

FILED

JUL 20 2010

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY CLERK

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District <u>Eastern District</u>
Name <u>Ronald Smith</u>	Prisoner No. <u>846614</u>	Case No.
Place of Confinement <u>Monroe Correctional Center WSRD</u> <u>PO Box 777</u> <u>Monroe, WA 98272-0777.</u>		
Name of Petitioner (include name under which convicted) <u>Ronald Smith</u>		Name of Respondent (authorized person having custody of petitioner) <u>Mr. Scott Franks</u>
The Attorney General of the State of: <u>2:10-cv-1918 KJM HC</u>		

PETITION

- Name and location of court which entered the judgment of conviction under attack
725 Court Street, Room 302 Woodland California
95695
- Date of judgment of conviction 5-1-08
- Length of sentence LWOP
- Nature of offense involved (all counts) Murder 1st Special Circumstance
Burglary in the 1st...
- What was your plea? (Check one)
 - (a) Not guilty
 - (b) Guilty
 - (c) Nolo contendere
 If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:
- If you pleaded not guilty, what kind of trial did you have? (Check one)
 - (a) Jury
 - (b) Judge only
- Did you testify at the trial?
Yes No
- Did you appeal from the judgment?
Yes No

(HC) Smith v. Franks

Doc. 4 Att. 1

TRUCK COUNTY SUPERIOR COURT
CLERK OF COURT
COUNTY OF YOLO, CALIFORNIA
AD 241 (Rev. 9/85)

9. If you did appeal, answer the following:

- (a) Name of court Yolo County Superior Court
- (b) Result filed "untimely" July 10, 2008
- (c) Date of result and citation, if known _____

(d) Grounds raised INEFFECTIVE ASSISTANCE OF COUNSEL 1237.5 ON A Guilty plea.

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of Court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of Court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes No

11. If your answer to 10 was "yes," give the following

- (1) Name of Court United States Eastern District Court of CALIFORNIA ..
- (2) Nature of proceeding MANDAMUS - DENIAL OF APPEAL AND WITHDRAWAL of guilty plea DO TO INEFFECTIVE ASSISTANCE OF COUNSEL.
- (3) Grounds raised DENIAL OF APPEAL - withdrawal of guilty plea AND INEFFECTIVE ASSISTANCE OF COUNSEL...

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(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes No

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Do You receive an evidentiary hearing on petition, application or motion?
Yes No

(5) Result _____

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes No

(2) Second petition, Yes No

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

I received A findings AND recommendation order by
Magistrate Judge EDMUND BRENNAN AND He recommended
to file A federal Habeas corpus. 28 USC 2254
CIV 5-09-0652 GeB EFB P. DATED March 10, 2010

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to Proceed in the federal court you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, YOU may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you *should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one:

Denial of Appeal & Ineffective Assistance of Counsel.

Supporting FACTS (state briefly without citing cases or law):

Please see Attachment "A"

B. Ground two:

Conviction obtained by Plea of Guilty which was Unlawfully Induced or Not Made Voluntary, AND Ineffective Assistance of Counsel....

Supporting FACTS (state briefly without citing cases or law):

Please see Attachment "B"

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C. Ground three: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12 A, B, C and D were not previously presented in any other court, state or federal, state *briefly* what the grounds were not so presented, and give your reason for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes No

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing

ALLISON Zúvela And Tracy Olsen
814 North Street woodland California 95965.

(b) At arraignment and plea

SAME AS ABOVE.

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(c) At trial _____

(d) At sentencing ALLISON Zuvela And Tracy Olsen
814 North Street ~~State~~ Woodland Cal. 95965

(e) On appeal _____

(f) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
 Yes No CIRCUMSTANCE.

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
 Yes No
 future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
 Yes No

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

 Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed

 (date)

 Signature of Petitioner

IN EASTERN DISTRICT OF CALIFORNIA

**RONALD V. SMITH,
Defendant/Petitioner,**

Vs.

**SCOTT FRAKES,
Superintendent/Respondent.**

**PETITION OF HABEAS CORPUS
28 U.S.C. § 2254**

Presented by:

**Ronald Smith WDOC# 846614
Monroe Correctional Center
Washington State Reformatory
Post Office Box 777
Monroe, WA 98272-0777**

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I. PARTIES

1. Petitioner Ronald Vernon Smith is presently incarcerated in the Washington State Department of Corrections (WDOC) at the Washington State Reformatory (WSR), in Monroe, Washington.
2. Petitioner was convicted by a plea of guilty in the Superior Court of California for Yolo County. Honorable Stephen L. Mock presiding. The address of the court is: 725 Court Street, Room 302, Woodland, California 95695.
3. Defense counsel, Public Defenders Allison Zuevela and Tracie Olsen. The address of the Public Defenders is: 814 North St., Woodland, California 95695.
4. District Attorney for the people of Yolo County is: DA James Walker.

II. JURISDICTION

Petitioner is challenging his judgment based on the violations of the law of our constitution and the treaties of the United States, which are restraining the petitioners liberty in accordance to 28 USC § 2254.

III. RELIEF SOUGHT

Petitioner requests an unrestricted withdrawal of his guilty plea due to ineffective assistance of counsel and for not fully informing Petitioner of exculpatory evidence. Petitioner should be entitled to a delayed appeal due to the ineffectiveness of appellate counsel for failing to perfect and prosecute an appeal on the former reasons.

IV. STATEMENT OF FACTS

GROUND ONE

PETITIONER WAS PREJUDICED BY AN UNLAWFULLY INDUCED GUILTY PLEA THAT WAS THE PRODUCT OF INEFFECTIVE ASSISTANCE OF COUNSEL BECAUSE OF COUNSEL'S SUPPRESSION OF EXCULPATORY EVIDENCE DURING PLEA NEGOTIATIONS, THUS VIOLATING PETITIONER SMITH'S FIFTH, SIXTH AND FOURTEENTH AMENDMENT RIGHTS UNDER THE UNITED STATES CONSTITUTION. See e.g., *Hill v Lockhart*, 474 US 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985).

Petitioner Smith was extradited to California for a warrant for Murder in the First Degree, Special circumstances of Robbery, Burglary, Carjacking, Lying and Wait. He arrived to Yolo County, California in September 2006. See **Exhibit "O"** and was immediately arraigned and appointed counsel of two public defenders named **Allison Zuevela, Lead Counsel;** and **Tracie Olsen, Co-Counsel.**

Petitioner Smith was approached at the county jail by Allison and Tracy in September of 2006, wherein they told Smith that the prosecutor intended to seek the death penalty in his case. Counsel questioned Smith and he gave them important factors about the case, including his whereabouts the day and night of the crime. See **Exhibit "1" Agreement for Work Project-Sheriff's;** and **Exhibit "2.0" Smith's Personal Time Cards for days and hours worked.** Smith further stated to counsel(s) that he was at the Sheriff's Work Release Project during the day, 7:45 a.m. thru 3 p.m., Monday through Friday for a Driving Under the Influence (DUI). See Sacramento Sheriff's Work Program marked **Exhibit "1"**.

The day in question is July 24, 2000, in the evening or night because the victim was alleged to have been seen at work and presumed to have arrived to the residence at 4

p.m. Tuesday. Smith stated to counsel(s) that he arrived home around 4 p.m. after the work project on 7-24-2000. Smith further told counsel(s) he had gone home then went to work where he worked for a Quadriplegic named Chip Blakeman, who also lived at the same apartments as Smith lived in. Smith had been employed by Blakeman for a couple of months and had copies of his pay checks, time cards, w-4 that was filled out for work and State income taxes. Smith made it clear to Allison and Tracie that he had worked from 6 p.m. to 11 p.m. on September 24, 2000 the alleged time of the crime. The schedule was given to Allison and Tracie at the beginning of the case in September 2006.

Petitioner Smith was under the impression that counsel would have immediately tried to contact the Blakeman's in Woodland, California, Unfortunately, it turns out later they never attempted too. The Blakeman's were listed in the Woodland phone book and had been residing in the same residence for several years. See **Exhibit J-K-L-3**.

Petitioner Smith further alleges that two years had gone by and that there were numerous issues between himself and his attorney's which some are listed in the "Mardsen Motion" about these issues with counsel (see **Exhibit "J-K-L-3"**) which was filed with the Yolo county Superior Court on May 7th, 2008. As can be seen in the Court transcripts dated April 25th, 2008 (**Exhibit "4"**) objections against Smith for filing on the issues Smith's attorney's outside of court said that the District Attorney would not negotiate with them any longer and would continue the prosecution. The issues involved in this Motion were violations of Smith's Due Process rights and his attorney's not defending his rights.

While all this was happening, Allison and Tracie came to the Yolo county Jail around April 8th, 2008 and told Smith that time cards, w-2 and tax statements show that

Smith did work a couple months at that time period and the actual night of the alleged crime. The tax information that shows services provided for Curtis Blakeman Jr. as Smith being the provider. See Exhibit "2.0"; and "2.1". The two attorneys had told Smith that the information could have been "altered" by his family and that the judge would not allow them to use it as evidence. Counsel told Smith that they had contacted his alibi witness and showed the statement to him. (See Exhibit "5.0" **Public Defenders Statement used to Induce the Plea**). The problem was it was over two (2) years since they had the Blakeman's information, even though they were listed in the phone book and could have been easily contacted. Paragraph 2 states that Karen (Chip's mother) took care of Chip the night of the murder and that Smith left shortly after the murder was alleged to have happened, of which Smith was temporarily living with Chip. Further, in paragraph 2, Karen states that "Smith was like all the others" in a derogatory manner. There also contains statements of Mr. Blakeman, Sr. who turned over to the D.A. time cards, but didn't show dates worked or times worked. It was later contradicted by other evidence, which had yet to be discovered by the prosecutor.

Currently, the present Exhibit "5.0" is completely different than the D.A.'s statement from the Blakeman's. This can be shown by the progression of the conversations that were had between Smith and his attorneys Allison Zuevela and Tracie Olsen. She (Tracie) then informed Smith that Mr. Walker (the D.A.) was prepared to offer Smith a deal of a No Contest Plea to Murder 1, and Special circumstance of Burglary 1. This was over the objections of Smith who maintained his innocence from the beginning to this very day. Smith declared in his Mardsen Motion that he did not believe that his defense attorney's were actually defending him, and that his alibi was not

any good, now it had been over 2 years since Smith's arrest and nearly 8 years since the murder before Counsel's investigated Smith's alibi witnesses and their memories had faded to specific dates and times when Smith knew that he could prove that he worked from 6 to 11 p.m. Without that vital information, a trial would be useless, and would be unable to provide a defense to the charges against him, even if he was innocent. On May 1st, 2008 Smith signed a plea agreement. See Exhibit "6" page 19. This is the date that the Yolo County Court would accept Smith's plea.

That morning the public defender, Tracie Olsen came in minutes before the hearing and told Smith there was a problem and that the D.A. wanted only a guilty plea from him. This happened right before court started and the public defender Tracie Olsen told Smith that No Contest and guilty were the same. Nevertheless, Smith agreed and the Tracie Olsen then typed a statement of facts to support the plea, and Smith then signed it. Further, Tracie Olsen said that it didn't matter what the Statement of Facts were, or if he was guilty or not guilty, she just needed a statement of facts to hang the plea on.

Later, at sentencing, the Judge asked the D.A. if there was anything that he would like to add and he told the judge that he had talked to the public defenders Tracie and Allison that morning and told them that he had evidence on Smith such as time cards from around the time of the murder and the actual night of the murder, along with a statement that Smith had in fact worked the hours the night in question. See Exhibit "6". This exhibit corroborates Smith's alibi. Smith's attorney's failed to tell him of this favorable evidence, and he would have never known about it except for the fact that the D.A. blurted it out at sentencing. (This should be shocking to the conscience of the performance of the two attorneys'). There is also a suppressed work agreement (see

Paragraph 2, **Exhibit "7" Statement of Employers that was given to D.A.)** which shows that the defense attorney's never even tried to obtain this exculpatory evidence. It shows hours worked in an agreement 6:00 p.m. to 11:00 p.m. and is still being suppressed, and denied to Smith before he signed the plea by his own counsel, which would have changed the outcome of the case.

Smith's employer had said that she wasn't sure any longer because 8 years is a long time to remember. That is why a speedy investigation was critical to Smith's defense. The District Attorney's information about the time cards showed that he worked that night and was further corroborated. The information that the Public Defenders obtained was quite different than that of the District Attorney's. The public defenders Allison and Tracie told Smith that "Chip never complained about Smith", but the information that was had by the D.A. that the Blakeman's said that "Smith did a good job caring for Smith", this is much different than that of the Public Defenders told Smith to induce his plea. See **Exhibit "7"**.

Paragraph 3, of **Exhibit "7"** talks about the time cards and how they corroborate that he was there and worked 6 hours that evening and had for several weeks, even though she was unsure whether Smith was there or not. Allison and Tracie withheld this information from Smith, and this act, by his attorney's, is a betrayal to their client (Smith). See **Exhibit "A" Letter to the Court**.

Smith stated in this letter that his attorney's went to the D.A.'s office after court, then came to the jail and told Smith that the D.A. is just going to kill him. Smith wrote the letter that night and told the court what happened through the mail (**Exhibit "A"**) and filed the Marsden Motion marked April 25, 2008 and filed May 7, 2008. **Exhibit J-K-L**.

This was filed with the court along with the letter (**Exhibit "A"**) which clearly stated that Smith had no trust in his attorneys, and no understanding why his attorney's would act like surrogate prosecutor's.

The Yolo County Superior Court sent copies of the letter and Marsden Motion to Allison and Tracie. They then came up to the jail and told Smith that Judge Mock wouldn't replace them and if you stay with your story, he will never allow you to plea again, and the D.A. (Mr. Walker) would still kill you. Petitioner Smith was left without any alternatives but to let the plea stand, because he realized that his counsel wasn't doing anything to help him. The only way to get replacement counsel would be to file an appeal under **California Penal Code 1237.5**, but Allison and Tracie would not perform such a task, mainly because it goes against their own performance, which was at issue.

Petitioner Smith filed two Marsden Motions with the Court and ultimately denied replacement counsel, even though Judge Mock realized there were existing problems between Smith and his attorney's. Smith stated in one of his Marsden Motion's that he believed that his **Fifth, Sixth and Fourteenth Amendment** rights to counsel and effective assistance of counsel, along with due process were denied.

On May 16, 2008 the court has a Marsden Motion which is sealed. In this motion Smith stated that he wanted a **California Penal Code 1237.5** and a Notice of Appeal filed on the plea due to counsel fraudulently inducing a plea by not informing the client (Smith) of the exculpatory evidence that was acquired, but telling him that there wasn't any found that was favorable to his defense.

Nevertheless, Allison or Tracie never filed the appeal Smith asked for. Smith tried to contact them by phone from Washington State Reformatory, without any answer.

Smith further tried to contact them by mail and trying to file it on his own, and again was denied. See **Exhibit "A"**. This was further aggravated by the fact that since Smith was sent out of the State of California to the Department of Corrections in Washington State at the Washington State Reformatory, he no longer was able to research his case or file the requisite forms to prosecute an appeal or collateral attack of his conviction because Washington does not provide books or rules for California courts. See **Exhibit "F" letter from Washington State Attorney.**

The crux of the matter is that Smith's guilty plea was involuntarily made because it was induced by his attorney's deceptive, misleading, and without the knowledge of exculpatory evidence that was available for a meritorious defense, which by reason of ineffective assistance of counsel that led Smith to believe he was getting water only to find out it was sand due to their unreliable and unrepresentative actions. This violated the **United States Constitution's Fifth and Fourteenth Amendment to Due Process, and the Sixth Amendment to Effective Assistance of Counsel.**

If Petitioner Smith was informed of the exculpatory evidence that was available to him for a defense he would not have made a plea, and went to trial with the evidence, and would not have felt threatened that his life was in danger by the D.A. Smith's plea was based upon the product of ineffective assistance of counsel, making his plea involuntary, unknowledgeable, or definitely intelligently made, which in all essence, coerced, thus violating the rights afforded a criminal defendant under State and Federal Constitutions.

In **Hill v Lockhart, 474 US 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985)** said that the impact is greater when new grounds for setting aside a guilty plea are approved because the vast majority of criminal convictions result from guilty pleas; moreover, the

concern that unfair procedures may have resulted in the conviction of an innocent defendant is rarely raised by a petitioner to set aside a guilty plea. (Quoting **US v Smith, 440 F.2d 521, 528 (1971)**). Pursuant to a plea bargain agreement Smith pled guilty to First Degree Murder and Special Circumstances of First Degree Burglary. The court accepted this plea, (see Exhibit "M-N") and was sentenced to life imprisonment. Smith attempted to file a number of times to obtain court appointed counsel to assist him in presenting his claims in an appeal. See Exhibit(s) "A" through "N". The plea depends upon the advice of counsel, and was within the range of competence demanded of an attorney in a criminal case. U.S.C.A. Const. Amend. 6; **Constitutional Law Key 273(1)**; and **Criminal Law Key 641.13(5)**.

