CALIFORNIA INNOCENCE PROJECT



February 23, 2015

Supreme Court of California
Attn: Frank A. McGuire
Clerk of the Court
350 McAllister Street
San Francisco, CA 94102-4797

Re: Informal Reply, *In re William Richards*, Case No. S223651

To the Court:

Petitioner William Richards, by and through his attorneys, Jan Stiglitz, Justin Brooks, and Alexander Simpson, of the California Innocence Project ("Project"), hereby submits this Informal Reply to the Informal Response ("Response"), filed by respondent on February 17, 2015.

## I.
## RESPONDENT HAS MISCHARACTERIZED THE NATURE AND THE STRENGTH OF THE PROSECUTION'S CASE

To begin, it should be noted that respondent has mischaracterized some of the evidence presented to the jury against Richards. Respondent asserts, for example, that Richards was "afraid his wife was going to leave him" for another man, thus providing a motive for him to murder his wife. (Response, p. 9.) In support of this assertion, respondent cites to Reporter's Transcripts from Richards's fourth and final trial which

resulted in his conviction. (Response, p. 9, citing 5 Tr. R.T. 843-848.)[1] However, this assertion is found nowhere in the Reporter's Transcripts; the pages respondent cites relate to the testimony of a bank teller who was familiar with Richards and his wife. (5 Tr. R.T. 843-848.)

Respondent also cites to statements found in the Clerk's Transcript to support its arguments. Respondent cites to the Probation Officer's Report to support its claim Richards was afraid his wife was going to leave him. (Response, p. 9, citing 1 C.T. 22.) Respondent also cites to a police report of an interview with a social worker to support a claim Pamela Richards was afraid of her husband. (Response, p. 9, citing 1 C.T. 30-33.) The citations to the Clerk's Transcript and the documents contained therein are particularly problematic in the instant case. The critical issue before the Court is whether Richards has met his burden under the newly revised false scientific evidence statute. In determining whether he has met his burden under the statute, this Court must assess whether the evidence was substantially material or probative on the issue of guilt or punishment. (Cal. Pen. Code, § 1473, subd. (b)(1).)[2] As such, the Court's proper focus is on the evidence produced by the prosecution—and considered by the jury—at trial, and whether there is a "reasonable probability that, had [the false evidence] not been introduced, the result would have been different." (*In re Richards* (2012) 55 Cal.4th 948, 961.)

Of course, the documents contained within the Clerk's Transcript were not considered by the jury when determining whether to convict Richards. Rather, the reports were generated by the probation

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[1]Citations to the Clerk's and Reporter's Transcripts on Appeal from the grant of habeas relief (*In re William Richards*, San Bernardino Superior Court No. SWHSS700444; Court of Appeal No. E049135; California Supreme Court No. S189275) will be designated as "C.T." and "R.T." respectively. References to the Augmented Clerk's Transcript on Appeal from the grant of habeas relief will be designated as "A. C.T." References to the record on appeal from the criminal conviction (*People v. William Richards*, San Bernardino Superior Court No. FVI 00826; Court of Appeal No. E024365) will be designated as "Tr. R.T." and "Tr. C.T."

[2]Unless otherwise noted, subsequent sectional references shall be to the California Penal Code.

department for the purposes of sentencing and probation eligibility, and by law enforcement during its investigation. Neither report was presented to the jury, and they are not evidence. Citations to evidence not proffered by the prosecution or considered by the jury cannot properly be used in the materiality analysis.

Further, respondent mischaracterizes the strength of the prosecution's case against Richards. Respondent asserts, for example, that when Deputy Nourse arrived at the scene, Richards told the deputy his wife's body was cold to the touch, but that Nourse believed the body to be "very fresh," seemingly contradicting Richards's statement. (Response, p. 4.) In fact, Nourse testified that it was very dark when he reached the scene and that he found Richards standing next to his truck. (4 Tr. R.T. 584, 586.) Richards directed Nourse to the victim's body and told Nourse his wife was "stone cold dead, you don't have to check her out, she has been dead for a long time. *I know that because the battery is dead on the Toyota.*" (4 Tr. R.T. 590, emphasis added.) Richards told Nourse he found the victim face down and he turned her over. (4 Tr. R.T. 592.) Nourse testified he put on surgical gloves and checked the body. To his gloved touch, the wrist was pliable and the body was "neither cold nor warm." (4 Tr. R.T. 636.) Richards's use of the idiom "stone cold" was not meant to be a statement of fact or the basis of his conclusion regarding the time of death. In addition, Nourse's ability to determine body temperature while wearing gloves is suspect, especially considering he was not trained as a forensic examiner.

