S223651

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

WILLIAM JOSEPH RICHARDS,	Case No.
Petitioner,	(Prior Supreme Court Case No. S189275)
v.	Habeas: Court of Appeal No. **E049135**
ROBERT A. FOX,	San Bernardino Superior Court Habeas Case No. **SWHSS700444**
Warden, California Medical Facility, and	Direct Appeal: Court of Appeal No. **E024365**
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION,	San Bernardino Superior Court Trial Case No. **FVI 00826**
Respondents.	

HONORABLE MARGARET POWERS, JUDGE

TRAVERSE TO RESPONDENT'S RETURN

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HONORABLE MARGARET POWERS, JUDGE

TRAVERSE TO RESPONDENT'S RETURN

Petitioner William Richards, by and through his attorneys, Jan Stiglitz, Justin Brooks, and Alexander Simpson of the California Innocence Project, hereby enters this Traverse to respondent's Return to Petition for a Writ of Habeas Corpus ("Return"), filed with this Court on April 16, 2015.

TRAVERSE[1]

1. Richards reasserts all factual and legal allegations contained in his original Petition for Writ of Habeas Corpus ("Petition"), filed in this Court on January 7, 2015.

A. Responses to Affirmative Allegations Found Within "I. Petitioner's Allegations 1-15"[2]

2. Richards denies he has failed to meet the standards for false evidence referred to by respondent, and alleges the evidence he has presented within his petition is substantially material, probative, and shows by a preponderance of the evidence that there is a reasonable probability there would have been a different result if the false expert opinion introduced at his trial had not been introduced. (I., ¶ 4.)

B. Responses to Affirmative Allegations Found Within "II. Petitioner's Allegations 16-47"

3. Richards denies "the investigation evolved based on a review of all evidence" collected in the case. (II,. ¶ 2.) In fact, a review of the investigation shows law enforcement concluded almost immediately that

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[1]Many of Richards's factual allegations are not addressed at all in respondent's Return, but are somewhat addressed in respondent's Argument section. Although raising factual allegations in only the Argument section of a Return is inappropriate habeas procedure, Richards will nevertheless respond to any factual allegations therein.

[2]Respondent has independently numbered its denials and allegations by sections, with numbering beginning anew at the start of each section. Richards's denial will refer to the allegations and paragraph numbers to avoid confusion.

Richards was responsible, and focused their attention almost exclusively on him from the moment they arrived at the scene. Indeed, after the first officer responded to the scene, three or four dogs entered the crime scene. (4 Tr. R.T. 642.)[3] Because it was dark, the detectives decided not to process the scene until first light (approximately 6:00 a.m.), more than six hours after the body had been found. (1 Tr. R.T. 94; 2 Tr. R.T. 327.) During that time, the dogs had partially buried Pamela's body. (4 Tr. R.T. 674.) In short, rather than searching for evidence to determine the culprit, investigators did not even bother to secure the crime scene, believing they had their man.

4. Richards admits Deputy Nourse expressed his opinion that he believed things were "odd" when he began investigating the case, and that Richards told Nourse where things were on the property. (II., ¶ 5.) Richards admits he had knowledge of the scene, as it was, of course, his home where the murder took place.

5. To the extent respondent has alleged prosecution witnesses testified they

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[3]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) 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."

did not find evidence pointing to other people who were responsible for the crime, or that investigators determined the terrain was not good for leaving footprints, Richards admits investigators testified in this manner. (II., ¶ 7.) Richards denies this meant he committed the crime. Rather, this is simply a dispute, present at trial, concerning whether the terrain was conducive to leaving trace evidence like footprints. As noted by respondent, the terrain was not conducive to trace evidence collection. In fact, the investigators could find only one shoeprint attributable to Richards when Richards admitted he had been all over the property that night. (2 Tr. R.T. 273.)

6. Richards admits Criminalist Dan Gregonis testified he believed the fiber discovered under the victim's fingernail was significant. (II., ¶ 8.) It was, indeed, at least as significant as the unidentified male hair found underneath another of the victim's fingernails (2 A.C.T. 255-60, 262-67), or the unidentified male DNA found on the murder weapon, neither of which matched Richards (3 C.T. 698, 699, 733-35).