In **Hill v Lockhart, 474 US 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985)** the court held (citing **Strickland v Washington, 466 US 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)**) that where a defendant enters a guilty plea upon counsel's advice, the voluntariness of the plea depends upon whether counsels advice was within the range of competence demanded of attorney's in criminal cases. The two part standard adopted for claims of ineffective assistance of counsel requires the defendant show that counsel's representation fell below an objective standard of reasonableness, and there is a reasonable probability that "but for" counsel's unprofessional errors the results of the proceedings would have been different, applies to guilty plea challenges based upon ineffective assistance of counsel.

In order to satisfy the second prong, (the prejudice requirement), the defendant must show that there is a reasonable probability that "but for" the errors of counsel, he

would not have pled guilty, and would have insisted on going to trial. **Hill, 106 S.Ct. at 369-70.**

In the present case, it is necessary to determine whether the erroneous advice of counsel was a ploy to have him plead guilty, based upon misguided information and deception of counsel which led Smith to plea guilty to save his life. Further, deception was that counsel told Smith that the time cards and w-2 tax information, along with the hours worked were no good because the family could have altered them was erroneous advice, and no evidence procedures were done except to suppress the work statements that Mrs. Blakeman worked the 25th of July 2000, not the night of the 24th when the crime happened. This is suppressed evidence due to a contract. Counsel was ultimately destroying Smith's defense knowing that they had a plea offer on the table from the D.A. Please See Exhibit "7" 11-26-06, two years before the induced plea. Had Smith known of this information, he would not have pled guilty and gone to trial. Allison and Tracie never told Smith of the evidence that the D.A. provided to them the day of the plea, which was exculpatory. It was the exact same evidence they used to induce the plea, but told in a different light as if it was useless.

Petitioner Smith has maintained his innocence of the conviction. He had no other alternatives to save his life but to plead guilty, since his attorney's were not performing to his best interests as stated in the April 25, 2008 court hearing wherein he alleged to the court that counsel was not protecting or representing him, along with the issues in the May 7th, 2008 Marsden Hearing of deception.

Smith's defense counsel was only concerned with having it over with. There was no concern about his innocence, and repeatedly told Smith it did not matter if he was innocent or not. See **McMann v Richardson**, 397 US 759, 90 S.Ct. 1441 (1970).

Petitioner maintains that this miscarriage of justice as identical to the pre-amendment rule 32 (d) of the Federal Rules of Criminal Procedure (F.R.C.R.P) standard of manifest injustice. **US v Teller**, 762 F.2d 509, 574 (7th Cir. 1985) (holding, a defendant that seeks to withdrawal his guilty plea after sentencing under rule 32 (d) (F.R.C.R.P) bears the burden of proving necessity of such action to correct manifest injustice.). See also **Tollet v Henderson**, 411 US 58, 93 S.Ct. 1602, 36 L.Ed.2d 235 (1973).

These contentions are supported by Smith's Marsden Motions, letters and other exhibits that show that counsel was ineffective and failed to conduct reasonable pre-trial investigations, thus violating Smith's constitutionally protected right to counsel guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution. See **Wiggins v Smith**, 539 US 510, 123 S.Ct. 2527, 156 L.Ed.2d 580 (2003).

Petitioner has repeatedly and consistently maintained his innocence throughout this case. The matter is that he was forced, and coerced to enter a plea agreement with the State of California because he was not granted leave by the court to be allowed to fire Allison and Tracie his attorney's due to their performance. Petitioner Smith was left with no other alternatives but to take the State's offer to save his life, due to the obvious inadequate representation of his attorney's failure to investigate his alibi sooner. See **Exhibit "5" March 1, 2008**. The fact remains that Smith's attorney's could have easily

looked in the Yolo County Phone book and found the people that would support Smith's alibi, instead of waiting for memories to fade some two years after he faced the charges against him. (See **Petition and Supporting Exhibits**).

For example, in **Schlup v Delo**, 513 US 298, 115 S.Ct. 851, 130 L.Ed.2d 808 (1995) held: in our (American) accusatorial system of proof beyond a reasonable doubt by presenting evidence at a trial is required, when the accused proffers the defense an alibi, he raises the factual and physical impossibility of his presence at the scene of the crime. This assertion negates any factual proof and rejects the evidence tending to show the crime was committed by him. The underlying assumption of his defense is not a contention that the accused did not commit the act, but that he could not have committed the act. His defense is based upon logic of the law of evidence and predicated on the legal rule that the State must establish guilty beyond a reasonable doubt, through admissible evidence.

Essence of the word "alibi" is in the Latin meaning "else where in another place". The defendant simply asserts that or pleads that when the crime was perpetrated he was in another place and therefore could not have committed the crime. **State v Malpass**, 147 SE.2d 180, 266 NC 733 (1966). The complete defense provided by this alibi is established by the logical inference that if he was elsewhere he could not have been at the scene of the crime and have committed it.

It is Petitioner Smith's assertion that the suppressed evidence is a statement from Smith's employer saying she worked the day the crime was discovered (the 25th of July, 2000 **Exhibit "7"**) and that Petitioner worked the night of the 24th of July when the crime was alleged to have happened. This can be supported by the time cards that show

Petitioner had worked 6 hours that night, during the alleged time of death, that was stamped with an X, which is important because handicapped people have stamps with glitches in them so they cannot be duplicated or the product of fraudulent actions, and this particular stamp was with Chip Blakeman's mother, to be used to approve the hours that were worked. Handicapped persons are only allowed so many hours of time for caregivers, and the stamp shows when and what hours were and are worked for the particular person the stamp is issued too, in this case Chip Blakeman and the hours are authorized through Mrs. Blakeman, by using this stamp. Further, the other time cards also would show that Smith had worked this 6 p.m. to 11 p.m. schedule for a couple of months, through a work agreement to show that Smith worked evenings, which is in the prosecutions possession, but is being suppressed.

There are several things accompanying this Writ of Habeas Corpus the Court should take into consideration that show Petitioner Smith's alibi evidence. This can be confusing in the sense that all this evidence was not produced until after Smith pled to the charges. His attorney's never disclosed the information; they simply told him that he had better take the deal to save his life. The prosecutor is going to kill you, take the plea, save your life. How could Smith dare to go to trial when his attorney's who are to be defending him seem to have traded sides?

Petitioner Smith asks this Court to review **Exhibit "1"** Work Project Exhibit of July 24th, 2000, showing hours working for Sheriff's Office. **Exhibit "7"** Time cards from the D.A. showing Smith worked Five (5) hours July 24th, 2000 for Chip Blakeman. **Exhibit "6"** is the D.A. stating that Smith did work the night of July 24, 2000. **Exhibit**

“7” presents that Smith was at work and was told he did a good job, and further shows that there is a suppressed work agreement. Moreover, please read **Exhibit “J-K-L-3”**.

V. STATEMENT OF FACTS

GROUND TWO

PETITIONER, UPON SENTENCING ON MAY 16TH, 2008, INFORMED COUNSEL TRACIE OLSEN THAT HE WISHED TO FILE AN APPEAL UNDER CALIFORNIA PENAL CODE 1237.5 FOR THE SUPPRESSION OF EXCULPATORY EVIDENCE BY COUNSEL. PETITIONER MADE SEVERAL ATTEMPTS THROUGH YOLO COUNTY COURT, BUT WAS DENIED DUE TO UNTIMELINESS. ALL ATTEMPTS TO APPEAL WERE FORWARDED TO PETITIONER’S ATTORNEYS AND SUBSEQUENTLY DISREGARDED . . . THIS VIOLATED PETITIONERS DUE PROCESS AND UNITED STATES CONSTITUTIONAL AMENDMENTS 6 AND 14. See e.g., *Roe v Flores-Ortega*, 528 US 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2009).

On May 16th, 2008 Petitioner was sentenced for Murder in the First Degree and Special circumstance of Burglary in the First Degree after a plea of guilty. Counsel Tracie Olsen and Petitioner were embroiled in a conflict (See **Exhibit J-K-L Mardsen hearing**). Petitioner expressed to Ms. Olsen his wishes to file an appeal on the validity of the plea based upon counsel withholding exculpatory evidence, during plea negotiations. CA Penal Code 1237.5. Counsel failed to file the 1237.5 probable cause statement for Petitioner, and the Notice of Appeal.

Petitioner tried to call several times, to no avail. Petitioner started mailing attempts for an appeal, and to counsel for appeal. Again, without inception of an appeal. This can be seen and supported by **Exhibit “A”** and **Exhibit “B”** as evidence showing that Petitioner mailed requests to Honorable Judge Mock, dated May 9th, 2008 and June 28th, 2008.

Exhibit "C" further shows that Petitioner mailed to the clerks office of Yolo County Superior Court California a letter dated June 30th, 2008 expressing his wishes for an appeal and pleading for a reply or acknowledgement from the court that they in fact received this request.

Exhibit "D" pertains to a notice seeking an appeal, dated July 1st, 2008 which was returned and shows that it was received.

Exhibit "E" is a letter from Yolo County Court Judge Mock of acknowledgement dated June 15th, 2008 that Petitioner received stating that all of his letters and wishes had been received "and all had been forwarded to the attorney of record, Tracie Olsen.

Exhibit "F" is a letter that was sent to the Washington State Department of Corrections contract attorney Richard Linn requesting assistance in his California appeal. Mr. Linn replied that "our law office does not practice California Law."

Exhibit "H" Petitioner is the "Notice" he gave the California Court of Appeals dated August 8th, 2008.

Exhibit "I" is a document that shows that Petitioner wrote to Yolo County on September 13th, 2008, requesting review to address the matter of his guilty plea after sentencing. There was never any response.

Petitioner filed a Mandamus Motion with the Eastern District of California on issues pertaining to his being denied an appeal and to withdrawal of the guilty plea, based primarily upon ineffective assistance of counsel claims and issues. The March 9th, 2009 Petition for Writ of Mandamus was dismissed for lack of jurisdiction without prejudice to file a habeas corpus. See **Exhibit "P"**. The findings and recommendations filed March

10th, 2010 recommended that Petitioner file a habeas corpus in a new action. See Exhibit "Q".

VI. GROUNDS FOR RELIEF

Petitioner Smith certifies under penalty of perjury that on May 16th, 2008 he told Tracie Olsen he wanted to appeal and for her to file the Notice of Appeal under California Penal Code 1237.5 based upon counsel's withholding of critical evidence during plea negotiations. See Exhibit "A". Counsel failed to file such an appeal, probable cause statement, or the 1237.5 that would be ultimately against herself for the withholding of exculpatory evidence from Petitioner. Citing *Roe v Flores-Ortega*, 528 US 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2009). In similar circumstances, Flores asked counsel to file an appeal, and counsel failed to file the appeal after promising to do so. Flores attempted to file Notice of Appeal but was rejected as untimely.

These circumstances are mirrored in this case. The Ninth Circuit held that respondents were entitled to relief because under its precedent, a habeas petitioner need only show that his counsel's failure to file a notice of appeal was without his consent. Further, the Ninth Circuit held that *Strickland v Washington*, 466 US 668, 104 S.Ct. 2052, 80 L.Ed.2d 674(1984) provides the proper framework for evaluating a claim that counsel was constitutionally ineffective for failing to file a notice of appeal.

Under *Strickland*, a defendant must show (1) that counsel's representation "fell below an objective standard of reasonableness, and (2) that counsel's deficient performance prejudiced the defendant." *Id.* At 688, 104 S.Ct. 2052.

In the present case, Petitioner told counsel to file a Notice of Appeal and a **Cal. Penal code 1237.5 statement** for the withholding of critical exculpatory evidence by defense counsel.

The Yolo County Superior Court forwarded all attempts to the attorney of record including the appeal attempts, but all were disregarded by counsel of record. **Exhibit "E"** in the present case.

Petitioner Smith was prejudiced by counsel's failure to timely appeal . . .

Citing **US v Stearns, 68 F.3d 328 (9th Cir. 1995)** (a defendant need only show that he did not consent to counsel's failure to file a Notice of Appeal to be entitled to relief). Further, in **Rodriguez v US, 395 US 327, 89 S.Ct. 1715, 23 L.Ed.2d 340 (1969)**; and **Peguero v US, 526 US 23, 28, 119 S.Ct. 961, 143 L.Ed.2d 18 (1999)** held: "[W]hen counsel fails to file a requested appeal a defendant is entitled to [a new] appeal without a showing showing his appeal is would have merit."

In the case at bar, the Petitioner requested to counsel, court, and everyone that he could contact that he wished to appeal within the timeframes set forth by rule and statutory considerations. However, Petitioner's counsel failed to file anything in Petitioner's behalf, thus prejudicing him, because the court would not allow Petitioner to file his own Notice of Appeal on his behalf. The court even sent the documents to the attorney, and still she did nothing for Petitioner Smith, mainly because the appeal would have been against her representation, which posed a conflict of interest.

In the case **Manning v Foster, 224 F.3d 1129 (9th Cir. 2000)** held: Where an attorney fails to file an appeal and the petitioner can prove that he would have appealed "but for counsel's failure to file, prejudice is presumed."

Here, Petitioner Smith continually sent documents to the attorney and the court and no one would respond until well after his time to appeal had ended. In **US v Sandoval-Lopez, 409 F.3d 1193, 1196(9th Cir. 2005)** held: counsel's refusal to comply with defendant's specific instructions to file an appeal constitutes ineffective assistance of counsel. See also **Evitts v Lucy, 469 US 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985)**.

Petitioner Smith has shown and provided through **Exhibit "A"** an embroiled conflict during plea negotiations with his attorney. See **Exhibit "J-K-L" Marsden Motion** filed with the Superior Court of Yolo County, May 7th, 2008. This includes all the other **Exhibit(s) "B"; "C"; "D"** showing the many attempts to the Court trying to appeal and/or receive acknowledgement of receipt of the documents. Finally, Honorable Judge Mock recognized these attempts and forwards all the documents to the attorneys of record Allison Zuevela and Tracie Olsen, wherein they disregarded the court's instructions and most importantly the Defendant's wish to appeal.

Petitioner Smith has provided and summarized "mirrored" cases which show that he should be entitled to relief. The Petitioner respectfully asks this Honorable Court to grant relief consistent with the summarized cases provided herein, and provide a delayed appeal, or withdrawal of his guilty plea.

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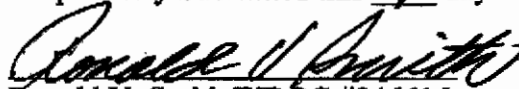
//

VII. CONCLUSION

The movant respectfully asks that the Court grant him relief by withdrawing his guilty plea, or to any other relief that he may be entitled for the issues set forth herein and the incorporated exhibits.

I, Ronald V. Smith, declare under penalties of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the Prison mailing system on this 7 day of July, 2010.

Respectfully Submitted this 7 day of July, 2010.



Ronald V. Smith WDOC #846616

Petitioner/Defendant, Pro-Se

Washington State Reformatory

Post Office Box 777

Monroe, WA 98272-0777

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
OFFICE OF THE CLERK**

**RONALD SMITH,
Petitioner,**

Vs

**PEOPLE OF THE STATE
OF CALIFORNIA,
Respondent.**

No. 2:09-CV-00652-GeB-EFB

**MOTION AND REQUEST FOR
APPOINTMENT OF COUNSEL TO
ASSIST PETITIONER. PRO SE,
WITH THE COURTS
FED.R.CIV.P RULES GOVERNING
§ 2254, RULE 8(c)**

COMES NOW, the Petitioner, Ronald Smith, pro se, in the above case, Cause of Action pursuant to Fed.R.Civ.P 8(c), requesting relief designated by this motion.

The petitioner, Ronald Smith, requests pursuant to 28 U.S.C. 1915(e) (1), with 18 U.S.C. 3006A, *Gideon v. Wainwright*, 83 S.Ct. 792(1963). The petitioner moves for an order of an appointment of counsel to assist in representing him in this matter, in support of this motion, he state as following:

- A) The petitioner's present location is at a Washington State Department of Corrections facility in Monroe, Washington (WSRU). Petitioner in this case was extradited from the State of Washington, to the State of California, Yolo County, on

charges of Murder-1st, Robbery 1st, Burglary, Carjacking, Lying in wait. Petitioner arrived in the State of California, county of Yolo, in September 2006. He states he is innocent of all charges herein.

- B) Petitioner is indigent and is unable to afford costs to obtain legal counsel to assist in this case; therefore he requests the court allow him to precede in-forma-pauperis.
- C) Being incarcerated will greatly limit his ability to litigate the issues involved in this case, while it is very complex and will require significant researching and investigation. The petitioner is an inmate, out of the State of California, trialed and convicted there by pleading guilty in an agreement, in the Superior Court, county of Yolo. He is, at present, trying to obtain legal access to the California State court system, so as to withdraw his guilty plea, while being housed presently in the Washington State Department of Corrections, Washington State Reformatory (WSRU). The Washington State Reformatory's law library system it is not up to date as it should be, and as it is not California the legal materials needed are not easily or adequately accessible. This is in order to offer petitioner, Ronald Smith, with the California State Rules, Statutes, and Laws that he needs to adequately and properly redress the matters at hand. Being out of state is more than enough to support a request for appointment of counsel to assist in this case. Also so as to be able to properly present his defense and make sure it is mailed out to the proper recipients, whereas it will be very difficult to do pro se and accordingly with the laws, rules, and statutes of the California State court system.