More importantly, respondent relies heavily on the blood spatter evidence to support its claim Richards must have been the perpetrator. (Response, pp. 7-8.) Respondent is correct that criminalist Dan Gregonis testified regarding blood spatter found at the crime scene; Gregonis found 30 to 40 blood stains on the victim's pants and believed that twelve of these stains were from medium energy spatter. (5 Tr. R.T. 973-74, 977.) No spatter was found on her legs. As a result, Gregonis opined that the victim was wearing her pants when her skull was caved in. (5 Tr. R.T. 977-78.) Gregonis also testified a few spots that could be interpreted as medium energy blood spatter were also found on Richards' pants. (5 Tr. R.T. 1010.) Gregonis testified these stains were from different directions and consistent with two separate events. (5 Tr. R.T. 1010.)

However, Dean Gialamas, Senior Criminalist with the Los Angeles County Sheriff's Department, testified regarding the blood spatter evidence and disagreed with the conclusion reached by Gregonis. Looking just at the blood stains on Richards's shoelaces, Gialamas could not say whether they were the result of transfer or spatter; the stains were consistent with either possibility. (7 Tr. RT. 1598-1600.) However, he found the presence of only four spots, all lined up, to be "curious": "Typically, from beating events, very severe beating events, there typically is a lot of exchange of blood spatter from a bleeding source to a perpetrator." (7 Tr. R.T. 1600.) In addition, there was no spatter on the shoe itself. (7 Tr. R.T. 1598-99, 1602.) Gialamas also concluded that the stains on Richards's pants were more like transfer stains. (7 Tr. R.T. 1641.) Gialamas found no blood spatter stains on Richards's shirt. All of the stains on the clothing appeared to be transfer stains. (7 Tr. R.T. 1654, 1657.) Gialamas concluded the stains on Richards' clothing were not consistent with his being the perpetrator of the violent attack perpetrated by Pamela's killer. (7 Tr. R.T. 1659.)

The differences in the opinions of these experts were also noted by Justice Liu in his dissent in this case: "[A]lthough a prosecution witness testified that bloodstains on petitioner's pants and shoes were consistent with spatter as a result of standing near the victim when the injuries were inflicted, a defense expert testified that the spatter was consistent with contact or transfer when petitioner cradled the body postmortem." (*In re Richards, supra,* 55 Cal.4th at 980 (dis. opn. of Liu, J.).) The mischaracterization of the blood spatter evidence is of particular concern, as it was one of the primary pieces of circumstantial evidence against Richards used against him at all three trials.

Another piece of circumstantial evidence, the evidence which was only introduced at the final trial, and which differentiated the prior trials from the final trial resulting in conviction, was the false bite mark evidence against Richards.

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## II.

## RESPONDENT HAS MISCHARACTERIZED THE STANDARD BY WHICH THE COURT DETERMINES RELIEF

In requesting Richards's habeas petition be denied, respondent has claimed Richards has essentially made a sufficiency of the evidence claim which is "specifically not cognizable on habeas" regardless of the changes to section 1473. (Response, p. 14.) Specifically, respondent claims the changes to the law mean

> the resulting evaluative process amounts to nothing more than a sufficiency of the evidence analysis in determining whether there is a reasonable probability that, had the evidence not been introduced, the result would have been different.

(Response, p. 14.)