7. Richards admits the Court of Appeal, in reversing the reversal of his conviction, disregarded the newly-discovered evidence claim regarding the fibers by suggesting, during the processing of the body, the fibers were simply not observed or were discounted. (II., ¶ 9.) He denies this was the sole or most likely conclusion. However, no new evidence claim

is being asserted in the instant petition.

8. Richards admits that Dr. Sperber testified that Richards's tooth abnormality was incredibly rare (II., ¶ 10), that Sperber indicated Richards was the biter (II., ¶ 11), and Sperber testified Richards alone could have been the biter (II, ¶ 11). Indeed, the fact Dr. Sperber testified in this manner—and the fact he now no longer stands behind his incriminating expert testimony—is the reason Richards has brought the instant petition.

9. Richards admits there was testimony at his trial concerning the quality of the photograph Dr. Sperber reviewed. (II., ¶ 16.) However, Dr. Sperber never looked at other photos taken at autopsy, nor at trial did he ever retract his testimony or explain it was improper to use percentages in his testimony. Importantly, he never told the jury that, upon further analysis, he ruled Richards out as the biter.

10. Further, Richards admits Dr. Golden testified the photograph was of "low value" and should be disregarded. (II., ¶ 18.) However, Dr. Golden did not testify that he had excluded Richards as the suspected biter, as he did at Richards's evidentiary hearing. (1 R.T. 100; 5 C.T. 1218.).

11. To the extent respondent alleges Dr. Bowers described his efforts at matching Richards's bite to the injury on the victim's hand, Richards

admits Dr. Bowers attempted to "fix" or "force" a match to analyze the photo. (II., ¶ 19.) As Dr. Bowers explained, this was an attempt to fit Richards's dentition to the photograph, a routine and generally accepted process forensic odontologists do to analyze a bitemark. Dr. Bowers testified that the areas of correlation were based on a "forced match" (made as a starting point using tooth number 22). (2 R.T. 232.) The *mismatches* indicated that Richards' teeth were not responsible for the bruise. (2 H.T. 235.)

C. Responses to Affirmative Allegations Found Within "III. Additional Affirmative Allegations and Denials"

12. Richards denies he is properly in the custody of the California Medical Facility or the Department of Corrections. (III., ¶ 2.)

13. Richards denies the experts "could not definitely rule out [Richards's] teeth as a *possible* source of the lesion." (III., ¶ 3, emphasis in original.) To the contrary: Dr. Bowers testified he had excluded Richards. (1 R.T. 100; 5 C.T. 1218.) Dr. Golden testified he "would exclude" Richards as the contributor to the bitemark based on his subsequent analysis. (1 R.T. 110.) Dr. Sperber testified he had "essentially ruled [Richards] out" as the possible source of the lesion. (1 R.T. 91.)

14. Richards denies the judgment and sentence imposed upon him were proper. (III., ¶ 4.)

15. Richards denies his constitutional rights have not been violated, and that

he has received due process. (III., ¶ 5.)

16. Richards admits the instant case is based on the records and files referred to by respondent. (III., ¶ 6.)

ARGUMENT

I.

WILLIAM RICHARDS HAS NOT PRESENTED A "SUFFICIENCY OF THE EVIDENCE" CLAIM; HIS CLAIM IS AUTHORIZED PURSUANT TO NEWLY-AMENDED SECTION 1473

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 Penal Code section 1473.[4] (Return, p. 25.) Specifically, respondent claims the changes to the law mean

> a determination must be made as to whether the disputed evidence is "substantially material or probative on the issue of guilt" by weighing the remainder of the case and by also evaluating the import of the evidence at trial and the totality of the circumstances [*sic*]. ([§ 1473, subd. (b)(1)].) Such a process is not permitted on habeas review.

(Return, p. 27.)