- D) The petitioner claims to have been refused correspondence at this time. Petitioner quotes, *Lewis v. Casey*, 518 U.S. 343(1996); *Morrow v Harwell*, 768 F.2d 619, 622, 623 (5th Cir.1985); *Morwello v. James*, 810 F.2d 344, 347 (2nd Cir.1987); *Bound v Smith*, 430 U.S. 817, 828 (1977); and *Milton v Morris*, 767 F.2d 1443, 1447 (9th Cir.1985).
- E) If a hearing is required in this case it will likely involve conflicting testimony and counsel would better be able to present evidence and cross-examine witnesses if any.
- F) The petitioner has made repeating effort to obtain legal counsel to assist in preparing his pleading herein, but yet has not been able to obtain counsel due to his indigent status.
- G) Petitioner states that the court has the discretion to exercise the appointment of counsel for a financially ineligible individual where the interest of justice so required under 18 U.S.C. § 3006A, counsel should be appointed to the petitioner for the ability to articulate his claims in the likelihood of success on the merits of this case.
- H) *State v Eide*, 83 Wash.2d 676, 521 P.2d 207; Criminal laws rights to counsel, an indigent accused's exercise of his constitutional right to counsel without cost may not be unnecessarily deterred or burdened by imposition of post-proceedings reimbursement obligations.

I) This view is consistent with the federal definition of a criminal defendant eligible for counsel at government expense, as a person who is financially unable to obtain counsel 18 U.S.C. § 3006A (b), the Sixth Amendment to the U.S. Constitution imposes upon the state the obligation of furnishing counsel to indigent criminal defendant at no cost to the defendant and applies to all cases whether misdemeanor or felony. Whether a defendant may be subjected to the loss of liberty if determined to be guilty of the particular charge against him. *Gideon v Wainwright*, 372 U.S. 335, 9 L.Ed.2d 799, 83 S.Ct. 792, 93 A.L.R.2d 733 (1963); *Argersinger v Hamiin*, 407 U.S. 25, 32 L.Ed.2d 530, 92 S.Ct. 2006 (1972). A person cannot be influenced to surrender a constitutional right by imposing a penalty on its use, *Griffin v California*, 308 U.S. 609, 14 L.Ed.2d 106, 85 S.Ct. 1229 (1965); *United States v Jackson*, 390 U.S. 570, 20 L.Ed.2d 138, 88 S.Ct. 1209 (1968); The absence of standards sufficient to enable the defendant to protect himself against arbitrary or discriminatory impositions of cost would also invalidate the procedure under the due process clause *Giaccio v Pennsylvania*, 382 U.S. 399, 15 L.Ed.2d 447, 86 S.Ct. 518 (1966). The only value asserted to counter-balance this very real possibility of a chilling effect on the defendant's Sixth Amendment right to counsel is the possibility of an unlikely occurrence.

J) The assistance of counsel is one of the safeguards of the Sixth Amendment deemed necessary to insure fundamental human rights of life and liberty. The Sixth Amendment stands as a constant admonition that if the constitutional safeguards it provides be lost, justice will not be done. *Johnson v Zerbst*, 304 U.S. 458, 462, 58

S.Ct. 1019, 1022, 82 L.Ed. 1461 (1938); to the same effect see *Avery v Alabama*, 308 U.S. 444, 60 S.Ct. 321, 84 L.Ed 377 (1940); and *Smith v O'grady*, 312 U.S. 329, 61 S.Ct. 572, 85 L.Ed. 859 (1941). We have concluded the certain fundamental rights safeguarded by the first eight Amendments against federal action were also safeguarded against state action by the due-process of law clause of the Fourteenth Amendment and in a criminal prosecution *Grosjean v American Press Co.*, 297 U.S. 233, 243, 244, 56 S.Ct. 444, 446, 80 L.Ed. 660 (1936). How that view has not prevailed and the rights protected against state invasion by the due-process clause of the Fourteenth Amendment are not a watered down version of what the bill of rights guarantees.

WHEREFOR, the interests of justice would be best served by appointing counsel in this case matter to assist petitioner, Ronald Smith, with access to the legal court system in California State. Petitioner may withdraw his guilty plea, as he so wishes, and enter a "not guilty" to the charges herein. Any other relief in this motion to this court is proper and supports this motion for this case.

Respectfully Submitted this 1st day of July, 2010.



Ronald Smith #846614
Monroe Correctional Complex
Washington State Reformatory
Post Office Box 777
Monroe, WA 98272-0777


CERTIFICATE OF SERVICE

I, Ronald Smith, do hereby certify that a true and correct copy of the foregoing has been mailed by pre-paid postage by the United States Postal Service to:

California Attorney General
Sacramento Office
1300 "I" Street
1st Floor
Sacramento, CA 95814

On this 1st day of July, 2010.

I, Ronald Smith, Petitioner in this action, in accordance with 28 U.S.C. § 1915, I declare under penalty of perjury that the foregoing is true and correct.



Ronald Smith #846614

Exhibit-1.0

SACRAMENTO COUNTY SHERIFF'S WORK PROGRAM

700 North Fifth Street, Sacramento, CA 95814

(916) 874-1406

NAME OF INMATE: SMITH RONALD ✓
 JOB SITE: Can Wash ✓
 START DATE/TIME: 6:50 ✓ 7:45 - 3:00
 DAYS TO REPORT: Mon, Tues, Wed, Thurs, Fri COMPLETION DATE 8-3-00 ✓
 OFFICER'S NAME/BADGE: AMEN 700 SIGNATURE: [Signature] (Subject to Change)

• • • BUSINESS HOURS ARE 7AM A.M. UNTIL 4:00 P.M., MONDAY THRU FRIDAY, CLOSED MAJOR HOLIDAYS • • •

You have been accepted on the Sheriff's Work Program. As a participant in this jail program, you will be in the custody of an officer performing public service work instead of serving your sentence in a jail facility. This program is **A PRIVILEGE--NOT A RIGHT**. To remain on this program, you must follow the rules listed below and any verbal or written directive from a Sheriff's Work Program staff member:

1. Transportation to and from the job site is **YOUR RESPONSIBILITY**. Transportation problems are **NOT** a valid reason for being late or missing a work day. The job site officer will **NOT** accept you if you report late, and you will not be given credit for the day.
2. You are considered **in custody** while under the supervision of the job site officer. You are not allowed to leave the job site, have visitors or make personal phone calls. **YOU ARE TO REMAIN AT THE JOB SITE UNTIL RELEASED BY THE OFFICER IN CHARGE.**
3. Participants reporting to the job site under the influence of alcohol or drugs will not be accepted and could be subject to disciplinary action and/or arrest.
4. Most job sites require that you work outdoors, so you should dress appropriately. **We work rain or shine.** We do not provide rain gear or work gloves. Refer to the "job site instructions" sheet for specific information about the dress code.
5. Participants and their vehicles are subject to search. Anyone found in possession of an illegal substance, alcohol or any weapon will be subject to discipline and/or arrest.
6. Insubordination, unexcused absences, failure to follow directives or perform your assigned duties could result in removal from the program and completing the remainder of your sentence at the Rio Cosumnes Correctional Center.
7. If you fail to report on any assigned day without a valid reason, you will be considered a "**NO SHOW**" and subject to discipline. The following are **valid reasons**:
 - a. **MEDICAL EMERGENCY.** You must have verification **in writing** from a licensed physician. Be sure to include the diagnosis and date(s) missed. You must submit your excuse no later than five (5) days after your absence.
 - b. **COURT APPEARANCE.** You must have **written** verification from the court.

In all cases, the written verification must be brought **IN PERSON** to the Sheriff's Work Program office located at 700 North 5th Street, no later than **FIVE BUSINESS DAYS** after your absence. A staff member or supervisor will determine if the absence is excused. **All days missed, regardless of the reason, must be made up.** Those days missed will be added to your sentence and your completion date will be adjusted.

I acknowledge that I must report, as ordered, sober and drug-free. If I am removed from or fail the program I understand I may immediately be taken into custody without a warrant and will: Serve the remainder of my sentence as straight time; and/or lose all my good time credit; and/or be returned to court and charged with a misdemeanor (4024.2 P.C.).

Ronald Smith
Signature of Inmate

6-1-00
Date

9.9T02737

843,3126

TIS

SACRAMENTO COUNTY SHERIFF'S DEPARTMENT
SHERIFF'S WORK PROGRAM: INMATE CONTROL CARD

INMATE NAME SMITH, RONALD V.		JOB SITE CAR WASH
X REFERENCE J510264	CHARGE 2315 2 148A	PRIORS 469
DATE OF BIRTH 3-22-68	MEDICAL / DUTY 0	MEDICATION 0
LENGTH OF SENTENCE 120	10	WORK DAYS MON TUES WEDS THURS FRI
MINUS/GOOD WORK 40	2	
EQUALS DAYS TO SERVE 80	8	
MINUS CREDIT T/S 45		
MINUS S/T SERVED 35	8	
EQUALS TOTAL DAYS 43		

TIS WILL TAKE THE

6-2-00 SENTENCE DATE **X-7-4-00**
6-1-00 INTERVIEW DATE (2) **7-14-00 RIA**
6-5-00 START WORK PROGRAM

INT.	RELEASE DATE
	8-3-00
6-13-00 JS	8-4-00
6-21-00 N/S	8-7-00
7-13-00 PEND TILL	
07-27-00 MED CLEAR	
7-7-00 CASUALTY REPT 00-48024	
7-14-00 - RT back on program start	8-9-00
at Car Wash 7-17-00 MON - FRI	
Subj has completed 25 days W/ 18 Days	
Br 7-25-00 NIS	8-10-00

Exhibit-2.0

20



STATE OF CALIFORNIA

71 | 350714

IDENTIFICATION NO.
5701131673

FUNDS NO. 0696
MO. DAY YR.
5180 07 | 21 | 2000

90-1342/1211
71350714

---TO SMITH, RONALD
320 W COURT ST
WOODLAND, CA 95695

DOLLARS | CENTS
\$ *****115.94

Kathleen Connell
KATHLEEN CONNELL
STATE CONTROLLER

⑆121113423⑆ 713507148⑈

DETACH CHECK HERE
KEEP THIS STUB FOR YOUR RECORDS
Separe el cheque aquí
Guarde este talón para su archivo

STATEMENT OF EARNINGS AND DEDUCTIONS
ISSUE DATE 07/21/2000

71 | 350714

		CURRENT	YTD
RECIPIENT: 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695		GROSS 126.50	615.25
PROVIDER: 532-72-8465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695		NET 115.94	563.00
FROM: 06/16/2000 TO: 06/30/2000 HOURS: 22.0		FICA 7.84	38.14
IHSS PROGRAM INFORMATION		MEDICARE 1.83	8.92
		SDI .89	4.31

ARREARS

Detach here and complete for your next payment request		Separe aquí y complete para su siguiente solicitud de pago	
RECIPIENT NUMBER 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695	PROVIDER NUMBER 728465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695		
Address change YES <input type="checkbox"/> Write new address on reverse side		Address change YES <input type="checkbox"/> Write new address on reverse side	

THIS IS NOT AN AUTHORIZED TIMESHEET. DO NOT USE.

DAY OF MONTH																				
HOURS WORKED																				
TS #13072446	FILL IN HOURS FOR EACH DAY WORKED AND PLACE TOTAL HERE LLENE LAS HORAS PARA CADA DIA QUE TRABAJÓ Y APUNTE EL TOTAL AQUÍ																			
SHARE OF COST LIABILITY 0.00	OTHER LIABILITY 0.00	PROVIDER OVERPAYMENT 0.00																		

SW NO. BS54 DO. 01
YOLO COUNTY DSS
500 JEFFERSON BLVD STE A-100
W SACRAMENTO, CA 95605-2350



57-01131673	RECIPIENT SIGNATURE	DATE
X		
728465	PROVIDER SIGNATURE	DATE
X		

After work has been completed, sign, date and mail to this address:
Una vez que se haya completado el trabajo, firme y envíe a esta dirección:
Do not sign unless you have read and understand instructions on reverse side.
No firme hasta que haya leído y entendido las instrucciones al dorso.

THIS IS TO CERTIFY THAT THE INFORMATION CONTAINED IN THIS FORM IS TRUE, ACCURATE AND COMPLETE, AND THAT THE PROVIDER AND RECIPIENT HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY AND COMPLY WITH THE STATEMENTS, AFFIRMATIONS AND CONDITIONS CONTAINED ON THE BACK OF THIS FORM.
POR MEDIO DE LA PRESENTE CERTIFICO QUE LA INFORMACIÓN QUE CONTIENE ESTA FORMA ES VERDADERA, CORRECTA Y COMPLETA, Y QUE EL PROVEEDOR Y LA PERSONA QUE RECIBE LOS BENEFICIOS HAN LEÍDO, ENTIENDEN Y ESTÁN DE ACUERDO EN SOMETERSE A, Y CUMPLIR CON LAS DECLARACIONES, AFIRMACIONES Y CONDICIONES QUE CONTIENE EL DORSO DE ESTA FORMA.
SOC 381 (04/97) STATE OF CALIFORNIA-HEALTH AND WELFARE AGENCY - DEPARTMENT OF SOCIAL SERVICES

THE TIMESHEET MUST BE COMPLETED WITH THE HOURS YOU WORKED AND RETURNED TO THE COUNTY IHSS ADDRESS LISTED BELOW. LA HOJA DE HORAS TRABAJADAS TIENE QUE SER COMPLETADA CON LAS HORAS QUE USTED TRABAJÓ Y DEBE SER REGRESADA A LA DIRECCIÓN DEL CONDADO PARA SU

IHSS Timesheet																	
INITIALS Recipient Number 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695 Address Change Yes <input type="checkbox"/> Write new address on reverse side							Provider Number 728465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695 Address Change Yes <input type="checkbox"/> Write new address on reverse side										
SIGN, DATE AND MAIL TIMESHEET AFTER ALL WORK COMPLETED IN PAY PERIOD.																	
JUNE 2000 EMPLOYER SERVICE HOURS ARE 20.0 <i>only hrs left cutback 22.0</i>																	
Day of Month	XX	XX	XX	XX	XX	XX	XX	XX	XX	24	25	26	27	28	29	30	
Hours Worked										5	9	12	5	5	5	32	
Fill in hours for each day worked and place total here. Llene las horas para cada día que trabajó y apunte el total aquí.																	
Share of Cost Liability \$0.00				Other Liability				Provider Overpayment									
"Do not sign unless you have read and understand instructions above." "No firme hasta que haya leído y entendido las instrucciones al dorso."																	
SW NO. 8554 DO. 01 YOLO COUNTY DSS 500 JEFFERSON BLVD STE A-100 W SACRAMENTO, CA 95605									57-01131673 Recipient Signature <i>[Signature]</i>			Date 7900					
RECEIVED DEPT. OF EMPLOYMENT JUL 18 2000									728465 Provider Signature <i>[Signature]</i>					Date 7900			
← After work has been completed, sign, date and mail to this address. Una vez que se haya completado el trabajo, firme y envíese a esta dirección:																	
This is to certify that the information contained in this form is true, accurate and complete, and that the provider and recipient have read, understand and agree to be bound by and comply with the terms, conditions, affirmations and conditions contained on the back of this form. Por medio de la presente certifico que la información que aparece en esta forma es verdadera, correcta y completa, y que el proveedor y la persona que recibe los beneficios han leído, entendido y están de acuerdo en someterse a, y cumplir con las declaraciones, afirmaciones y condiciones que contiene el dorso de esta forma.																	

20



STATE OF CALIFORNIA

71 | 350713

Case 2:00-cv-01918-JAM-KJM Document 1 Filed 07/20/10 Page 43 of 138

IDENTIFICATION NO.
5701131673

FUND NO. 5180
FUND NAME 07/21/2000

90-1342/1211
71350713

TO SMITH, RONALD
320 W COURT ST
WOODLAND, CA 95695

DOLLARS
CENTS
\$ *****447.94

Kathleen Connell
KATHLEEN CONNELL
STATE CONTROLLER

11211134231 713507139

↑ DETACH CHECK HERE
KEEP THIS STUB FOR YOUR RECORDS
Separe el cheque aquí
Guardé este talón para su archivo

STATEMENT OF EARNINGS AND DEDUCTIONS
ISSUE DATE 07/21/2000

71 | 350713

		CURRENT	YTD
RECIPIENT: 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695		GROSS 488.75	615.25
PROVIDER: 532-72-8465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695		NET 447.94	563.00
FROM: 07/01/2000 TO: 07/15/2000 HOURS: 85.0		FICA 30.30	38.14
DSS PROGRAM INFORMATION		MEDICARE 7.09	8.92
		SDI 3.42	4.31
		ARREARS	

Detach here and complete for your next payment request		Separe aquí y complete para su siguiente solicitud de pago	
RECIPIENT NUMBER 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695	PROVIDER NUMBER 728465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695		
Address change YES <input type="checkbox"/> Write new address on reverse side		Address change YES <input type="checkbox"/> Write new address on reverse side	

JULY 2000 EMPLOYER REMAINING SERVICE HOURS ARE 198.0

DAY OF MONTH	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
HOURS WORKED																

TS #13071630
SHARE OF COST LIABILITY 0.00 OTHER LIABILITY 0.00 PROVIDER OVERPAYMENT 0.00

SW NO. BS54 DO. 01
YOLO COUNTY DSS
500 JEFFERSON BLVD STE A-100
W SACRAMENTO, CA 95605-2350

57-01131673 RECIPIENT SIGNATURE DATE
X
728465 PROVIDER SIGNATURE DATE
X

After work has been completed, sign, date and mail to this address:
Una vez que se haya completado el trabajo, firmese y envíese a esta dirección:
Do not sign unless you have read and understand instructions on reverse side.
No firme hasta que haya leído y entendido las instrucciones al dorso.