Respondent's assertion is incorrect, for a number of reasons. First and foremost, there is nothing about the new amendment to section 1473 which change the "evaluative process" to be conducted by this Court or other courts faced with a false evidence claim. Before the law was revised, an individual was entitled to pursue a claim that "[f]alse evidence that is substantially material or probative on the issue of guilt or punishment was introduced against [him or her] at a hearing or trial relating to his or her incarceration." (§ 1473, subd. (b)(1).) Before the law was revised, false evidence was defined as "'substantially material or probative' if there is a 'reasonable probability' that, had it not been introduced, the result would have been different." (*In re Roberts* (2003) 29 Cal.4th 726, 742, quoting *In re Sassounian* (1995) 9 Cal.4th 535, 546.) Before the law was revised, an individual pursuing a false evidence claim must have established his claim by a mere preponderance of the evidence. (*In re Richards, supra*, 55 Cal.4th at 976.)

Nothing about the new amendments to section 1473 changes the standard, the analysis, or the standard of proof. The only pertinent difference is that false evidence is now further defined as the "opinions of experts that have either been repudiated by the expert who originally

provided the opinion at a hearing or trial or that have been undermined by later scientific research or technological advances." (§ 1473, subd. (e)(1).)

Rather, in complaining about the "resulting evaluative process," it seems respondent takes issue not with the new law but with the law as a whole–specifically, that an individual like Richards may make a false evidence claim. This, respondent seems to allege, is untenable, because it forces a court to consider the strength of the prosecution's case, and determine whether the false evidence probably made a difference in the case. (Response, pp. 14-16.) In support of this, respondent cites *Reno* and *Lindley* for the proposition that sufficiency of the evidence claims are not cognizable on habeas. This is entirely accurate. (*In re Reno* (2012) 55 Cal.4th 428, 452 ["Claims alleging the evidence was insufficient to convict . . . are not cognizable on habeas corpus for other, nonprocedural reasons. These rules, essentially barriers to access deemed necessary for institutional reasons, are of course subject to exceptions designed to ensure fairness and orderly access to the courts"]; *Ex parte Lindley* (1947) 29 Cal.2d 709, 723 ["Upon habeas corpus, ordinarily it is not competent to retry issues of fact or the merits of a defense . . . and the sufficiency of the evidence to warrant the conviction of the petitioner is not a proper issue for consideration"].) False evidence claims, however–claims like that presented in the instant petition–*are* cognizable on habeas. Indeed, these claims are generally *only* cognizable on habeas, because they require the court to consider evidence not present in the record. Respondent's claim is additionally incorrect for this reason.

Most importantly, however, respondent's assertion is incorrect because it has interpreted this Court's analysis to mean Richards must show the evidence was insufficient to warrant the conviction. For example, Respondent exhorts this Court to consider that a "'reviewing court may set aside the jury's verdict on the ground of insufficient evidence only if no rational trier of fact could have agreed with the jury.'" (Response, pp. 15-16, quoting *Cavasos v. Smith* (2011) __ U.S. __ [132 S.Ct. 2, 181 L.Ed.2d 311] (*per curiam*).)[3] Thus, respondent claims,

[3]In its brief, Respondent incorrectly attributes this quote to the Supreme Court's decision in *Jackson v. Virginia* (1979) 443 U.S. 307, 319 [99 S.Ct.

regardless of the change in the law, Richards's petition must be denied because "the jury considered the breadth of additional evidence when reaching their verdict. One cannot simply ignore the remaining evidence." (Response, p. 16.)

The problem with respondent's assertion and interpretation–that this Court must consider whether the evidence was sufficient to convict–is that it places a higher burden on a petitioner seeking habeas relief than that which he or she must meet under the false evidence statute. Under a sufficiency claim, "the court must review the whole record in the light most favorable to the judgment to determine whether it contains evidence–i.e., evidence that is credible and of solid value–from which a rational trier of fact could have found the defendant guilty beyond a reasonable doubt.' . . . In applying this test, [a court] must 'presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence." (*People v. Williamson* (1984) 161 Cal.App.3d 336, 338, quoting *People v. Fosselman* (1983) 33 Cal.3d 572, 578).) The United States Supreme Court has stated "[a] reviewing court may set aside the jury's verdict on the ground of insufficient evidence only if no rational trier of fact could have agreed with the jury." (*Cavasos v. Smith, supra,* _ U.S. ___ (*per curiam*).)