Respondent is engaging in an Alice-in-Wonderland analysis. Its assertion makes very little sense given the structure of the statute and the countless cases, including cases from this Court, following it. Section 1473 expressly provides

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[4]Subsequent references shall be to the Penal Code unless otherwise noted.

that individuals *may* challenge their imprisonment through a writ of habeas corpus. (§ 1473, subd. (a).) Individuals who seek relief through a writ *must* establish *substantially* material or probative—but *false*—evidence was introduced against them at trial. (§ 1473, subd. (b).) False evidence is "substantially material or probative" if there is a "'reasonable probability' that, had it not been introduced, the result would have been different." (*In re Richards* (2012) 55 Cal.4th 948, 961.) Thus, the right itself is expressly defined by statute: William Richards is entitled to habeas relief if he can show material false evidence was introduced against him at his trial. (§ 1473.) The process is expressly defined by case law: Richards meets the standard for relief if he can show there is a reasonable probability, had the evidence not been introduced, the result would have been different. (*In re Richards, supra*, 55 Cal.4th at 961.) Richards has not alleged a sufficiency of the evidence claim. Richards has alleged a false evidence claim.

It is important to note that this right, and the Court's analysis of the claim, has not changed as a result of the amendments to section 1473. Section 1473, subdivision (e) merely provided additional clarity as to what constitutes false evidence: specifically, repudiated or scientifically invalidated expert testimony may now be considered false evidence, and serve as grounds for reversal, in addition to, for example, an eyewitness's recantation implicating the defendant in the crime. Respondent has complained the "process is not

permitted on habeas review" (Return, p. 27), but there is nothing new about the process. Claims of false evidence have always been cognizable on habeas, both before and after the statute's amendments, as expressly provided by section 1473. (See, e.g., *In re Richards*, *supra*, 55 Cal.4th 948.) Respondent's complaint thus appears to be that the false evidence statute *itself* does not permit habeas review, or should not, because it is equivalent to a sufficiency of the evidence attack on the prosecution's evidence.

A. Unlike Substantial Evidence Claims, False Evidence Claims Are Cognizable on Habeas

First, while it is true that sufficiency of the evidence claims are not cognizable on habeas, this is because

> the judicial machinery is structured to allow one accused or convicted of a crime—in the vast majority of cases—to vindicate his or her rights well before a postconviction, postappeal writ of habeas corpus becomes necessary. Because a criminal defendant enjoys the right to appointed trial counsel, to a jury trial, and to an appeal, the various procedural limitations applicable to habeas corpus petitions are designed to ensure legitimate claims are pressed early in the legal process, while leaving open a "safety valve" for those rare or unusual claims that could not reasonably have been raised at an earlier time.

(*In re Reno* (2012) 55 Cal.4th 428, 452.) Sufficiency claims allow an individual to "vindicate his or her rights well before" a habeas petition is necessary, because it lies entirely within the record. Thus, as this Court has recognized for almost a century, such issues are more appropriately considered on appeal. (*Ex parte Jacobs* (1917) 175 Cal. 661, 662 ["If the evidence adduced on the trial was

not sufficient to show the guilt of the prisoner of that charge, his remedy was by appeal"].)

False evidence claims are, of course, fundamentally different, because they necessarily contemplate non-record evidence, such as the recantation of an eyewitness, or an admission of perjury, or—in the instant case—the repudiation of expert testimony. False evidence claims are therefore *only* cognizable on habeas, because the court must contemplate the witness's repudiation, which had not previously been asserted, and must determine what effect, if any, the prior testimony had on the trial's outcome.

B. The False Evidence Standard Is Lower than the Sufficiency of the Evidence Standard

Second, sufficiency of the evidence claims operate very differently from false evidence claims, and necessarily so. In a sufficiency claim, the argument is that, despite a jury's verdict on the evidence adduced at trial, the defendant should never have been convicted based on that evidence. In other words, the claim rests on the assertion that the trier of fact was simply wrong, and acted unreasonably in determining the defendant was guilty, and that due process is violated because the evidence was insufficient. The United States Supreme Court has held that "the critical inquiry on review of the sufficiency of the evidence to support a criminal conviction ... [is] to determine whether the record evidence could reasonably support a finding of guilty beyond a reasonable doubt." (*Jackson v. Virginia* (1979) 443 U.S. 307, 318 [99 S.Ct.