THIS IS TO CERTIFY THAT THE INFORMATION CONTAINED IN THIS FORM IS TRUE, ACCURATE AND COMPLETE, AND THAT THE PROVIDER AND RECIPIENT HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY AND COMPLY WITH THE STATEMENTS, AFFIRMATIONS AND CONDITIONS CONTAINED ON THE BACK OF THIS FORM.

POR MEDIO DE LA PRESENTE CERTIFICO QUE LA INFORMACIÓN QUE CONTIENE ESTA FORMA ES VERDADERA, CORRECTA Y COMPLETA, Y QUE EL PROVEEDOR Y LA PERSONA QUE RECIBE LOS BENEFICIOS HAN LEÍDO, ENTIENDEN Y ESTÁN DE ACUERDO EN SOMETERSE A, Y CUMPLIR CON LAS DECLARACIONES, AFIRMACIONES Y CONDICIONES QUE CONTIENE EL DORSO DE ESTA FORMA.

THE TIMESHEET MUST BE COMPLETED WITH THE HOURS YOU WORKED AND RETURNED TO THE COUNTY IHSS ADDRESS LISTED BELOW
 LA HOJA DE HORAS TRABAJADAS TIENE QUE SER COMPLETADA CON LAS HORAS QUE USTED TRABAJÓ Y DEBE SER REGRESADA A LA DIRECCIÓN DEL CONDADO PARA

REPLACEMENT		IHSS Timesheet														
Recipient Number 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND, CA 95695 Address Change Yes <input type="checkbox"/> Write new address on reverse side	Provider Number 728465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695 Address Change Yes <input type="checkbox"/> Write new address on reverse side															
SIGN, DATE AND MAIL TIMESHEET AFTER ALL WORK COMPLETED IN PAY PERIOD. JULY 2000 EMPLOYER SERVICE HOURS ARE																
Day of Month	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	
Hours Worked	9	9	5	5	5	5	9	9	5	5	5	5	9	9	85	
Fill in hours for each day worked and place total here Llene las horas para cada día que trabajó y apunte el total aquí																
Share of Cost Liability					Other Liability					Provider Overpayment						
"Do not sign unless you have read and understand instructions above." "No firme hasta que haya leído y entendido las instrucciones al dorso."																
SW NO. B554 DO. 01 YOLD COUNTY DSS 500 JEFFERSON BLVD STE A-100 W SACRAMENTO, CA 95605-2350 DEPT. OF EMPLOYMENT										57-01131673 X 728465 X ← After work has been completed, sign, date and mail to this address: Una vez que se haya completado el trabajo, firme y envíe a esta dirección			Recipient Signature Provider Signature Date Date 7900			
This is to certify that the information contained in this form is true, accurate and complete, and that the provider and recipient have read, understand and agree to be bound by and comply with the statements, affirmations and conditions contained on the back of this form. Por medio de la presente certifico que la información que contiene esta forma es verdadera, correcta y completa, y que el proveedor y la persona que recibe los beneficios han leído y entienden y están de acuerdo en someterse a, y cumplir con las declaraciones, afirmaciones y condiciones que contiene el dorso de esta forma.																
SOC 361 IR (1/98)			STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY - DEPARTMENT OF SOCIAL SERVICE													

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STATE OF CALIFORNIA

71 498348

Case 2:10-cv-01918-JAM-KJM Document 1 Filed 07/20/10 Page 45 of 138

THE TREASURER OF THE STATE WILL PAY OUT OF THE

FUND NO. 0696

IDENTIFICATION NO.
5701131673

MO. DAY YR.
5180 08 03 2000

90-1342/1211
71498348

--- TO SMITH, RONALD
320 W COURT ST
WOODLAND, CA 95695

DOLLARS CENTS
\$*****279.31

Kathleen Connell
KATHLEEN CONNELL
STATE CONTROLLER

⑆121113423⑆ 714983481⑈

↑ DETACH CHECK HERE
KEEP THIS STUB FOR YOUR RECORDS
Separe el cheque aqui
Guarde este talón para su archivo

STATEMENT OF EARNINGS AND DEDUCTIONS
ISSUE DATE 08/03/2000

71 498348

	CURRENT	YTD
RECIPIENT: 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695	GROSS 304.75 NET 279.31 FICA 18.89 MEDICARE 4.42 SDI 2.13	920.00 843.00 57.03 13.34 6.44
PROVIDER: 532-72-8465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695		
FROM: 07/16/2000 TO: 07/31/2000 HOURS: 53.0		

← IHSS PROGRAM INFORMATION
ARREARS

Detach here and complete for your next payment request		Separe aquí y complete para su siguiente solicitud de pago	
RECIPIENT NUMBER 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695	PROVIDER NUMBER 728465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695		
Address change YES <input type="checkbox"/> Write new address on reverse side		Address change YES <input type="checkbox"/> Write new address on reverse side	

AUGUST 2000 EMPLOYER SERVICE HOURS ARE 283.0

DAY OF MONTH	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
HOURS WORKED															

TS #14744805
FILL IN HOURS FOR EACH DAY WORKED AND PLACE TOTAL HERE
LLENE LAS HORAS PARA CADA DIA QUE TRABAJO Y APUNTE EL TOTAL AQUI

SHARE OF COST LIABILITY 0.00	OTHER LIABILITY 0.00	PROVIDER OVERPAYMENT 0.00
SW NO. BS54 DO. 01 YOLO COUNTY DSS 500 JEFFERSON BLVD STE A-100 W SACRAMENTO, CA 95605-2350	57-01131673 X 728465 X	RECIPIENT SIGNATURE DATE PROVIDER SIGNATURE DATE

After work has been completed, sign, date and mail to this address:
Una vez que se haya completado el trabajo, firmese y envíese a esta dirección:
Do not sign unless you have read and understand instructions on reverse side.
No firme hasta que haya leído y entendido las instrucciones al dorso.

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Detach here and complete for your next payment request												Separe aquí y complete para su siguiente solicitud de pago																							
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JULY 2000 EMPLOYER REMAINING SERVICE HOURS ARE 198.0																																			
DAY OF MONTH	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31																			
HOURS WORKED	9	4	5	5	5	9	15	15									133																		
TS #13071630												FILL IN HOURS FOR EACH DAY WORKED AND PLACE TOTAL HERE LLENE LAS HORAS PARA CADA DÍA QUE TRABAJÓ Y APUNTE EL TOTAL AQUÍ																							
SHARE OF COST LIABILITY						0.00						OTHER LIABILITY						0.00						PROVIDER OVERPAYMENT						0.00					
SW NO. BS54 DO. 01 YOLO COUNTY DSS 500 JEFFERSON BLVD STE A-100 W SACRAMENTO, CA 95605-2350												57-01131673 RECIPIENT SIGNATURE DATE X _____																							
												728465 PROVIDER SIGNATURE DATE X <i>Ronald Smith</i>																							
After work has been completed, sign, date and mail to this address: Una vez que se haya completado el trabajo, firme y envíese a esta dirección: *Do not sign unless you have read and understand instructions on reverse side. *No firme hasta que haya leído y entendido las instrucciones al dorso*																																			
THIS IS TO CERTIFY THAT THE INFORMATION CONTAINED IN THIS FORM IS TRUE, ACCURATE AND CORRECT AND THAT THE PROVIDER AND RECIPIENT HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY AND COMPLY WITH THE STATEMENTS, AFFIRMATIONS AND CONDITIONS CONTAINED ON THE BACK OF THIS FORM.																																			
POR MEDIO DE LA PRESENTE CERTIFICO QUE LA INFORMACIÓN QUE CONTIENE ESTA FORMA ES VERDADERA, CORRECTA Y COMPLETA, Y QUE EL PROVEEDOR Y LA PERSONA QUE RECIBE LOS BENEFICIOS HAN LEÍDO, ENTIENDEN Y ESTÁN DE ACUERDO EN SOMETERSE A, Y CUMPLIR CON LAS DECLARACIONES, AFIRMACIONES Y CONDICIONES QUE CONTIENE EL DORSO DE ESTA FORMA.																																			
SOC 361 (a) (3/97)												STATE OF CALIFORNIA-HEALTH AND HUMAN SERVICES DEPARTMENT OF SOCIAL SERVICES																							

RECEIVED

AUG 04 2000

Exhibit-2.1

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B14Z0027

OMB No. 1545-0028

a Control number X000430	1 Wages, tips, other compensation 920.00	2 Federal income tax withheld 0.00
b Employer's identification number 94 2629822	3 Social security wages 0.00	4 Social security tax withheld 0.00
d Employee's social security number 532-72-8465	5 Medicare wages and tips 0.00	6 Medicare tax withheld 0.00
c Employer's name, address, and ZIP code BLAKEMAN JR., CURTIS PO BOX 700 RNCHO CORDOVA, CA 95741-0700		7 Social security tips
		8 Allocated tips
		9 Advance EIC payment 0.00
10 Dependent care benefits	11 Nonqualified plans	12 Benefits included in box 1
e Employee's name, address, and ZIP code 5701131673728465 57 01 SMITH, RONALD 320 W COURT ST WOODLAND, CA 95695-6653		13 See instrs. for box 13
15 Statutory employee	Deceased	Pension plan
		Legal rep
		Deferred compensation
16 State 2000 CA	Employer's state I.D. No. 54686878	17 State wages, tips, etc. 920.00
18 State income tax 0.00		19 Locality name SDI
20 Local wages, tips, etc.		21 Local income tax 6.64

Form **W-2** Wage and Tax Statement

Copy C for EMPLOYEE'S RECORDS
(See Notice to Employee on back of Copy B.)

16-0331690 Department of the Treasury—Internal Revenue Service
This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.

a Control number	OMB No. 1545-0008					This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.				
b Employer's identification number 91-1729821	1 Wages, tips, other compensation 3,668.33		2 Federal income tax withheld							
c Employer's name, address, and ZIP code Department of Labor and Industries Statutory Employer PO Box 44261 Olympia Wa 98504-4261	3 Social security wages 3,668.33		4 Social security tax withheld 227.44							
	5 Medicare wages and tips 3,668.33		6 Medicare tax withheld 53.19							
	7 Social security tips		8 Allocated tips							
d Employee's social security number 532728465	9 Advance EIC payment 0.00			10 Dependent care benefits						
e Employee's name, address, and ZIP code SMITH RONALD V 923 N 21ST AVE YAKIMA WA 98902	11 Nonqualified plans			12 Benefits included in box 1						
	13			14						
	15 Statutory employee	Deceased	Pension plan	Legal rep	Deferred compensation					
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
16 State	Employer's state I.D. No.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages tips, etc.	21 Local income tax				

FORM **W-2** Wage and Tax Statement **2000** Department of the Treasury - Internal Revenue Service
Copy C For EMPLOYEE'S RECORDS

Cut along dashed line

Exhibit-4.0

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF YOLO

HONORABLE STEPHEN L. MOCK, DEPARTMENT THREE

--oOo--

COPY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

RONALD SMITH,

Defendant.

Case No. 05-7707

REPORTER'S TRANSCRIPT
OF DAILY PROCEEDINGS

--oOo--

FRIDAY, APRIL 25, 2008

(Pages 374 through 394)

--oOo--

APPEARANCES

FOR THE PEOPLE:

JEFF W. REISIG
DISTRICT ATTORNEY
By: JAMES WALKER
Deputy District Attorney

FOR THE DEFENDANT:

BARRY MELTON
PUBLIC DEFENDER
By: TRACIE OLSON
Assistant Public Defender.

Reported by:

JEANETTE BAKER, CSR NO. 9576

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APRIL 25, 2008

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The above-entitled matter came on this day for review before Honorable STEPHEN L. MOCK, Judge of the Superior Court.

The People were represented by JAMES WALKER, Deputy District Attorney of Yolo County.

The Defendant, RONALD SMITH, was present represented by TRACIE OLSON, Assistant Public Defender of Yolo County.

JEANETTE BAKER, C.S.R., Official Court Reporter, was present and acting.

The following proceedings were had:

P R O C E E D I N G S

--oOo--

THE COURT: All right. We move to the matter of Ronald Smith, 05-7707. Mr. Smith is present with Tracie Olson.

There are a number of matters that are on calendar, some of which involve Mr. Walker, who is present, at least one of which does not involve Mr. Walker. The matter that doesn't involve Mr. Walker is the claim Mr. Smith reduced to writing and mailed to me a letter dated March 16th, 2008, a letter which is seven pages in length. Both counsel for the defendant and the prosecutor have previously indicated that they read a copy of that letter.

All of the other matters before the Court, the

1 issue of whether the Court should fashion some kind of
2 protective order, or gag order, and two discovery issues
3 were calendared to be heard this afternoon.

4 All right. Are we ready to start with the
5 Marsden hearing? Because if so, I'm going to excuse
6 Mr. Walker at this time.

7 MS. OLSON: I think Mr. Smith -- I had told the
8 Court last time that we were here, for the first time
9 the district attorney expressed a sincere offer to see
10 if we can't negotiate this case. We meaning myself and
11 my team, including some experts, have spent considerable
12 amount of time probably in the last couple weeks talking
13 to Mr. Smith about possibly settling this case. And, of
14 course, we talked about some of the Marsden issues as
15 well.

16 So I think he wants to talk with you whether or
17 not he wants to go forward with the Marsden motion, and
18 then I can update the Court where we are in
19 negotiations.

20 THE COURT: Do you want to spend some time
21 talking to Mr. Smith off the record, or how do you want
22 to proceed this morning?

23 MS. OLSON: Well, we can do that. I guess I'll
24 just -- I had had some conversations with the district
25 attorney, and he was clear that he had not made us an
26 offer yet, that he wanted us to make an offer to him,
27 and some of the finer points we had discussed. And I
28 thought we somewhat resolved, although, again, he never

1 made any promises, and he never made any offers.

2 So what Mr. Smith is prepared to make an offer to
3 the district attorney is that he plead to Count 1, which
4 is murder first degree, and that he admit one of the
5 special circumstances, specifically 1f, which is the
6 murder committed during the commission, attempted
7 commission, of a first degree burglary, in exchange for
8 a sentence to state prison for life without parole,
9 otherwise known as LWOP.

10 I knew one of the sticking points with the
11 district attorney was whether or not that plea be guilty,
12 or no contest. Mr. Smith is making an offer to plead no
13 contest. I showed the plea form, although Mr. Smith
14 hasn't signed it yet, I showed the completed plea form
15 to the district attorney's office today, and I don't
16 think we have a meeting of the minds today.

17 But that being said, my understanding is that
18 Mr. Smith wants to withdraw his request for a Marsden
19 because he's very committed to trying to negotiate this
20 case, and I think a lot of the issues, if not all the
21 issues, that were raised are either worked out or in the
22 process of being worked out. Of course, he doesn't
23 waive a right to have one in the future if something
24 changes in the future. As of this point, I believe
25 that's where he is.

26 Is that correct?

27 THE DEFENDANT: That's correct.

28 THE COURT: Mr. Walker, can you step out for

Exhibit-5.0

5.0

EXHIBIT-5

INVESTIGATION REPORT
YOLO COUNTY PUBLIC DEFENDER

Defendant: Ron Smith
Case #: CR05-7707
Investigator: Aaron Bohrer

Please take note 19 mo. AIBI WITNESSES TO QUESTION AND are listed in phone book.