This is a much higher and very different burden to meet than that found in section 1473 and cases interpreting it. As noted *ante*, "'[f]alse evidence is "substantially material or probative" if it is "of such significance that it *may have* affected the outcome," in the sense that "with reasonable probability it *could have* affected the outcome. . . ."'" (*In re Malone* (1996) 12 Cal.4th 935, 965, emphasis added, quoting *In re Wright* (1978) 78 Cal.App.3d 788, 814.) In other words, false evidence passes the indicated threshold if there is a "reasonable probability" that, had it not been introduced, the result would have been different. (*Ibid.*) The requisite "reasonable probability" is such evidence that "undermines the reviewing court's confidence in the outcome." (*In re Saussounian, supra,* 9 Cal.4th at 546; *In re Malone, supra,* 12 Cal.4th at 965; see also *In re Roberts, supra,* 29 Cal.4th at 741-742.) Courts make such a determination based on the totality of the relevant circumstances. (*In re*

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2781, 61 L.Ed.2d 560].

*Malone, supra,* 12 Cal.4th at 965.) This standard is much lower and analytically different than that for sufficiency of the evidence.

If it was not abundantly clear from his petition, Richards has made a false scientific evidence claim pursuant to newly revised section 1473, not a sufficiency of the evidence claim. He asks this Court not to "ignore the remaining evidence" in the case, but rather to consider how the false testimony of the experts at his trial influenced the jury's verdict. This is within the ambit and purview of the Court's consideration on habeas, and he asks this Court to grant his claim.

## III.
## THE FALSE SCIENTIFIC EVIDENCE WAS SUBSTANTIALLY MATERIAL TO RICHARDS'S CONVICTION

Turning to the false scientific evidence at issue in the case, it is clear the expert opinion introduced against Richards was false, that he has met the standard pursuant to newly revised section 1473, and that respondent's arguments to the contrary fail.

### A. The Introduction of Evidence by the Defense Does Not Control This Court's Analysis

At the outset, respondent takes issue with the fact the bitemark evidence was originally introduced in the prosecution's case-in-chief after Richards informed the prosecution he intended to present an odontologist in his defense. (Response, p. 10 [asserting that petitioner "was the catalyst for the introduction of such evidence at the convicting trial"].) Because Richards first posited the use of a bitemark expert, respondent seems to argue, he is prevented from claiming the false testimony of the prosecution's bitemark expert was a violation of his rights.

In support of this, respondent cites no authority, binding or otherwise, and no reasoning other than its bald assertion that this is how the Court must dispose of the claim. But even a superficial analysis of this reasoning shows how untenable this rule would be. Indeed, it is easy to see a chain of events where the prosecution elects to introduce evidence in its case-in-chief to refute evidence it anticipates the defense will

introduce. This could happen for any number of reasons: after witness lists are exchanged, for example, or after prosecution interviews with defense witnesses. Take, for example, a prosecutor's decision to introduce the testimony of a witness after learning the defendant intends to make a claim he was disabled, and incapable of committing an assault. The witness testifies that he saw the defendant walking around and exercising before trial. Before learning of the defense, the prosecution intended to put on no evidence regarding the defendant's capabilities. After the conviction, the witness confesses he was lying, and he did not know and had never seen the defendant before trial.

Under the above example, respondent's argument seems to be that a petitioner is not entitled to relief under a claim of false evidence: but for the defendant's intent to use disability as a defense, the prosecution would never have used the informant's testimony in its case-in-chief. But the fact the defendant intended to use this defense makes the later perjured testimony no less false. And it is whether the testimony is *false*–not whether the defense raised the issue–that creates the violation and entitles an individual to relief under the statute. Respondent's arguments to the contrary are not supported by any language in section 1473 or any case law and are therefore simply misleading.

## B. The Bitemark Evidence Was False; Respondent's Characterization of the Evidence Is Contrary to the Testimony

In attempting to persuade this Court, respondent also minimizes the weight of the odontological evidence at Richards's final trial, as well as the import of the recantation and testimony presented at Richards's evidentiary hearing. Respondent has claimed the evidence of Richards's guilt was overwhelming, that the bitemark evidence was but one small piece of the puzzle, and that the conviction was "the result of a attorney strategy and a different jury rather than inexorably tied to three trials and bite mark evidence, as [Richards] suggests." (Response, p. 10.)