2781; 61 L.Ed.2d 560].) Rather than determining whether it believes the evidence was sufficient to convict, a reviewing court must determine "whether, after reviewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (*Id.* at p. 318-319; see also *People v. Towler* (1982) 31 Cal.3d 105, 118.)

In contrast, claimants for relief under the false evidence standard claim, specifically, that their rights were violated by the introduction of false evidence in their trial. The argument is that the trier of fact reached in an improper conclusion regarding the evidence because it heard evidence it should not have considered. The claims rest not on the assertion that the *trier of fact* was wrong, but that the *evidence* was. In that instance, this Court has determined a different and lower standard should be applied: relief shall be granted "if there is a reasonable probability that, had [the false evidence] not been introduced, the result would have been different." (*In re Richards, supra*, 55 Cal.4th at 961.) This Court has further held an individual pursuing a false evidence claim need only establish his claim by a preponderance of the evidence. (*Id.* at 976.)

C. Respondent's Analysis Is Wrong

Most importantly, however, respondent's assertion is incorrect because it has interpreted this Court's analysis to mean that Richards has the burden of showing 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.'" (Return, p. 32, quoting *Cavasos v. Smith* (2011) _ U.S. _ [132 S.Ct. 2; 181 L.Ed.2d 311] (per curiam).)[5]

But whether the evidence was sufficient to support the jury's verdict—and whether Richards has met that standard—is not the issue before this Court. Without any basis in law or precedent, respondent asks this Court to impose a higher burden on a petitioner seeking habeas relief than provided by the false evidence statute which has given Richards the right to seek relief. 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 Sassounian* (1995) 9 Cal.4th 535, 546; *In re Malone*, *supra*, 12 Cal.4th at 965; see also *In re Roberts* (2003) 29 Cal.4th 726,

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[5]As in its Informal Response, respondent incorrectly attributes this quote to the Supreme Court's decision in *Jackson v. Virginia*, *supra*, 443 U.S. at 319.

741-742.) Courts make such a determination based on the totality of the relevant circumstances. (*In re Malone, supra*, 12 Cal.4th at 965.) Again, this standard is much lower and analytically different than that for sufficiency of the evidence.

Many of respondent's other analyses and readings of the issues are also incorrect. Richards has not "equate[d] the statutory revision with *de facto* relief" (Return, p. 28) by arguing he is entitled to a reversal of his conviction based on false scientific evidence; rather, he is entitled to a reversal because he has met the standard articulated in newly-amended section 1473 and case law interpreting it. Similarly, respondent has urged this Court to read sections 1473, subdivisions (b)(1) and (e)(1) in conjunction with each other (Return, pp. 26-31); this, of course, is exactly the request Richards has also made of this Court. As Richards has repeatedly demonstrated in his Petition and *ante*, he is entitled to relief because he has shown there was substantially material *and* probative false evidence introduced against him at trial. If it was not clear from the repeated references to section 1473, subdivision (b)(1), he asks this Court to analyze his claim under the proper standard.

D. There Is a Reasonable Probability that, Had the False Evidence Not Been Introduced, the Result Would Have Been Different

Turning to the evidence, it is clear from the record that the introduction of the false bitemark testimony had a profound effect on the outcome of Richards's trial, and absent this evidence, there is a reasonable probability the

result would have been different. (*In re Richards, supra*, 55 Cal.4th at 961.) As noted by Justice Liu in his dissent, the prosecution's case was "circumstantial, and a guilty verdict was not a foregone conclusion." (*Id.* at 980 (J. Liu, dissenting).) Indeed, Richards's case resulted in two hung juries before the prosecution obtained a conviction. (*Id.* at 979 (J. Liu, dissenting).) In addition, the jury in the third trial deadlocked until it received further instruction on reasonable doubt. (*Id.* at 980-981 (J. Liu, dissenting).)