On March 1, 2008, I spoke with Curt Blakeman at his home- 1605 Coloma, Woodland California. I introduced myself as an investigator with the Yolo County Public Defender, showed my departmental issued identification, and provided a business card. I stated that our office represented Ron Smith. I asked Mr. Blakeman if he would be willing to speak with me about Ron Smith. Mr. Blakeman stated he would speak with me and gave the following in summary:

I asked Mr. Blakeman if Ron Smith took care of Mr. Blakeman's son Chip in 2000. Mr. Blakeman stated that was correct. Mr. Blakeman then stated that his wife, Karen, was with Chip the night of the murder. Chip had a sore and she stayed with him. Mr. Blakeman went home. Ron did not work the night of the murder. In fact, Mr. Blakeman stated that Ron left shortly after the murder. Mr. Blakeman stated he thought Ron was going to Washington to take care of a cousin or a nephew. I asked how long Ron had taken care of Chip. Mr. Blakeman stated that Ron took care of Chip for a month, but not more than two. Ron then left abruptly. Mr. Blakeman stated that they had difficulty finding care providers for Chip and Ron Smith was like many of the providers, leaving without much notice. I asked Mr. Blakeman if he had any records regarding the time Ron took care of Chip? Mr. Blakeman stated he had given them to the District Attorney. However, Mr. Blakeman added that whatever he had did not show the exact dates and times worked.

Not true, Check exhibit 7... July 2000 Time Card. 7/24

Mr. Blakeman then explained that Ron lived above Chip and the two began to talk and that is what lead Ron to taking care of Chip. Mr. Blakeman remembered a time in which Ron was involved in a shooting or something, but he could not remember the exact details.

Mr. Blakeman then went inside the home to ask his wife what she remembered. Mr. Blakeman returned and stated that Ms. Blakeman remembered it the same way he did.

I then thanked Mr. Blakeman for taking the time to speak with me and I apologized for bothering him on a Saturday. Mr. Blakeman stated that was fine, we shook hands, and I left the home.

Exhibit-6.0

6.0

SUPERIOR COURT OF CALIFORNIA

COUNTY OF YOLO

--o0o--

STEPHEN L. MOCK, Judge

Department 3

COPY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

VS.

RONALD VERNON SMITH,

Defendant.

No. 05-7707

REPORTER'S TRANSCRIPT

OF PLEA

--o0o--

MAY 1, 2008

--o0o--

Plea Acceptance

APPEARANCES

FOR THE PEOPLE:

JEFF W. REISIG
DISTRICT ATTORNEY
BY: JAMES WALKER
Deputy District Attorney
301 Second Street
Woodland, CA 95695

FOR THE DEFENDANT:

BARRY MELTON
PUBLIC DEFENDER
BY: TRACIE OLSON &
ALLISON ZUVELA
Assistant Public Defenders
814 North Street
Woodland, CA 95695

REPORTED BY:

KELI RUTHERDALE, C.S.R. #10084

1 It is ordered that the defendant's plea of guilty
2 and his admission to the special enhancement charge and his
3 waiver of rights be accepted and entered into the minutes
4 of the Court.

5 It is also ordered that his signed declaration
6 should be filed by my clerk.

7 Mr. Walker, are you prepared to request dismissal of
8 Count Enhancements 1a through 1e, as well as 1g, and all
9 other charges in the indictment?

10 MR. WALKER: Yes, sir.

11 THE COURT: That motion is granted. Those charges
12 are dismissed.

13 Sentencing in this matter shall be scheduled for
14 Wednesday -- Friday, May 16th, at 1:00 o'clock in the
15 afternoon in this department.

16 I direct the Sheriff to transport Mr. Smith to this
17 courtroom alone; that is, not with any other prisoners.

18 Now, is there anything else that we have to address
19 at this time?

20 MR. WALKER: Yes, sir. Just a few brief matters.

21 As the Court probably would suspect, there's
22 always -- there's been an ongoing investigation as we
23 approached the trial date.

24 * I was speaking with Ms. Olson, and we are going to
25 go ahead and make sure we get all those reports finalized
26 and turn them over to the defense, including the fact that
27 we have some of Mr. Smith's timecards from around and the
28 actual date of the murder that showed that he did do a

6.0

1 period of -- worked a period of time with Home Healthcare
2 on the night that Ms. Crider was murdered.

3 We will get all those reports finalized so we will
4 discover them to them. We talked about that before we came
5 to court today.

6 And also now that we have a plea and there's no
7 longer going to be a trial, it would seem that the gag
8 order would expire as a matter of law.

9 MS. OLSON: Not today, at sentencing.

10 MR. WALKER: At sentencing is fine.

11 THE COURT: Yes, the gag order would continue until
12 sentence is pronounced in this case and terminate at that
13 time.

14 MS. OLSON: All pending motions -- the discovery
15 motions don't need orders on them, but we do need all
16 discovery that the District Attorney is working on.

17 MR. WALKER: Agreed, and we can continue to work
18 together on that.

19 MS. ZUVELA: I think after sentencing, too, the
20 Court doesn't have any jurisdiction to maintain the gag
21 orders or any other orders. It is done at the time of
22 sentencing.

23 THE COURT: That's my view as well.

24 There was something else I was going to say.

25 THE CLERK: We will refer to Probation for --

26 THE COURT: Oh, yes.

27 THE CLERK: -- a report.

28 THE COURT: The matter is referred to Probation for

Exhibit-7.0

11-21-06: I contacted Curtis Blakeman Sr. and Karen Blakeman at their residence. They confirmed being the parents of Curtis "Chip" Blakeman who is now deceased. Chip was a paraplegic living at the Courtside Towers who required physical assistance due to his disability. Chip had several IHSS home care providers. The Blakeman's were familiar with a person they only knew as "Ron" who lived at the Courtside Towers Apartments who helped care for Chip. Karen Blakeman said her recollection is that in July 2000 she was staying the night with Chip due to his recovery from surgery in May 2000. Karen believes she would have been with Chip during the evening and throughout the night of July 24/25, 2000. She based this on her usual routine in caring for Chip as well as her recollection of the police activity at the other apartment complex. She does not recall Ron being at Chip's apartment that night. Ron only worked for Chip for a short period. They recalled that Ron left suddenly and without any notice which left them having to find a replacement on short notice. They will research their records and we scheduled a more in depth interview for 11-28-06.


11-28-06: I re-contacted Mr. & Mrs. Blakeman at their residence. Mr. Blakeman located IHSS paycheck information for Mrs. Blakeman for June 2000. They had an employment eligibility verification form apparently signed by Ron Smith on 7-9-00. The agreement between Smith and Chip was dated 6-21-00. They had a copy of Chip's phone bill dated August 2000 and for Chips bank account information from Yolo Federal Credit Union for July 2000. There was also a letter to Chip from Pat and Jim (Carlton) from December 2001.

Still
Supressed.

Chip never complained about Ron to the Blakeman's. In fact the Blakeman's thought Ron did a good job in caring for Chip and they were disappointed when he left so suddenly. Mrs. Blakeman recalled being at Chip's apartment on the day that the homicide was discovered and being interviewed by the police. Since our initial contact on 11-21-06, Mrs. Blakeman was now unsure whether "Ron" was or was not present at Chip's apartment. Mrs. Blakeman advised she did leave Chip's apartment during the times she was caring for him. Ron could have come for a short period while she was not there. If she did leave she tried to get back to Chip's apartment no later than 2100. She typically stayed the night at Chip's apartment. Mrs. Blakeman also admitted that since they liked Ron and wanted him to continue caring for Chip, she would allow him to claim the hours she had worked. She really did not need the IHSS money and they knew Ron did need the money. She did not recall how often this occurred.

Lt. Greg Marusin

7.0

Detach here and complete for your next payment request					Separe aquí y complete para su siguiente solicitud de pago												
RECIPIENT NUMBER 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST 106 WOODLAND CA 95695 Address change YES <input type="checkbox"/> Write new address on reverse side					PROVIDER NUMBER 728465 SMITH RONALD 320 W COURT T WOODLAND CA 95695 Address change YES <input type="checkbox"/> Write new address on reverse side												
JULY 2000 EMPLOYER REMAINING SERVICE HOURS ARE 198.0																	
DAY OF MONTH	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
HOURS WORKED	9	7	4	5	5	5	9	6	5	5	7	7	7	7	7	5.3	
TS #13071630					FILL IN HOURS FOR EACH DAY WORKED AND PLACE TOTAL HERE LENE LAS HORAS PARA CADA DIA QUE TRABAJÓ Y APUENTE EL TOTAL AQUÍ												
SHARE OF COST LIABILITY			0.00			OTHER LIABILITY			0.00			PROVIDER OVERPAYMENT			0.00		
SW NO. BS54 DO. 01 YOLO COUNTY DSS 500 JEFFERSON BLVD STE A-100 W SACRAMENTO, CA 95605-2350 					57-01131673 RECIPIENT SIGNATURE DATE X					728465 PROVIDER SIGNATURE DATE X <i>Ronald Smith</i>							
					After work has been completed, sign, date and mail to this address: Una vez que se haya completado el trabajo, firmese y envíese a esta dirección: Do not sign unless you have read and understand instructions on reverse side. No firme hasta que haya leído y entendido las instrucciones al dorso.												
					THIS IS TO CERTIFY THAT THE INFORMATION CONTAINED IN THIS FORM IS TRUE, ACCURATE AND COMPLETE AND THAT THE PROVIDER AND RECIPIENT HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY AND COMPLY WITH THE STATEMENTS, AFFIRMATIONS AND CONDITIONS CONTAINED ON THE BACK OF THIS FORM. POR MEDIO DE LA PRESENTE CERTIFICO QUE LA INFORMACIÓN QUE CONTIENE ESTA FORMA ES VERDADERA, CORRECTA Y COMPLETA, Y QUE EL PROVEEDOR Y LA PERSONA QUE RECIBE LOS BENEFICIOS HAN LEÍDO, ENTIENDEN Y ESTÁN DE ACUERDO EN SOMETERSE A, Y CUMPLIR CON LAS DECLARACIONES, AFFIRMACIONES Y CONDICIONES QUE CONTIENE EL DORSO DE ESTA FORMA.												
SOC 361 (b) (3/97)					STATE OF CALIFORNIA-HEALTH AND HUMAN SERVICES					SOCIAL SERVICES							

7.0

THE TIMESHEET MUST BE COMPLETED WITH THE HOURS YOU WORKED AND RETURNED TO THE COUNTY IHSS ADDRESS LISTED BELOW. LA HOJA DE HORAS TRABAJADAS TIENE QUE SER COMPLETADA CON LAS HORAS QUE USTED TRABAJÓ Y DEBE SER REGRESADA A LA DIRECCIÓN DEL CONDADO PARA

INITIAL		IHSS Timesheet															
Recipient Number 57-01131673						Provider Number 728465											
BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695						SMITH RONALD 320 W COURT ST WOODLAND CA 95695											
Address Change Yes <input type="checkbox"/> Write new address on reverse side						Address Change Yes <input type="checkbox"/> Write new address on reverse side											
SIGN, DATE AND MAIL TIMESHEET AFTER ALL WORK COMPLETED IN PAY PERIOD.																	
JUNE 2000 EMPLOYER SERVICE HOURS ARE 20.0 <i>only hrs left cutback 22.0</i>																	
Day of Month		XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
Hours Worked										5	9	2	5	5	5		32
Fill in hours for each day worked and place total here. Llene las horas para cada día que trabajó y apunte el total aquí.																	
Share of Cost Liability \$0.00						Other Liability						Provider Overpayment					
"Do not sign unless you have read and understand instructions above." "No firme hasta que haya leído y entendido las instrucciones al dorso."																	
SW NO. 8554 DD. 01 YOLO COUNTY DSS 500 JEFFERSON BLVD STE B-100 W SACRAMENTO, CA 95605												57-01131673 Recipient Signature X/			Date		
DEPT. OF EMPLOYMENT												728465 Provider Signature <i>Ronald Smith</i>			Date 7/1/00		
← After work has been completed, sign, date and mail to this address: Una vez que se haya completado el trabajo, firme y envíese a esta dirección:																	
RECEIVED JUL 18 2000												RECEIVED JUL 18 2000					
This is to certify that the information contained in this form is true, accurate and complete, and that the provider and recipient have read, understand and agree to be bound by and comply with the terms, conditions, declarations and conditions contained on the back of this form. Por medio de la presente certifico que la información que contiene esta forma es verdadera, correcta y completa, y que el proveedor y la persona que recibe los beneficios han leído, entendido y están de acuerdo en someterse a, y cumplir con las declaraciones, afirmaciones y condiciones que contiene el dorso de esta forma.																	

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THE TIMESHEET MUST BE COMPLETED WITH THE HOURS YOU WORKED AND RETURNED TO THE COUNTY IHSS ADDRESS LISTED BE:
 LA HOJA DE HORAS TRABAJADAS TIENE QUE SER COMPLETADA CON LAS HORAS QUE USTED TRABAJÓ Y DEBE SER REGRESADA A LA DIRECCIÓN DEL CONDADO PARA

REPLACEMENT		IHSS Timesheet															
Recipient Number 57-01131673 BLAKEMAN JR. CURTIS 320 W COURT ST APT 106 WOODLAND CA 95695 Address Change Yes <input type="checkbox"/> Write new address on reverse side	Provider Number 728465 SMITH RONALD 320 W COURT ST WOODLAND CA 95695 Address Change Yes <input type="checkbox"/> Write new address on reverse side																
SIGN, DATE AND MAIL TIMESHEET AFTER ALL WORK COMPLETED IN PAY PERIOD.																	
JULY 2000 EMPLOYER SERVICE HOURS ARE																	
Day of Month	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15		
Hours Worked	9	9	5	5	5	5	9	9	5	5	5	5	5	9			85
Fill in hours for each day worked and place total here Llene las horas para cada día que trabajó y apunte el total aquí																	
Share of Cost Liability					Other Liability					Provider Overpayment							
"Do not sign unless you have read and understand instructions above." "No firme hasta que haya leído y entendido las instrucciones al dorso."																	
SW NO. 8554 DO. 01 YOLCO COUNTY DSS 500 JEFFERSON BLVD STE A-100 W SACRAMENTO, CA 95605-2350 RECEIVED DEPT. OF EMPLOYMENT										57-01131673		Recipient Signature		Date			
										728465		Provider Signature		Date			
← After work has been completed, sign, date and mail to this address: Una vez que se haya completado el trabajo, firme y envíe a esta dirección:																	
This is to certify that the information contained in this form is true, accurate and complete, and that the provider and recipient have read, understand and agree to be bound by and comply with the statements, affirmations and conditions contained on the back of this form. Por medio de la presente certifico que la información que contiene esta forma es verdadera, correcta y completa, y que el proveedor y la persona que recibe los beneficios han leído y entienden y están de acuerdo en someterse a, y cumplir con las declaraciones, afirmaciones y condiciones que contiene el dorso de esta forma.																	
SOC 361 IR (1/98) STATE OF CALIFORNIA - HEALTH AND WELFARE AGENCY - DEPARTMENT OF SOCIAL SERVICES																	

Exhibit-P

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD SMITH,

Petitioner,

No. CIV S-09-0652 GEB EFB P

vs.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

ORDER AND
FINDINGS AND RECOMMENDATIONS

Petitioner is a Washington state prisoner without counsel seeking a writ of mandamus directed to the Yolo County Superior Court.

He seeks leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915. Examination of the *in forma pauperis* affidavit reveals that petitioner is unable to afford the costs of suit.

Petitioner contends he suffered a criminal conviction in the Yolo County Superior Court and was denied effective assistance of counsel. He asks this court to order the state superior court to decide the issues raised by petitioner in the instant petition for writ of mandamus.

Federal courts lack jurisdiction to issue a writ of mandamus to a state court. See *Demos v. United States Dist. Court for the E. Dist. of Wash.*, 925 F.2d 1160, 1161 (9th Cir. 1991). The proper remedy for a state prisoner challenging any aspect of his state custody is to file a federal habeas petition pursuant to 28 U.S.C. § 2254. *White v. Lambert*, 370 F.3d 1002, 1009-10 (9th

1 Cir. 2004).

2 Petitioner has requested that the court appoint counsel. In habeas proceedings, there is
3 no absolute right to appointment of counsel. *See Nevius v. Sumner*, 105 F.3d 453, 460 (9th Cir.
4 1996). The court may appointment counsel at any stage of the proceedings "if the interests of
5 justice so require." *See* 18 U.S.C. § 3006A; *see also*, Rule 8(c), Rules Governing Section 2254
6 Cases. The court does not find that the interests of justice would be served by the appointment
7 of counsel.

8 Accordingly, it is ORDERED that:

- 9 1. Petitioner's request for leave to proceed *in forma pauperis* is granted.
- 10 2. Petitioner's April 24, 2009 motion for appointment of counsel is denied.

11 Further, it is hereby RECOMMENDED that the March 9, 2009 petition for a writ of
12 mandamus be dismissed for lack of jurisdiction, without prejudice to filing a petition for writ of
13 habeas corpus in a new action.