Not so. First, while the prosecution was able to secure a conviction, the case was close, as the prosecution's theory rested entirely on circumstantial evidence, and the defense case cast doubt on whether it was even possible for Richards to have committed the crime. As noted by the

dissent in *Richards*:

> [A] guilty verdict was not a foregone conclusion. Petitioner's defense highlighted the limited amount of time petitioner would have had to commit the crime even if he had sped home from his workplace that night, driving much faster than the posted speed limit. Other evidence showed that the victim had answered her phone throughout the day but then stopped answering the phone hours before petitioner came home, with no indication she had left the premises. And although a prosecution witness testified that bloodstains on petitioner's pants and shoes were consistent with spatter as a result of standing near the victim when the injuries were inflicted, a defense expert testified that the spatter was consistent with contact or transfer when petitioner cradled the body postmortem.

(*People v. Richards, supra*, 55 Cal.4th at 980 (disn. opn. of Liu, J.).) As this Court is aware, the prosecution took three full trials to convict, and even the third was anything but certain:

> The first two trials to reach jury deliberations both ended with hung juries. The final jury also declared it was deadlocked and sought further instruction on the meaning of "reasonable doubt." The trial court denied petitioner's motion for a mistrial and refused further instruction on the meaning of "reasonable doubt," sending the jury back to deliberate. Three and a half hours later, it returned a verdict of guilt.

(*People v. Richards, supra*, 55 Cal.4th at 980-981 (disn. opn. of Liu, J.).) Thus, contrary to respondent's assertions, the evidence against Richards was not "substantial." (Response, p. 22.) In fact, it was clearly problematic, as two prior juries would not convict.

Second, although respondent claims the differences in verdicts between the first two trials and the final trial could be attributed to "attorney strategy and a different jury" (Response, p. 10), an examination

of the witness lists in the three trials shows very little difference between the witnesses called–and the evidence considered–in Richards's first and second trials, which ended in hung juries, and his final trial, which ended in his conviction. The chief difference is, of course, the introduction of the experts who testified as to the bitemark evidence. This point was not lost on the dissent in Richards's prior claim before this Court:

> One notable aspect of this case is the history of two hung juries before the third was able to reach a verdict. The importance of a trial history that includes hung juries is underscored by this court's discussion in *People v. Gonzalez* (2006) 38 Cal.4th 932 [(*Gonzalez*)]. In *Gonzalez*, we upheld the judgment of guilt and the special circumstance finding of multiple murder and personal use of a firearm. But the court found error in the penalty phase where the judge denied reciprocal discovery of the prosecution's evidence in rebuttal after the defendant disclosed his evidence in mitigation. In light of that erroneous ruling, the defendant opted not to present mitigating evidence as he did in the first penalty phase. The first penalty phase trial had resulted in a hung jury.
>
> . . .
>
> The main difference between the two trials ending in hung juries and the final trial ending in a guilty verdict was the bite mark evidence, which was offered only at the final trial. The purported bite mark was the evidence that most directly linked petitioner to the crime. Moreover, the bite mark evidence was not limited to Dr. Sperber's verbal testimony that a lesion on the victim's hand was a bite mark matching petitioner's unusual dentition. Dr. Sperber also prepared a mounted photograph of the lesion along with a plastic overlay created from dental molds of petitioner's lower teeth, which could be flipped up and down to demonstrate the "match" between the two. The photograph, overlay, and dental molds were all admitted into evidence and available to the jurors during deliberations. Further, Dr. Sperber estimated that only one or two out of a hundred people share petitioner's dental abnormality. Even taking into

> account Dr. Sperber's admission that he did not know of any scientific studies to back up that estimate, his expert testimony on the uniqueness of that feature, which was undisputed by petitioner's trial expert, increased the probative value of Dr. Sperber's testimony at the final trial.

(*People v. Richards, supra*, 55 Cal.4th at 979-981 (disn. opn. of Liu, J.).)

