated several times to sheriff that she seen a silver Pinto wagon in the victims driveway the day she had been killed, adding she knew it to be a Pinto and was silver in color. She testifioed the same to the jurist. This eplains why the prosecutor

redacted from the text and erased from the audio recording copy, that the sheriff knew petitioners pinto was dark blue. Knowing that this level of coersion needed support. TO NOT BE CHALLENGED BY COUNSEL OR COURT!

Nothing in the three week trial to this transcript point led any reasonable jurist to believe petitioner was guilty to any certainty, which explained the prosecutors need to take this evidence himself, home so that "HE CAN MAKE THE CHANGES SO THEY [SOUNDED] good" (EMPHASIS ADDED) Petitioners fingerprints wer not located at the scene. His DNA was not located on [any] of the culpable items related to the murder a) weapon b)blood smears c) watchband pin pulled from the attacker d) red hair with the entire roots attached e) cigarette butts located in a common area of smokers house f) NOTHING WAS LOCATED POINTING AT PETITIONER AS THE ACTUAL KILLER.

Remember th eprosecutors theory ! That because Yablonsky chose to lie about the sex he had with the victim make him the killer through the logic of propincity. Meaning that if one has the propincity to lie about sex then they also have the propincity to kill. (emphasis added)

THAT MAKE EVERY MARRIED MAN A KILLER, WOULDNt IT?
IF THEY WERE ASKED ABOUT EXTRA MARITAL AFFAIRS!!(EMPHAIS)

The prosecutor had two specific witnesses on his list, which petitioner intended on calling when petitioner told his attorney they would corroberate that poetitioner would have been 160 miles away from the crime scene at the time the murder occured with family. AN ALIBI which the trial counsel thwarted. The prosecutor refused to call these witnesses, therefore petitioner

was not ,aloowed to question Lynda Mitchell (ex mother inlaw) and Holly Mitchell (ex wife) about the weeks before the birth of Holly and Johns second child, Jasmine Shawnda Jade Yablonsky whow as vborn on September 30, 1985 ten days after the alleged murder of Rita Cobb..

This was exactly why the prosecutor needed to take this evidnece home himself, because if he hadn't, anyone else would have had the dignity to not change the answers, or would have noticed that the transcripts were doctored and would have professionally needed to report the damage to the audio recordings as well as the transcripts that were created by detectives. So against the Courts suggestion, (WHY DONT YOU HAVE SOMEONE ELSE TO TAKE CARE OF THE REDACTIONS ?) (BECAUSE I HAVE TO TAKE THEM HOME SO THAT THE REDACTIONS CAN MAKE THE TRANSCRIPT SOUND GOOD) (EMPHAIS ADDED) This coupled with the California Court of appeals acknowledgment of the petitioners DNA in this case. (WL 6271920)

> "THAT SOMEONE (A) COULD HAVE HAD SEX WITH THE VICTIM; ON THUIRSDAY NIGHT AND SOMEONE ELSE (B) COULD HAVE KILLED HER ON SATURDAY MORNING" (EMPHASIS ADDED).

The prosecutor knew the evidnece was false because he created it, protected its alterations fropm being detected by someone with a moral compass, then presented his co-conspirator to help him authenticate it without impunity by another conspirator, trial counsel, who divulged petitioners case and help ed prosecutor to secure a conviction of an innocent man.

The initial trial court for the first filing of habeas did not adjuduicate these facts on the merits, would not provide an evidentiary hearing, and denied the habeas corpus, claiming repeatedly that the Court lacked jurisdiction, or petitioner ha de nopt provided enough proof at that time to support his allegations, therefore failing to adjudicate the allegations, which if true would have afforded petitioner the relief he asked.

" A FAIR TRIAL WITH HISTORICALLY ACCURATE EVIDENCE! "

The lies told by DDA Ferguson were parroted by STATE Court, District court and attorney general, assuming she was accurate with her analysis, banking on her accuracy. SHE WAS NOT!

REASONS FOR GRANTING THIS PETITION

1) Because petitioners application to the second was timely based on the circumstances petitioner was faced regarding having to develop these facts, research law, and to prepare a petition when jurisdiction would not interfere.

2) Because the prosecutor did in fact violate Due Process Clause of the fourteenth amendment United States constitution when he deliberately altrered evidnece to achieve an unreliable verdict

3) Because the trial attorney, prosecutor witheld these facts until years after trial to prevent a full fair hearing , violating due process clauses of fifth and sixth and fourteenth amendment United States constitution

4) Because the state of California ignore state laws regarding the use of false evidnece in their conviction, ignore federal laws regarding the use of false evidnece, ignoring established federal laws

5) BECAUSE PETITIONER IS IN FACT FACTUALLY INNOCENT, THE STATES HISTORICAL EVIDNECES PROVE THIS BEYOND REASONABLE DOUBT, CONSIDERING ALL THE TOTALITY OF THE OTHER EVIDENCE INTHIS CASE .REASONABLE JURIST WOULD AGREE

6) Because if a prosecutor has the techonoligal train ing as well as the equipment to alter evidence at his home suggests this is not his first time, and should be stopped before many others are made to suffer these illegal acts.

CONCLUSION

This application for writ of certiorari should be granted

Respectfully submitted;

John Henry Yablonsky 1620

VERIFICATION

I John Henry yablonsky an adult of the age of consent state under penalty of perjury that the information stated aboved and within this application are the truth and according to belief and knowledge. If called to testify will state the same in [any] COURT of this country.

JOHN HENRY YABLONSKY January 6, 2020

THE TRUTH IS A VICIOUS BEAST, SET IT FREE AND WATCH AS IT DEFENDS ITSELF !

PETITIONER FURTHER SAYETH NAUGHT