14 These findings and recommendations are submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
16 after being served with these findings and recommendations, any party may file written
17 objections with the court and serve a copy on all parties. Such a document should be captioned
18 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
19 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
20 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

21 Dated: March 10, 2010.

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23 
24 EDMUND F. BRENNAN
25 UNITED STATES MAGISTRATE JUDGE
26

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov
To:caed_cmecf_nef@localhost.localdomain Message-Id: Subject:Activity in Case
2:09-cv-00652-GEB-EFB (HC) Smith v. People of the State of California Findings and Recommendations
(Motion) Content-Type: text/html

*****NOTE TO PUBLIC ACCESS USERS***** *There is no charge for viewing opinions.*

U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 3/10/2010 at 2:20 PM PST and filed on 3/10/2010

Case Name: (HC) Smith v. People of the State of California

Case Number: 2:09-cv-652

Filer:

Document Number: 10

Docket Text:

ORDER AND FINDINGS and RECOMMENDATIONS signed by Magistrate Judge Edmund F. Brennan on 3/10/2010 ORDERING that petitioner's [2] request to proceed IFP is GRANTED; petitioner's [7] motion for appointment of counsel is DENIED; and RECOMMENDING that the 3/9/09 petition for writ of mandamus be dismissed for lack of jurisdiction, w/out prejudice to filing a hc petition in a new action. Referred to Judge Garland E. Burrell, Jr.; Objections to FRdue w/ln 14 days. (Yin, K)

2:09-cv-652 Electronically filed documents will be served electronically to:

2:09-cv-652 Electronically filed documents must be served conventionally by the filer to:

Ronald Smith
846614
Washington State Reformatory
Monroe Correctional Complex
P.O. Box 777
Monroe, WA 98272-0777

The following document(s) are associated with this transaction:

Exhibit-P

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD SMITH,

Petitioner,

No. 2:09-cv-0652-GEB-EFB-P

vs.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

ORDER

Petitioner, a Washington state prisoner proceeding pro se, has filed a petition for writ of mandamus. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 10, 2010, the magistrate judge filed findings and recommendations herein which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within fourteen days. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

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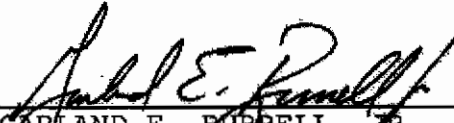
Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed March 10, 2010, are adopted in full;

2. The March 9, 2009 petition for a writ of mandamus is dismissed for lack of jurisdiction and without prejudice to filing a petition for writ of habeas corpus in a new action; and

3. The Clerk is directed to close the case.

Dated: May 13, 2010



GARLAND E. BURRELL, JR.
United States District Judge

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov
To:caed_cmecf_nef@localhost.localdomain Message-Id: Subject:Activity in Case
2:09-cv-00652-GEB-EFB (HC) Smith v. People of the State of California Order Adopting Findings and
Recommendations Content-Type: text/html

*****NOTE TO PUBLIC ACCESS USERS***** *Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.*

U.S. District Court

Eastern District of California - Live System

Notice of Electronic Filing

The following transaction was entered on 5/14/2010 at 10:41 AM PDT and filed on 5/14/2010

Case Name: (HC) Smith v. People of the State of California

Case Number: 2:09-cv-652

Filer:

WARNING: CASE CLOSED on 05/14/2010

Document Number: 12

Docket Text:

ORDER signed by Judge Garland E. Burrell, Jr on 5/13/10 ORDERING that the findings and recommendations [10] are adopted in full; the 3/9/09 petition for a writ of mandamus is dismissed for lack of jurisdiction and without prejudice to filing a petition for writ of habeas corpus in a new action; and the clerk is directed to close the case. **CASE CLOSED.** (Becknal, R)

2:09-cv-652 Electronically filed documents will be served electronically to:

2:09-cv-652 Electronically filed documents must be served conventionally by the filer to:

Ronald Smith
846614
Washington State Reformatory
Monroe Correctional Complex
P.O. Box 777
Monroe, WA 98272-0777

The following document(s) are associated with this transaction:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JUDGMENT IN A CIVIL CASE

RONALD SMITH,

CASE NO: 2:09-CV-00652-GEB-EFB

v.

PEOPLE OF THE STATE OF CALIFORNIA,

XX — **Decision by the Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

**THAT JUDGMENT IS HEREBY ENTERED IN ACCORDANCE WITH THE
COURT'S ORDER OF 5/14/10**

Victoria C. Minor
Clerk of Court

ENTERED: May 17, 2010

by: /s/ K. Yin
Deputy Clerk

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov
To:caed_cmecf_nef@localhost.localdomain Ronald Smith
846614

Monroe Correctional Complex
Washington State Reformatory
P.O. Box 777

Monroe WA 98272-0777

Message-Id: Subject:Activity in Case 2:09-cv-00652-GEB-EFB (HC) Smith v. People of the State of California Judgment Content-Type: text/html

*****NOTE TO PUBLIC ACCESS USERS***** *Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.*

U.S. District Court

Eastern District of California - Live System

Notice of Electronic Filing

The following transaction was entered on 5/17/2010 at 3:49 PM PDT and filed on 5/17/2010

Case Name: (HC) Smith v. People of the State of California

Case Number: 2:09-cv-652

Filer:

WARNING: CASE CLOSED on 05/14/2010

Document Number: 13

Docket Text:

JUDGMENT dated *5/14/10* is hereby entered pursuant to order signed by Judge Garland E. Burrell, Jr on 5/13/2010. (Yin, K)

2:09-cv-652 Electronically filed documents will be served electronically to:

2:09-cv-652 Electronically filed documents must be served conventionally by the filer to:

Ronald Smith

846614

Monroe Correctional Complex

Washington State Reformatory

P.O. Box 777

Monroe WA 98272-0777

Exhibit-A

8.0

Judge, Mock.

Withdrawal Letter - MOTION,

Exhibit-A

5/9/08

I AM writing the Court about withdrawing the plea made on May 1st, 2008.

There is some favorable evidence being expressed by the prosecutor or defense.

I sent the Court 4 items that was given to me by the County Jail May 1st at 6:00 at the County Jail.

These items were given to my counsel by Mr. Walker at 3:00 pm MAY 1 2008

Nevertheless the statement from Mr. MARSON paragraph two gave me the following

AN agreement signed by Ronald Smith the defendant AND Chip 4th sentence. It is judicial because it has not been given to us and it says that I worked EARNINGS, AND WEEKENDS... 6 to 11.

I've expressed to my counsel that I would use them to file A WITHDRAWAL MOTION, based on.

*counsel new that that morning that the district attorney had in his position favorable evidence for the defendant, AND counsel never told defendant but rather district attorney blurted he told my counsel that MORNING. WHICH IS A denial of

EX-A)

It can't be by chance that my Counsel came to jail said my time cards are no good And Show a Statment
w/ And they didnt know DA had good Statments and time cards... Manipulating the...

Effective Assistance of Counsel...

* The plea WAS induced by fraud... This is true because Counsel New of Favorable Evidence that morning AND NEVER communicated it to there client.. And Counsel met with there client before court AND mentioned talking to He Walker and he accepted the plea for it, but never mentioned evidence..

Client gave his Counsel paychecks And one time card. At the beginning of case my Counsel told client April 8 2008 that time cards coming from client were NO good because they could of been subverted with, so this was a major Nego. factor for the starting of nego... these time cards at the courts disposition now are new and came from the DA and match mine and prove they werent subverted with, and match a number of witnesses...

And also show the total hours worked And the agreement shows I work NIGHTS. (which is still suppressed.)

* The plea is based on the prosecution's suppression of favorable evidence... If is clear that in part of this plea nego. is based on evidence

IN THE PROSECUTIONS DISCRETION BECAUSE DAIGENING STARTED APRIL 8th 2008 AND COUNSEL WAS NOT MADE AWARE THAT THE DISTRICT ATTORNEY HAD SUPPRESSED FAVORABLE EVIDENCE. (OR WERE THEY)?

THE DISTRICT ATTORNEY BLURTED OUT THAT HE MADE COUNSEL AWARE OF THE FACT THAT HE HAD EVIDENCE THAT IT LOOKED LIKE MR. SMITH INDEED WORKED THE 24th OF JULY FOR CHID!

FOR THE PROSECUTION TO BLURT THAT OUT TO MY COUNSEL IN COURT.

1. HE MADE MY COUNSEL AWARE THE MORNING
2. HE HAD TO KNOW THAT MY COUNSEL WAS NOT GOING TO TELL THEIR CLIENT, AND DIDN'T!

3. THIS CAN ONLY BE TRUE BECAUSE THERE WOULD OF BEEN NO PURPOSE TO THIS BECAUSE I WOULD OF ALREADY KNOWN. NO BLURT OUT.

4. THIS MEANS MY COUNSEL CONSIDERED WITH THE DISTRICT ATTORNEY NOT TO INFORM ME THAT INDEED THIS EVIDENCE DOES EXIST! AND IS EXCULPABLE TO ME. IN EXCESS BETRAYING ME.

THIS HERE IS WHAT SHOWS THAT MY COUNSEL NEW BEFORE THAT DA HAD FAVORABLE EVIDENCE. COUNSEL APRIL 8th CAME UP TO JAIL OUT OF THE BLUE AND TOLD ME

they had bad news, Counsel reads A Statement that WAS NOT ACCURATELY WRITTEN from Mr. Blakeman, STATING I DIDN'T WORK, AND I WAS JUST LIKE THE OTHERS.

THE STATEMENT GIVEN BY MR. WALKER SAID QUOTE: CHIP NEVER COMPLAINED ABOUT RON. IT SAYS IN FACT THE BLAKEMANS THOUGHT RON DID A GOOD JOB CAREING FOR CHIP AND WERE DISAPPOINTED WHEN I LEFT...

THIS STATEMENT IS LIKE NIGHT AND DAY FROM THE ONE THE PUBLIC DEFENDERS GAVE ME TO INFLUENCE MY DECISION.

NEXT THEY SAY MY TIME CARDS I HAVE ARE NO GOOD! BECAUSE THEY ARE COMING FROM ME AND MY FAMILY AND COULD BE TAMPERED WITH...

STILL TRYING TO INFLUENCE WHAT THEY WERE WORKING UP TO TELL ME. THEY TELL ME THIS AND SOME OTHER NEWS AND THEY SAY WELL I DON'T KNOW HOW THE CONVERSATION STARTED BUT MR. WALKER SAID HE IS WILLING TO TAKE THE DEATH PENALTY OFF THE TABLE AND OFFER YOU LIFE FOR A NO CONTEST DEAL!!

WHAT ARE THE CHANCES OF MY LAWYERS SHOWING ME A STATEMENT AND STATING MY TIME CARDS ARE NO GOOD! THE SAME TIME ?? AT THE START OF PLEA NEGOTIATIONS???

Then the day of the plea throws two pieces of evidence are the issue... It is clear they conspired to do this.

The reason why these things were done is to manipulate the plea nego. process giving the District Attorneys' office a "Advantage" over the defendant with defendant's own Counsel help, feeding false information to their client.

The prosecution knows from day one I was at work that night and had that in their position when they went to the grand jury. Look at date of statement. 11/28/06 and you will see the agreement states I worked nights to. NANCY SMITH'S statement changed from first to Grand Jury statement to "I don't know" to "He went thru those gates" which is not true. Once again the DA willing to offer perjury testimony... And willing to do anything to win a case.

NOT JUSTICE BEING DONE.

Exhibit-B

Copie

Exhibit - 13

Judge, Mock

6/28/08

I Am writing this Letter to Be Assigned AN Appeal Attorney to be Assigned to My case.

I beleave At the end of MY SENTENCING COURT DATE MAY 16th 2008 that I had A certifi- AN AMOUNT of time to have MY Request IN to your court.

I Previously wrote A Letter from WASHINGTON State requesting Assigned appeal counsel AND NEVER RECEIVED A Letter that the Kolo COUNTY Superior Court received MY request IN WRITING

Nevertheless the first letter WAS registered At the PRISON here AND DATED time sent AND copied...

I've put IN to see the CONT- ract Attorney here to see what steps to take

I Am ASKING for A reply from the COURT, MY CASE NUMBER IS: "CR 05-7707"

MY Address IS: Ronald Smith, MONROE Correctional Center #846614 MONROE, WASHINGTON.

98272

EX 13

Exhibit-C

9.2

Clerk of Superior Court of Yolo Co.

I AM Writing this to exspress
My wishes to HAXE AN appeal
Attorney Assigned to My Case...

I WAS sentenced 5/16/08
And I beleave I have had
limited Amount of time for
My request for Counsel...

I have wrote Judge Mock
IN Department three requesting
appointed Counsel two different
times AND HAVE NOT received A
response Letter back...

My address is CASE# CROS-7707

*RONALD SMITH 846614 A#08 L
MONROE CORRECTIONAL CENTER PO: 777
MONROE, WASHINGTON
98272

EXC.

Exhibit-D

Exhibit - d

CEIVED 7/10/08

GRANTED DENIED
SET FOR HEARING on untimely
Date: July 22 18 2008
Stephen J. Noel
Judge of the Superior Court

7-1-08

RECEIVED
YOLO SUPERIOR COURT
BY D. [Signature]
7/11/08
Deputy

IN the Superior Court of California
IN AND for The County of
Yolo

The people of the State } CASE NO. CRO5-7707
of California }
Plaintiff } Notice Seeking
VS. } Appeal Counsel
Ronald V Smith }
} DATE 7-1-08
Defendant }

To: The clerk of the Superior
Court IN Yolo County...

ex-d

Please take Notice of request
for Appeal Counsel.
Based ON INEFFECTIVE ASSISTANCE
OF COUNSEL, Based ON the
MARSDEN hearing AND other
ISSUE RAISED ON SEPERATE
MARSDEN hearing hearings

I Am also writing the
Court to be sure I AM
filing my request properly
AND WITHIN the right time
limits. -- If NOT I AM also
ASKING for Remedies that
CAN be taken such as heinous
CONSPIRES or other.
Would the court be so kind
to direct me please...
My address is:

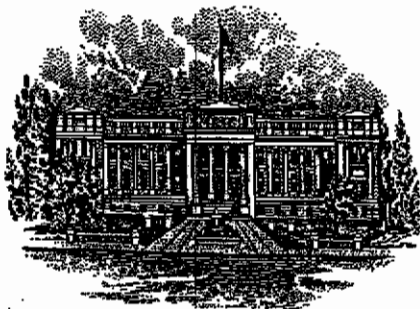
Ronald Smith 846614-A4082
MONROE CORRECTIONAL CENTER (WSRU)
PO BOX 777
MONROE WASHINGTON
98272

Ex-d

Exhibit-E

9.4

Exhibit - e



SUPERIOR COURT

Of the State of California for the

County of Yolo

CHAMBERS OF

STEPHEN L. MOCK, JUDGE

725 Court Street, Room 302

Woodland CA 95695

(530) 406-6816

July 22, 2008

Ronald Smith 846614 A408L
Monroe Correctional Center (WSRV)
P.O. Box 777
Monroe, WA 98272

Re: People v. Ronald Smith, Case No. 05-7707

Mr. Smith:

I acknowledge receiving your handwritten letters dated June 15, 2008, June 28, 2008 and July 30, 2008. All have been forwarded to the attorneys of record in the above-referenced case.

Sincerely,

Stephen L. Mock

Stephen L. Mock,
Judge of the Superior Court
County of Yolo

cc: Deputy District Attorney James Walker
Deputy Public Defender Allison Zuvela

EX-E

Exhibit-F

Exhibit F

Attempt to find out How to get appeal counsel AND forms...

12501 Bel Red Rd Suite 101
Bellevue, WA 98005-2509
Phone: 425-646-6017



Richard Linn | En-Tie Soon

LAW OFFICE OF RICHARD LINN, PLLC

July 10, 2008

Ronald Smith
DOC No. 846614
MCC-WSR
P.O. Box 777
Monroe, WA 98272

Dear Mr. Smith:

This is a follow-up letter to our interview on July 3, 2008. You wanted to know how to proceed with your California criminal appeal.

As a preliminary matter, the attorneys in our law office do not have licenses to practice in California. Therefore, we cannot represent you on this matter. However, on the California plea agreement that you signed, you agreed to waive your right to appeal the judgment and the decisions on the motions by the trial court. This could have detrimental effect if you wish to go forward with your appeal. Since we do not practice California law, you should contact a California appellate attorney about this matter. Alternatively, California State has its own habeas petition. Therefore, you are not completely without recourse.

You told me that you recently contacted the trial court about proper procedure to file appeal and have an attorney assigned to you. Hopefully the court can give you some useful information. I also enclosed a list of appellate attorneys from the Yellow Book. You might be able to ask them for service or referrals for the appeal or state habeas petition.

I also note that a search of the Yolo County court website indicates that you have a court date in October, 2008 on the current cause there.

If you have any questions, please contact us within 30 days.

Sincerely,

En-Tie Soon

Ex F

Exhibit-G

9.5

EXHIBIT 8

IN THE STATE OF CALIFORNIA APPEALS COURT
OFFICE OF THE CLERK.

1

2

3 THE PEOPLE OF THE STATE OF) CASE NO: CLERK ACTION REQUIRED .

4 CALIFORNIA.) "NOTICE OF APPEAL IS GIVEN HEREIN.

5 APPELLATEE.et.al.)

6 -VS-)

7 RONAL VERNON SMITH.)

8 APPELLANT.et.al.)

9 _____)

10 TO THE COURT OF APPEAL CLERK.

11 "Notice " is hereby given that, Ronald V. Smith, pro-se, given

12 request to Appeal the State of California, Superior Court of the

13 county of (YOLO, The Decision of that court entered in the above

14 Captioned proceeding on, July 10th, 2008. Relating to (Ineffective),

15 assistance of counsel and other included. is a copy of the said

16 judgment for your view marked as (Exhibit-A), attached herein.