As noted by the dissent, the difference between the first two unsuccessful trials and the third trial was the introduction of bite mark evidence through Dr. Sperber. (*Id.* at 981 (J. Liu, dissenting).) This testimony was accurately described by Justice Liu as

> 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.

(*Ibid.*) The dissent correctly concluded the introduction of this evidence clearly satisfied the standard:

> 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.

(*Ibid.*)

In fact, a review of respondent's briefing demonstrates how persuasive the testimony of Dr. Sperber actually was. Respondent goes to great lengths to specifically deny that Dr. Sperber opined Richards's teeth were consistent with the bitemark on the victim's hand (Return, p. 6), presumably in an attempt to downplay the import of the testimony at trial. In the very next breath, however, respondent spends more than a page demonstrating how incriminating the bitemark evidence was:

> [Dr. Sperber] could not, however, rule out Richards as the person who left the bite mark. At trial, Dr. Sperber testified that, given a sample of one-hundred people "a *very, very few* of that hundred" would have the under-erupted canine that Richards had. Dr. Sperber testified that it was "*even more unusual*" to have an individual with a "perfectly normal lineup of the teeth" on one side and abnormal positioning of teeth on the other side. In fact, [Dr. Sperber testified["[t]hat's kind of a *unique* feature."

(Return, pp. 6-7, emphasis added, citations removed.)

Respondent also notes Dr. Sperber used the term "consistent" when describing the similarities between the bitemark and Richards's teeth. (Return, p. 7.) According to respondent, the use of the term "consistent" by Dr. Sperber meant the jury should have been less persuaded by his testimony, as the term is "on the lower range of a positive odontological judgment." (Return, p. 7.)

However, at the trial resulting in Richards's conviction, Dr. Sperber never explained to the jury what "consistent" meant or that he believed it was on the lower range. All the jury heard was that Richards's dentitition was consistent with the bitemark. The fact the term "consistent" is on the lower range of judgment is a fact that was only adduced at Richards's evidentiary hearing in 2009 and not relevant with regard to the materiality analysis. (1 R.T. 85.)

Respondent's lengthy recitation of the incriminating nature of Dr. Sperber's trial testimony is telling, in that it cannot help but point out the persuasiveness of the expert's opinion even as it attempts to distance itself from its materiality for the purposes of section 1473. Respondent solicited Dr. Sperber's opinion at trial, and relied upon it to secure a conviction when it had been frustrated twice before. Respondent repeatedly asked Dr. Sperber to clarify his statements, and repeatedly rephrased its questions to further strengthen Dr. Sperber's opinion in front of the jury. Ultimately, in closing argument, respondent relied heavily on Dr. Sperber's comments and reference to percentages to persuade the jury to convict.

Now that Dr. Sperber no longer supports his statements at trial, and in fact actively repudiates those statements, respondent would have this Court conclude his testimony was of no consequence, and its absence would have made no difference to the outcome of the case. The opinion of Dr. Sperber was enough to convict, and respondent had no qualms about presenting the

evidence and standing firmly behind it. But when Richards claims that it was material, suddenly Dr. Sperber's opinion was unimportant. Not so.

In sum, Justice Liu's analysis correctly and thoroughly addresses the remaining evidence, and correctly assesses how Richards has demonstrated there is a reasonable probability of a different outcome had the false scientific evidence not been introduced at Richards's trial. For these reasons, his conviction must be reversed.

II.

FURTHER EVIDENTIARY HEARING IS UNNECESSARY

When a court issues an Order to Show Cause [OSC] and orders the respondent to file a return, section 1480 sets forth the statutory requirements of the return's content. (*In re Marquez* (2007) 153 Cal.App.4th 1, 12; § 1480; Rules of Court, rule 4.550, subd. (b)(3).) In addition to compliance with the literal language of section 1480, this Court's precedent requires the respondent to respond to all of the factual allegations of the petition that form the basis of the petitioner's claims. (*People v. Duvall* (1995) 9 Cal.4th 464, 476; *People v. Romero* (1994) 8 Cal.4th 728, 738 [emphasis added].) The purpose of this requirement is twofold: (1) to assist the court by narrowing the facts that must be decided to those actually in dispute, and (2) to enable the petitioner, in the traverse, to further focus the facts in dispute. (*People v. Duvall, supra*, 9 Cal.4th at p. 476.)