Respondent also attempts to minimize the force of the recantation by Dr. Sperber regarding the bitemark evidence. Respondent points to the fact that Dr. Sperber stated he stated only that he "essentially" ruled Richards out as the possible contributor to the bitemark, and that the qualifier "hardly constitutes hard, definitive evidence." (Response, p. 13.) Of course, Dr. Sperber's full statement is more illustrative than respondent suggests. Taken in its full context, Dr. Sperber's "opinion today is that [Richards's] teeth, as we have seen, are not consistent with the lesion on the hand." (1 R.T. 91.) "Nonconsistent means you don't see similar patterns. I have essentially ruled [Richards] out." (1 R.T. 91.) Respondent's colleague made the same argument at Richards's evidentiary hearing during Dr. Sperber's cross-examination:

> Q. Well, "essentially" is kind of a weasel word. Do you rule him out or don't you? I mean is there some degree of similarity that we can infer from the word "essentially"?
> A. I would rule him out basically on the evidence as I've seen now in hindsight.

(1.R.T. 91.) Thus, contrary to respondent's claims, Dr. Sperber's testimony at Richards's evidentiary hearing was definitive, and excluded Richards as the biter.

### C. Under the Newly Revised Statute, Richards Has Met His Burden

As this Court is well aware, the determination of the dissent in Richards's prior petition before this Court was not the majority opinion. Rather, the Court's determination rested on an assessment that expert opinion testimony could not qualify as false evidence:

> When an expert witness gives an opinion at trial and later simply has second thoughts about the matter, without any significant advance having occurred in the witness's field of expertise or in the available technology, it would not be accurate to say that the witness's opinion at trial was false. Rather, in that situation there would be no reason to value the later opinion over the earlier. Therefore, one does not establish false evidence merely by presenting evidence that an expert witness has recanted the opinion testimony given at trial. Likewise, when new expert opinion testimony is offered that criticizes or casts doubt on opinion testimony given at trial, one has not necessarily established that the opinion at trial was false. Rather, in that situation one has merely demonstrated the subjective component of expert opinion testimony.

(*In re Richards, supra*, 55 Cal.4th at 963.) Thus, under the law as it existed at the time of Richards's prior petition, this Court determined he was not entitled to relief.

Newly-revised section 1473, however, changes this analysis significantly: the definition of "false evidence" has now been clearly articulated as also including the "opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or trial or that have been undermined by later scientific research or technological advances." (§ 1473, subd. (e)(1).) The evidence Richards has produced meets the new definition.

Dr. Sperber, the expert who testified against Richards at his original trial, has repudiated his testimony in two significant ways. First, Dr. Sperber now admits he should never have testified that "one or two or less" of one hundred people would have the distinctive features he saw in Richards's bite. (*In re Richards, supra*, 55 Cal.4th at 955.) Contrary to his trial testimony, Dr. Sperber has admitted it was "inappropriate to cite percentages or things resembling percentages unless there has been some prior scientific study which concludes that, yes, this particular feature is unusual." (1 R.T. 74.) In fact, no such studies exist. Second, Dr. Sperber now admits he has ruled Richards out as the contributor to the bitemark,

a position directly apposite to his testimony at trial.

Thus, under the new statute, Richards meets the definition of "false evidence." And as the dissent has thoroughly examined, the false evidence Richards presented is material:

> When viewed in the context of the remainder of the evidence, Dr. Sperber's testimony was substantially material and probative of petitioner's guilt. Indistinct as it was, the lesion on the victim's hand provided a direct and visceral link between petitioner and the injuries inflicted upon the victim. And while Dr. Sperber concluded only that the lesion was "consistent" with petitioner's teeth, he coupled that finding with additional testimony that significantly narrowed the range of possible suspects by focusing on petitioner's unusual dentition. In particular, Dr. Sperber's estimate that just one or two out of one hundred individuals share the same unusual dentition amplified the probative value of the evidence. Near the end of his closing argument, the prosecution relied on this piece of evidence: "And, oh, this person [who committed the crime] also just happened to share the same dental abnormality as William Richards, who is only shared by two percent of the population. [¶] ... [¶] That's what you are looking at. And that, folks is unreasonable. That doesn't wash." Without the bite mark evidence, two juries hung. Even with that evidence, a third jury deadlocked before returning a guilty verdict. The totality of the circumstances leads me to conclude that Dr. Sperber's testimony was sufficiently probative and material to cast doubt on the outcome.
>
> In sum, the underlying basis of Dr. Sperber's trial testimony as well as the testimony itself have been proven false by a preponderance of the evidence, and it is reasonably probable that the verdict at the final trial would have been different without Dr. Sperber's testimony.