17 Dated: 8/1 August, 2008

18 *Ronald V. Smith*

19 15x Ronald V. Smith
Ronald Vernon Smith. pro-se.

20 Mr. Ronald V. Smith. #846614.

21 Monroe Correctional Complex.

22 Washington State Reformatory Unit.

23 U-A-408-P.O. Box. 777.

24 Monroe, Wash. 98272-0777.

25 (All Rights Reserved)

26 ("Notice Of Appeal) (.1.)

27

Exhibit-H

9.5

Exhibit-1

SENT

Clerk:of The State Of California,
Court Of Appeals.

900 N. St, St 400
Sacramento CA 95814

Mr. Ronald Vernon Smith. #846614.
Monroe Correctional Complex.
Washington State Reformatory
Unit-U-A-309 L.P.O. Box. 777.

Dated: 8/1 / August, 2008.

Subject: Greeting.

Dear Clerk of the above named Court Left hand side of this page. I am an inmate who is presence incarcerated in a Washington State prison and have just recently this year..2008, been indicted back to the state of California, Superior Court, in the County of (Yolo), for a trial, there after I was returned to Washington state prison now I am appealing the conviction I received there in California, State and I request to no if I can receive from you a set of the state of California, Superior Court and the Appeal Court (rule's), if possible can be so as I may have an adequate/proper legal-access to this court proceeding required to file my pleading herein, if not then I pary you will inform me of the right way in which I should go about in order I may obtain a copies these Court Rules, from.....THE NAMED AND ADDRESS.

I thank you for your time spent herein with me.

2 / 1 / Ronald Smith . 8/1/08
Ronad Vernon Smith. pro-se.

Mr. Ronald Vernon Smith. # 846614.
Monroe Correctional Complex. Unit.
Washington State Reformatory
U-A-309-L-P.O. Box. 777.
Monroe, Wash. 98272-0777.

(All Rights Reserved)

(1.1.)

H-1-2

Exhibit-i

9.6

Exhibit - i

**SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF YOLO
OFFICE OF THE CLERK
13 SEPTEMBER, 2008**

**CHAMBERS OF THE HONORABLE,
STEPHEN L. MOCK, JUDGE.
725 COURT STREET, ROOM 302
WOODLAND, CALIFORNIA 95695**

**MR. RONALD SMITH #846614 A408L
MONROE CORRECTIONAL COMPLEX
P.O. BOX 777
MONROE, WA 98272-0777**

(MEMORANDUM)

SUBJECT: REQUEST FOR REVIEW TO REDRESS IN THE MATTER OF MY GUILTY PLEA AFTER JUDGMENT OR ORDER ENTERED AND REQUEST THE RELIEF FROM JUDGMENT OR ORDER BELOW OR REQUEST FOR JUDGMENT OR ORDER SHOW CAUSE OF WHY IT SHOULDN'T BE GRANTED PRO-SE PROCEEDING BY COMMON LAW RULE AND COMMON KNOWLDGE.

CASE NO: 05-7707

DEAR SIR/MADAM,

I AM RESPECTFULLY RE-DRESSING IN THE MATTER OF YOUR HONORABLE JUDGE MOCK, JULY 22, 2008 LETTER, IN WHICH I'VE ENCLOSED A COPY AND MARKED AS EXHIBIT (A), MADE PART OF THIS RECORD, HEREIN. THE COPY IS UP-DATING THE PROCEEDING AS I HAVE WAITED FOR OVER 30 DAYS TO RECEIVE A RESPONSE FROM THE DEPUTY DISTRICT ATTORNEY, MR. JAMES WALKER AND THE OFFICE OF DEPUTY PUBLIC DEFENDER, ALLISON ZUYELA AND BASED ON A COPY OF YOUR LETTER AS EXHIBIT (A), SHOWN, ALSO MAILED TO THEM. I HAD HOPED THAT BY NOW THAT I'D HAVE RECEIVED A RESPONSE FROM THEM BUT SINCE I HAVEN'T, I HAVE DECIDED TO WRITE YOU ANOTHER LETTER AND SEND A COPY OF IT TO ALL THAT YOU HAVE PREVIOUSLY SENT COPIES TO. I STILL REQUEST RESPECTFULLY TO WITHDRAW MY GUILTY PLEA IN THIS MATTER OF MY CASE. REASONS: MATERIAL FACTS WERE WITHHELD FROM ME IN THE CASE AND WAS NOT DISCOVERED UNTIL EXCEPTANCE OF PLEA STAGE IN THE LITIGATION PROCESS WHICH ESSENTIALLY COMPELLED ME TO CHOOSE BETWEEN (ROW), DISTINCT RIGHTS AND THIS IS A MANIFEST (ERR), AFFECTING CONSTITUTIONAL RIGHTS THAT ENTITLED ME TO RAISE ISSUE FOR FIRST TIME ON APPEAL. MY LETTER TO YOU OF JUNE 15, 2008 WAS TIMELY MET HERIN FOR AN APPEAL REQUIREMENT (NOTICE), GIVEN, I HAVE A RIGHT TO APPEAL MY PLEA, AND TO BE APPOINTED AN APPEAL ATTORNEY TO ASSIST ME IN THE APPEAL - REQUIREMENT NECESSARY GROUNDS ON MY JUNE 15, 2008 LETTER I MAILED TO YOU AND SENT A COPY TO THE (D.A.'S) OFFICE AND TO THE COUNSEL FOR THE DEFENSE OFFICE, EXHIBIT-A.

CONCLUSION, MY LETTER WITH RESPECT HEREIN AND REQUEST TO KNOW WHETHER YES OR NO, WILL YOU APPOINT A LEGAL COUNSEL TO THE CASE TO ASSIST ME IN THE PREPARING MY APPEAL OR POINT THE WAY IN WHICH I SHOULD TAKE IN DOING IT? I HAVE WRITTEN THE COURT FOR THE PROPER PAPER WORK AS MY MOTHER HAS CALLED SEVERAL TIMES TO NO AVAIL. HOWEVER, I WOULD LIKE FOR YOU TO FOCUS ON HOW COMPLICATED MY CASE IS BASED ON THE FACT THAT I AM CONFINED AT AN OUT OF STATE FACILITY IN WASHINGTON STATE, I DO NOT HAVE ACCESS TO THE STATE OF CALIFORNIA LEGAL LAW AND RULE OR LAW LIBRARY OR ANY OF THE MATERIAL THAT IS A NECESSARY TOOL TO HAVE ADEQUATE/PROPER ASSISTANCE IN DOING AN EFFICIENT JOB TO (PREVENT A MANIFEST OF INJUSTICE IN THE LEGAL SYSTEM).

IT
is

**I WOULD LIKE TO THANK YOU FOR YOUR TIME SPENT AND A RESPONSE
GRATEFULLY APPRECIATED.**

RESPECTFULLY SUBMITTED ON THIS: 13 SEPTEMBER 2008

RSI Ron Smith

RONALD SMITH, #846614. PRO-SE

**MR. RONALD SMITH #846614 A488L
WASHINGTON STATE REFORMATORY
P. O. BOX 777
MONROE, WASHINGTON 98272-0777
(NO TELEPHONE PRESENCE)**

(ALL RIGHTS RESERVED HEREIN.)

Exhibit-J-K-L-3

RECEIVED
YOLO SUPERIOR COURT

MAY 07 2008

Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF Yolo

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

RONALD SMITH,

Defendant

Case No. 07-7707

NOTICE OF MOTION AND MOTION
FOR SUBSTITUTION OF COUNSEL
(MARSDEN MOTION)

TO THE HONORABLE COURT IN THE ABOVE ENTITLED CAUSE OF ACTION
AND DISTRICT ATTORNEY OF THE COUNTY OF Yolo.

Please be advised that on the April day of 25,
2008, at the hour of in Department 3 of the above-
entitled court, or as soon thereafter as this motion can be
heard, defendant and/or counsel will move the court for an order
to dismiss and/or relieve counsel due to inadequate
representation of counsel.

This motion is based upon this Notice of Motion and Motion,
the attached declaration(s), all points and authorities
submitted, testimony and other evidence produced at evidentiary

EXHIBIT-5

EX 5

3.

1 hearing(s), all files and records of the case, and other evidence
2 presented whether oral or documentary,

3
4 DATED: 4/25/08

Ronald Smith
DEFENDANT

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DECLARATION OF MASDEN SUPPORTING HIS/HER

MOTION FOR SUBSTITUTION OF COUNSEL

I, Ronald Smith, HEREBY DECLARE:

1.) That I am the defendant/declarant in the within cause of action and I am a lay person untrained in the law;

2.) That declarant is represented by counsel who has failed and/or refused to provide adequate representation in the within cause of action;

3.) That due to conflicts which exist between declarant and counsel, declarant can not and will not receive adequate representation by counsel of record in the within cause of action;

4.) That at the hearing on this motion declarant will provide the necessary evidence to support the claim herein alleged;

5.) That due to the lack of adequate representation by counsel, declarant has suffered prejudice such as to justify dismissal of charges currently pending, or in the alternative to enjoy the substitution of counsel;

6.) That in addition to any evidence presented in support of this motion at the evidentiary hearing on the within matter, declarant does hereby incorporate by reference each and every statement following which has the box preceding same marked:

(a) Counsel has failed and/or refused to confer with declarant concerning the preparation of the defense;

(b) Counsel has failed and/or refused to communicate with declarant;

EX K

EXHIBIT-K

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- (c) Counsel did fail and/or refused to subpoena witnesses favorable to the defense and deprived declarant of the testimony critical to the defense;
- (d) Counsel has failed and/or refused to perform and/or to have performed investigation(s) critical and necessary to the defense;
- (e) Counsel has failed and/or refused to present/prepare an affirmative defense at declarant's preliminary hearing;
- (f) Counsel has failed and/or refused to secure and present expert witness(es) critical to the defense;
- (g) Counsel has failed and/or refused to prepare and file motion(s) critical to the defense;
- (h) Counsel has failed and/or refused to impeach prosecution witness(es);
- (i) Counsel has failed and/or refused to present evidence at motion/writ hearings critical to defense;
- (j) Counsel has failed and/or refused to declare prejudice and/or conflict against declarant and due to said failure has taken on the role of a surrogate prosecutor against declarant's interest;

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(k) Other. _____

DATED 4-25-08

Ron Smith

DEFENDANT

POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR SUBSTITUTION OF COUNSEL

The defendant/declarant submits the following points and
authorities in support of the motion for substitution of counsel:

I

**THE CODE OF CIVIL PROCEDURE PROVIDES FOR THE SUBSTITUTION OF
ATTORNEYS UPON APPLICATION OF THE DEFENDANT**

California Code of Civil Procedure Section 284 states:

"The attorney in an action or special proceedings may be
changed at any time before or after judgment or final
determination, as follows:

...2. Upon order of the court, upon the application of
either client or attorney, after notice from one to the
other."

II

**A CRIMINAL DEFENDANT'S RIGHT TO ASSISTANCE OF COUNSEL MAY INCLUDE
THE RIGHT TO DISCHARGE OR SUBSTITUTE COURT-APPOINTED COUNSEL**

The right of a defendant in a criminal case to have the
assistance of counsel may include the right to have court-
appointed counsel or the public defender discharged or to have
other counsel substituted. There must be sufficient showing that
the attorney-client relationship has broken down to the point
where the right to the assistance of counsel would be
substantially impaired by the denial of the request. (People v
Marsden (1970) 2 Cal.3d 118,123; 84 Cal.Rptr. 156, 159)

EXHIBIT - L

7-x3

3.

1 III

2 ON A REQUEST FOR DISCHARGE OR SUBSTITUTION OF COURT-APPOINTED
3 COUNSEL, THE TRIAL JUDGE MUST CONDUCT A HEARING AND ALLOW THE
4 DEFENDANT TO STATE SPECIFIC REASONS FOR THE REQUEST

5 The trial court cannot properly exercise its judgment in
6 this matter without giving the defendant an opportunity to voice
7 the specific reasons for requesting a change of attorney. "A
8 trial judge is unable to intelligently deal with a defendant's
9 request for substitution of attorneys unless he is cognizant of
10 the grounds which prompted the request. The defendant may have
11 knowledge of conduct and events relevant to the diligence and
12 competence of his attorney which are not apparent to the trial
13 judge from observations within the four corners of the courtroom.
14 (Id. at 123)

15 IV

16 THE COURT IS REQUIRED TO APPOINT SUCCESSIVE COUNSEL FOR THE
17 DEFENDANT WHEN THE RECORD CLEARLY SHOWS INADEQUATE REPRESENTATION
18 BY THE FIRST APPOINTED COUNSEL

19 "A defendant's right to a court-appointed counsel does not
20 include the right to require the court to appoint more than one
21 counsel, except in a situation where the record clearly shows
22 that the first appointed counsel is not adequately representing
23 the accused.... (Id. at 123, quoting People v Mitchell (1960)
24 185 Cal.App.2d 507, 512, quoting 157 A.L.R. 1225, 1226)

V

1
2 **INADEQUATE REPRESENTATION BY DEFENSE COUNSEL REQUIRES DISMISSAL,**
3 **REVERSAL OF CONVICTION, AND/OR SUBSTITUTION OF COUNSEL**

4 A criminal defendant is guaranteed effective and adequate
5 representation by defense counsel at all critical stages of the
6 criminal proceedings by the due process provisions of the United
7 States and California Constitutions. Inadequate representation
8 by defense counsel requires that the defendant be granted a
9 dismissal, reversal of conviction, and/or substitution of
10 counsel. (U.S. Const. amend. 5, 6 and 14; Cal. Const. art. I,
11 §§7 and 15; People v Marsden, supra)

12
13 **CONCLUSION**

14 Defendant has been deprived of adequate representation of
15 counsel and is therefore entitled to the relief prayed for. The
16 Motion should be granted.

17 ///

18 ///

Loss of Prelim

September 2006 being expedited from Washington State to Yolo County, California, to stand trial for the murder of Miss Joann Cryder I was advised by counsel to wave time in order for counsel to receive Discovery from prosecution. Counsel did not inform me by waving time prosecution could obtain an indictment that would cause me to lose my right to a prelim, meaning it caused me to lose my right to challenge evidence and examine witnesses.

I believe this was ineffective counsel. Counsel has to keep client informed of rights.

I never knew which right I lost until I researched what a prelim was on my own through the legal research center....

(K)

Dusting Hands for Prints

District attorney Walker or Criminal Investigator, Marusin informed my lawyers that they wanted more prints about the end of December 2006 or the first part of January 2007 Allison Zavela comes to the jail and requests that defendant, Ronald Smith comply. I came out to where the lawyers meet clients and met Allison and Jake Staniels. We waited for DA Investigator Greg Marusin and latent print people.

When they came, they set up for taking prints with ink. They took only a few prints with ink and then asked me to clean my hands. They pulled out a fine powder and started dusting my hands with powder and blowing off the excess and pulling the print off with white glossy paper. They took all kinds and different sizes then put clear tape on them.

In retrospect, this was very disturbing because in the grand jury proceedings this is the same technique used to obtain latent prints... (Nicky Gaylen G.J. 376.387)...

We gave the latent print people about 50 latent prints on white glossy cards, all sizes....Furthermore in Nicky Gaylen's report, latent print program LP-00-001060-01, page 2 of 4, lists four suspects and out of the four, none of them was processed by dusting their hands but by using ink only. No where have I seen where latent print people take dusted prints from the defendant... The District Attorney only had inked prints up until this happened, ink can not be transferred to different cards because of the special adhesive on the tape allows the transfer of the print and the removal of the air bubbles without destroying the print...

Grand Jury, Nicky Galen page 387, (Lines 2 and 3)...

This is why law enforcement agencies use ink record cards to store prints from defendant... 3-71 California Criminal Defense Practice 71.20.

I think we probably gave Marusin the prints he did not have... I believe this also was ineffective assistance of counsel...

3
OCT 12 2007
RECEIVED
YALOG COUNTY
SUPERIOR COURTS
Johnson

Dear, Mr Judge Johnson

10-9-07

I am writing and sending
this letter on the Authenticity
of prints that were so called
retraced off outside of Vehicle,
and the process of Murrison
and latent print people coming
to jail and dusting my hands
with dark powder and putting
Clear tape over the white
glossy cards clearly taking
advantage of me the defendant.

Sincerely yours

For Smith

3.
(K)

Tracie copie

3-26-07

I am writing in regards to the prints we gave Det ^{MURRISON} ~~CAGE~~ AND also the latent print people in "December"

At first they started with Ink which that is the proper way from this page says on latent prints they take them by ink from the defendant. "Not powder"

do you remember them Dusting my hands with powder? the lady switched from ink to powder. AND Did my Hands in peace & Nuckle to Nuckle AND one time left. thats how they pull latent prints... this Needs to be addressed in court We Did Not Count them or sign them or anything...