This Court explained the function of the return in *In re Lawler* (1979) 23 Cal.3d 190 as follows:

> The return to the order to show cause . . . becomes the principal pleading, analogous to a complaint in a civil proceeding. The factual allegations of the return will be deemed true unless the petitioner in his traverse denies the truth of the Respondent's allegations and either realleges the facts set out in his petition, or by stipulation the petition is deemed a traverse. (*In re Saunders* (1970) 2 Cal.3d 1033, 1047-1048.) The issues are thus joined, and if there are no disputed material factual allegations, the court may dispose of the petition without the necessity of an evidentiary hearing.

(*In re Lawler* (1979) 23 Cal.3d 190, 194.) In accordance with that reasoning, "[a]ny material allegation of the petition not controverted by the return is deemed admitted for purposes of the proceeding." (Rules of Court, rules 4.551, subd. (d), 8.386, subd. (c)(3); *People v. Duvall, supra*, 9 Cal.4th at p. 478 [by failing to dispute facts, respondent "effectively admitted" them]; *In re Sixto* (1989) 48 Cal.3d 1247, 1252 [when respondent failed to dispute facts, court granted petition without evidentiary hearing].) Similarly, any material allegations of the return not controverted by the traverse is deemed admitted for purposes of the proceeding. (Rules of Court, rules 4.551, subd. (e), 8.386, subd. (d)(4); *In re Lawler, supra*, 23 Cal.3d at p. 194.) In accordance with *Lawler*, allegations not denied in the pleadings are deemed admitted, and the court must then determine whether an evidentiary hearing is needed. (*People v. Romero, supra*, 8 Cal.4th at p. 739.) "If the written return admits allegations in the petition that, if true, justify the relief sought, the court may grant relief without an evidentiary hearing." (*Id.* at p. 739.)

In the instant matter, there are no disputed questions of fact which would require further hearing. The facts supporting Richards's claim—that material false expert testimony was introduced against him at trial—have been developed at his prior evidentiary hearing in 2009. (*In re William Richards*, San Bernardino Superior Court No. SWHSS700444.) There is simply a dispute as to whether these facts, alleged in the decision by the San Bernardino Superior

Court in Richards, entitles Richards to relief under newly-amended section 1473. For the reasons below, William Richards asks this Court to grant his Petition and reverse his conviction.

III.

CONCLUSION

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

Respectfully submitted,

Dated: 5/6/15

JAN STIGLITZ

Dated: 5/6/15

ALEXANDER SIMPSON

Counsel for Petitioner
WILLIAM RICHARDS

WORD COUNT CERTIFICATION

In accordance with California Rules of Court 8.384, subdivision (a)(1) and 8.204, subdivision (c), limiting the memorandum accompanying a petition to 14,000 words, I hereby certify that the attached Traverse to Respondent's Return Corpus contains 5,285 words, including footnotes and excluding tables, as ascertained by the word count function of the computer program (WordPerfect) used to prepare the brief.

Dated: 5/13/15

JAN STIGLITZ

Dated: 5/13/15

ALEXANDER SIMPSON

Counsel for Petitioner
WILLIAM RICHARDS

DECLARATION OF SERVICE

RICHARDS v. FOX & CALIFORNIA DEPARTMENT OF CORRECTIONS

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 **TRAVERSE TO RESPONDENT'S RETURN** to the following parties hereinafter named by:

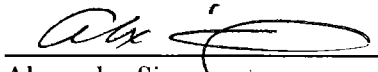
X **BY MAIL** - Placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California, addressed as follows:

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

California Court of Appeal Fourth District, Division Two 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 5/13/15, in San Diego, California.



Alexander Simpson