(*People v. Richards, supra*, 55 Cal.4th at 982 (disn. opn. of Liu, J.).)

Justice Liu's well-reasoned analysis demonstrates how central the bitemark evidence was, and how powerful Dr. Sperber's recantation is. For these reasons, Richards has met his burden.

## IV.
## CONCLUSION

In light of the foregoing, this Court should grant Richards's petition. Richards respectfully asks this Court to reverse his conviction, and order him released on his own recognizance pending resolution of the issues.

Sincerely,

Dated: 2/25/15

ALEXANDER SIMPSON
Counsel for Petitioner
**WILLIAM RICHARDS**

## VERIFICATION

I, Alexander Simpson, declare as follows:

1. I am a member of the Bar of the State of California. As such, I am admitted to practice before the courts of the State of California.

2. I represent William Richards in filing and arguing his petition for writ of habeas corpus. Richards is confined at California Medical Facility in Vacaville, California.

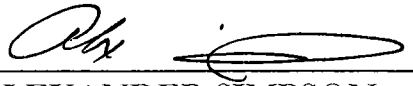
3. I am authorized to file this informal reply brief on Richards's behalf. I make this verification because he is incarcerated and because some matters are more within my knowledge than his.

4. I have drafted and read the foregoing informal reply brief. I declare that all the matters alleged here are true of my own personal knowledge or are supported by the record.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my know ledge.

Executed on 2/25/15, in San Diego County, California.

Respectfully submitted,



ALEXANDER SIMPSON
Attorney for Petitioner
**WILLIAM RICHARDS**

## DECLARATION OF SERVICE

IN RE RICHARDS
Case No. S223651

I declare that I am over the age of 18, not a party to this action and my business address is 225 Cedar Street, San Diego, California 92101. On the date shown below, I served the within **INFORMAL REPLY** to the following parties hereinafter named by:

X **BY MAIL** - Placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California, addressed as follows:

| | |
|---|---|
| San Bernardino District Attorney<br>Attention: Stephanie Zeitlin<br>Appellate Services Unit<br>412 W Hospitality Lane 1st Fl<br>San Bernardino, CA 92415<br>Phone: (909) 891-3302 | Robert W. Fox, Warden<br>California Medical Facility<br>1600 California Dr.<br>Vacaville, Ca 95696<br>Phone: (707) 448-6841 |
| Office of the Attorney General<br>300 South Spring Street<br>Los Angeles, CA 90013-1230<br>Phone: (213) 897-2000 | Hon. Brian S. McCarville<br>San Bernardino Superior Court<br>303 West Third Street<br>San Bernardino, CA 92415-0210<br>Phone: (909) 708-8714 |
| Hon. Margaret Powers<br>San Bernardino County Superior Court<br>235 East Mountain View Avenue<br>Barstow, CA, 92311<br>Phone: (760)256-4758 | California Department of<br>Corrections and Rehabilitation<br>1515 S Street<br>Sacramento, CA 95811<br>Phone: (916) 445-7682 |

X **BY ELECTRONIC TRANSMISSION** - I transmitted a PDF version of this document by electronic mail/submission to the parties identified on the following service list using the e-mail addresses/websites indicated:

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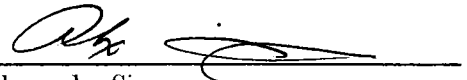
| California Court of Appeal<br>Fourth District, Division Two<br>http://www.courts.ca.gov/4dca-esub.htm |

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on 2/25/15, in San Diego, California.



Alexander Simpson