I beleave they way they Dusted my hands is wrong prosses AND Im asking for it to be brought up in court I also talked to Tracie about this the week before court 3-1-07

[Signature]

Cople

Alison, Tracie

3/27/07

I am writing concerning the prints we gave Det ^{MURRUSIN} CAGE and also the latent print people in Dec.

At first they started with ink which that is the proper way what this page says on Latent prints. They take them by INK from the defendant. Not powder.

Do you remember them dusting with powder? the lady switched from INK to powder? AND Did my hands in peaces & NUCKLE to Nuckle twice every finger on right hand, AND ONE time left, thats how they pull latent prints off AN object to. Now they have about 60 Latent prints.

This needs to be addressed in court. We Did NOT count them or sign them or Anything. this is very Disturbing!

3.
1.

I'm starting with my first letter to the court which I do not have a copie of but the court must.

I WAS NOT informed by my lawyers of my rights being violated, Due Prosses, AND JOHNSON V. Supeior, 939:7.

The law requires the DA to present The grand Jury All Evidence that NAGATES the guilt of A defendandt.

I found out that the grand Jury WAS UPSURPED by the district Attorney threw reading grand Jury Functions, threw the legal library At the County Jail, AND threw going threw Discovery With JAKE STANIELS.

We found extreme dishonesty, Left out other suspects, perjury testamony, DNA of other suspect ON posable murder weapon, Testamony of witnesses that directly conflict with MAIN witness for the DA...
"Left out."

Nevertheless this is A huge violation of Due Prosses AND my right to...

I Tried MANY times to get in CONTACT with my counsel to NO AVAIL AND EVEN E.MAILED AND

3.

1

Finally wrote the court. Counsel has a duty to promptly advise the client of his rights. TAKING ALL ACTION NECESSARY to preserve them...

IM NOT SAYING promptly as in next week or demanding NOW!

I am seriously saying they wouldn't move till I wrote the court...

I found out my rights on my own. Not threw counsel and this has been the standard threw this case.. Plus. when they did the JOHNSON MOTION CRITICAL EVIDENCE was left out such as *there was A CONFLICTING lab report about rag found behind front door stating there was NO HUMAN DNA present. (DISC. At 1334-1335). *AND ANOTHER SUSPECT would engage in CHOKING the victim to almost UNCONSCIOUSNESS. this is suspect statement to police. (DISC. At 1279-1285)

I'm placing these pages behind this that weren't sent in because to show the court this did not just spon but has been developing. Counsel still says dont write court.

3.

2.

DA SWEARS Prints were ON Car 12/17/06..
Then DA ASKS defense Counsel
for more prints, Counsel takes me
to visiting 12-21-06 to give prints
to DA MURKIN AND LATENT PRINT
People Falita Chapman. They start
by TAKEN INKED PRINTS, TAKEN
from my right Hand. then they HAVE
me clean my HANDS AND pull out
A black powder, white glossy cards,
AND a special clear tape that allows
you to remove a print AND reapply
it. G.J. 386-387.

Nevertheless they take from Nuckle
to Nuckle every finger and sections
of palms. One time left HAND AND
2 times right..

* two weeks Later we get grand
Jury transcripts, AND this is the
same technique they used on the
CAR. (G.J. At 386-387)..

* I write Counsel several Letters About
concerns. AND Counsel Does NOT KNOW
what right technique is. AND they
DON'T EVEN seem concerned...

* I write Judge Johnson concerning
the issues 10-9-07..

3.

2.

2.

We Finally get discovery for finger prints around July 07. And there are chain of custody problems, missing ALPS Report And pictures Over 20 missing Dusted Prints!! *The prints they took in december by dusting my HANDS Look like the ones they said they got off the car... which is disturbing, because Allison my lawyer told me they wanted them to match. A bloody print 10A (Disc. At 4608.)

We Hire AN expert to check out all of the issues. And I ASK Counsel if I could show my CONCERNS, because ONCE again I HAVE the CONCERNS, the way they Dusted my HANDS same as vehical. Tracie tells me to get my questions ready for Him, And when Hes Done reading discovery He will be up to see you before He goes to look at prints, ERIKA CONFIRMED, That week.

I get all my questions together And He Never came up. Ive been confering with ERIKA

3.
2

* And Counsel for over a year ON ISSUES, Chain of Custody, ALPS report AND pictures because several of the prints are suppose to be palms, AND DOJ. Never had A palm print section till Sept, 2003 so it dont make scence...

The Big issue is why Did DA Investigator murusin Come to Jail And Dust Clients HANDS the same way they lifted prints from CAR?

Counsel came up on the 8th of April of 08. And said the expert Already went up to check prints.

And told me that the reson they take prints by dusting the Clients HANDS same as the object is because they will lay one print ON another, to see if it will MATCH.

Quote: the CAR prints!

She actually tried to sell me this..

The problem is one I was told by Allison they did this to match Item 10A. At DISC 4608

3.

4.

2.

Which is A swatch of fabric A print on A pillow which the layering technique wont work. Not the car...

this is four Days After the grand Jury indictment they just swore the prints matched, Not only that: murusin swore to A Washington State Judge for A warrant to obtain my DNA, palm, HAIR DISC At 690-6911...

What is even stranger is DA just got his indictment for CAPITAL murder AND comes to jail dusts defenants hands AND same as car, then the same person Filita Chapman pulls out Evidence Christmas eve ON a SUNDAY to 12-24-06 LI + PJ

Christmas eve ON a SUNDAY most likly NO ONES WORKING at that time AND why the Hurry?

Or Did they swear falsly? I've already got misconduct issues At the Supreme court.

Is my counsel involved? Still MISSING 20 Prints...

3.

There are some serious concerns with the way my lawyers have investigated my case or lack of prompt investigation of my case.

In the investigation of a criminal case speed is of the essence.

The inquiry into a case be commenced immediately.

Prompt investigation is necessary because witnesses are apt to forget details, leave the area, or otherwise become unavailable to the defendant.

Among the defense attorney's basic duties is the requirement that the attorney diligently and actively participate in the full and effective preparation of the client's case.

Establishing a rapport with the witnesses during the investigation stage of the proceedings will assist greatly in assuring the cooperation of the witness at trial, this should happen as fast as possible.

I would be believed that defense would of got ahold of witness as fast as they could.

3. Guilt Phase

Christean Harrison A Potential guilt phase witness who has given a statement to the police at the time of the crime. That she heard noises coming from the victims apartment at around 5:45 AM...

This contradicts a time line and a prosecution witness...

The defense has waited over 19 months to contact this witness and start a rapport that is imperative to the defense to insure her testimony at trial and establish a good relationship...

February 6, 2008. She was contacted 19 months after I'm in custody....

Guilt Phase

Chuck Ross Another guilt phase witness of an important fact which defense learned over a year earlier and information on how to locate Chuck Ross. It was given to defense over a year earlier and was neglected till February 6, 2008

An important part of the case where the costume jewelry came from.

3

These Are the reasons why it was impairitive for the defense to secure defense witnesses AS SOON AS POSSIBLE establish A report And relationship for trial, because of the way the district attorney's investigator is playing ON the PASSIONS OF PERSPECTIVE WITNESSES... And Prejudice them against me. if He CAN..

Donald Fairchild is A prosecution witness. But when defense questioned him. Shortly After he committed more crimes other than his Robbery And weapons charges, he was on parole for the Police department And corrections were After him because He has committed additional crimes including killing his Precious puppies. He raised them. Fairchild's probation officer would be A important witness to question. Counsel neglects to investigate Fairchild's Credability threw parole officer...

Curt Blakeman My potential Alibi witness. defense elicited informa-

3. 3
 tion About were defendant was
 the Night of the elected crime.
 Defense New for 19 months that
 defendant WAS At the residence
 of CURTIS BLAKEMAN Jr...
 defendant has A series of State
 checks And time cards for the
 last week worked for the Blakemans.
 defendant also has A special signed
 time card that ONLY the Blakemans
 use for approval for hours worked.
 Handy Capped people HAVE special
 markers And STAMPS they use to
 insure they arent duplicated.
 Nevertheless the defense HAS failed
 to INQUIRE for 19 months letting the
 PROSECUTION prejudice these people and
 secure them as PROSECUTION WITNESSES.
 Why would ANY competent defense
 counsel wait to secure defense
 witnesses?? 19 months giving
 PROSECUTION investigator first shot
 across the board...

For the last 19 months defense
 lawyers never knew if the Blakemans
 would or would not of been favora-
 ble witnesses....

3.

7.

3. These are some other favorable witnesses that the defense hasn't questioned.

DISC. AT 122* Richard Smith - A Neighbor At approximately At 5:45 AM He noticed lights ON in victim's apartment. Which Correlates with Christean Harrison's version of hearing sounds...

DISC. AT 185* Tyson Barth A witness of Joan Cryder parking away from apartment because she didn't want Justin to know she was home.

G.J. pg. 65* Tracy Freeman stated that Cryder and Justin were fighting and she was not parking in her spot but around the corner and was going to break up with Justin that night and get her keys back...

DISC. AT 1259* Robert Koverman stated that Joan Cryder's vehicle was in her spot at 6:30 AM.

These are only some of the witnesses the defense hasn't gotten to question for a defense of my case, or letting prosecution once again contact first and prejudice the defendant and then not be available to testify...
Prosecution has contacted most

3
 WITNESSES by doing A Speedy investi-
 gation AND follow up work. While defense
 HAS NOT DONE the SAME.

MOST WITNESSES HAVE BEEN CONTACTED
 THREW THE MEDIA AND NEWS PAPPERS
 AS YOU CAN SEE...

CHRISTEAN HARRISON-DAILY DEMOCRATE AND
 DAVIS AND HAS PROBABLY SCENE MY
 PICTURE

CHUCK ROSS-THREW A SACRAMENTO BROAD-
 CAST.

NEVERTHELESS IT WAS IMPAIRITIVE FOR
 DEFENSE TO CONTACT WITNESSES AS
 FAST AS POSSIBLE BECOUSE OF THE NATURE
 OF THE CHARGES ALSO WHICH ARE HIGHLY
 PREJUDICIAL TO...

I BELEAVE DEFENSE NEW FULL WELL
 THAT THERE LACK OF SPEEDY INVESTIGATI-
 ON DISTROYED DEFENDANTS CHANCES
 FOR A METORIOUS DEFENSE AND TO
 BE ABLE TO SECURE WITNESSES FOR
 DEFENSE AND TRIAL.

IT IS CLEAR THREW THE DOWEL INTER
 VIEW THAT PROSICUTION IS WILLING TO
 TAKE A FAVORABLE WITNESS AND TURN
 THEM AGAINST THE DEFENSE. QUOTE: LETS
 SEE WHAT OUR BOSS SAYS AT THE
 OFFICE... INJUSTICE !!

3.

1.

4

"November 13th 2007" Counsel came up to Jail AN told Client that if prosecution offers defendant life in prison that the defendant needs to seriously think about taken it... out of the blue...

Counsel also at the beginning of this case has stated if the prosecution offers the defendant life the defendant should seriously think about taken it because I'm doing a life case in Washington state already... I HAVE ALWAYS MAINTAINED MY INNOCENCE!

I've had this sheet typed up in December of last year because I didn't understand, because we've had serious evidence issues that only I've been pushing which I've thought were kinda strange

Now that I look back at this date from this present date April 15, 2008.

I wrote what kind of defense do I expect to get? from some one who would let me plead guilty to a crime I didn't do!

3.

2.

4.

Looking back Counsel hasn't even questioned guilt phase witnesses yet NONE, NOT EVEN CONTRADICTION TO TIME LINE WITNESSES, NOR ALIBI WITNESSES...

We ALSO have Hired experts so they SAID I really do NOT believe them because I'm the ONLY ONE WITH THE CONCERNS NOT THEM.

Like I wrote in this typed letter what type of A defense do I expect to get?

By the poor investigation into my case I believe Counsel KNOWS IT WILL FORCE ME TO PLEAD NO CONTEST!

There are two MAJOR issues that Counsel AND Client do NOT come to AN AGREEMENT ON, I believe they ARE huge MISCONDUCT ISSUES AND have to do with evidence.

I believe Counsel would cover for the district Attorney, AND I KNOW THAT IS A STIFF ACCUSATION BUT I DO.

SANTA CLARA COUNTY CRIME LAB WAS ASKED TO IDENTIFY ANY POTENTIAL AREAS CONTAINING DNA AND ON A RAG BEHIND THE

3.

3.

4

front door was sprayed with a chemical
 and an ALTA violet light test was
 done to see if there was any sweat
 present and there wasn't.
 and an DNA test was done on
 the rag three areas and resulted
 in no human DNA present.
 none of Cryder or defendant or
 anyone else. 4-19-01

Four years later after I become
 a suspect DA investigator MURKIN
 takes the rag to DOJ 2 weeks after
 I'm a suspect (DISCAT 418) JUNE 9, 2005 drops
 it off. then comes to Washington and
 gets my DNA JULY 11, 2005 then comes
 back and DOJ test the rag again
 August 19, 2005. Now it has 6 Alleles
 the same as mine, and quote; Cryders
 DNA. is Everywhere, alot from her..

5

Here's the next that happened the
 same day.

Cigarette butts in the car GJ. 488-
 489. State why weren't cigarette
 butts DNA samples of UNKNOWN
 individual put into the database

3.
5. IN 2003 IMPLYING they had A profile because you need A profile to download into the system..

Grand Jury 470. States why didn't you take DNA to SANTA CLARA?

SANTA CLARA ONLY DID WORK IN 01... WE HAVE THE CIGARETTE BUTTS GOING TO DOJ WHEN THEY WERE DISCOVERED IN THE VEHICAL IN JULY 27, 2000 AND LEAVING APRIL 4th 2001. A SAMPLE. BY THE MARRIAM WEBSTER DICTIONARY IS "SPECIMEN" "PIECE" OR SOMETHING TAKEN FROM SOMETHING

NEVERTHELESS THE CIGARETTE BUTTS WERE TAKEN BACK TO DOJ JUNE 9th 2005 WITH THE RAG AND THEY WERE RE-TESTED, BUT AFTER THE RETREAUVED MY DNA FROM WASHINGTON AND CAME BACK. THEY SHOULD OF HAD AN UNKNOWN INDIVIDUAL ON TOWEL AND BUTTS... AND NO RE-TEST THATS A PROBLEM.. WHY RE-TEST BUTTS?? THEY HAD A PROFILE...

DNA IS CELL NUCLEI.

OUT OF ALL THE THINGS TESTED PRVIOUSLY TESTED, GET A SUSPECT DROP EVIDENCE OFF AT LAB GO GET HIS DNA AND WHAT ARE THE CHANCES... AND PRVIOUSLY TESTED

3.

5.

5

I beleave this is more misconduct!
these items have already been tested
and one by DOJ IN 2000. AND DIDN'T
HAVE MY DNA PRESENT ON THE TOWEL.
THE CIGARETTES MUST NOT OF BEEN A
FAVORABLE PROFILE BECAUSE WHY RETEST
ALL 3 ?? THATS ALOT OF MONEY....

I beleave this is misconduct
AND I beleave my lawyers
ARE PERFECTLY AWARE.....

Exhibit-N-M

SUPERIOR COURT OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff

Case No. CR05-7107

Declaration and Order Regarding
Plea of **GUILTY/NO CONTEST**
to a Felony

vs.

Ronald Vernon Smith
Defendant

DECLARATION BY DEFENDANT

I am the defendant in the above-entitled criminal action. In support of my motion to change my plea(s) to be made in open court personally and by my attorney, I declare that:

RS

1. I understand the possible punishments and fine prescribed by law (if I am sentenced to State Prison) for the crime(s) to which I wish to plead **GUILTY/NO CONTEST** are:

Count	Code Section & Name of Crime	Minimum	Middle	Maximum	Max. Fine
1	PC § 187(a) Felony				
	Murder in the First Degree		Imprisonment in State Prison For Life Without the Possibility of Parole (LWOP). See Special Circumstance Below.		

RS

2. I understand that if I am sentenced to imprisonment in the State Prison, upon release I will be subject to a period of parole of up to n/a years. I further understand that by admitting the following "enhancement" charges made by the DISTRICT ATTORNEY in the charging document, my maximum punishment may be increased as follows:

Enhancement Charges	Additional Punishment
I.F. Special Circumstance for Murder During the Commission or Attempted Commission of First Degree Burglary - PC § 190.2(a)(17)(G)	

This makes my sentence imprisonment in state prison for life without parole (LWOP).

RS

RS

RS

RS

3. I am not suffering any mental disease or defect, which keeps me from understanding this form. I am not now under the influence of any mind-altering substances.
4. I understand and have discussed the nature of the charge(s), enhancement(s), and any prior conviction(s) against me, and the possible defenses thereto with my attorney and understand the consequences of my plea.
5. I agree there is a factual basis for this plea. The Court may take facts from probation reports, police reports or other sources to determine the factual basis for this plea.
6. I waive all right to appeal on both the judgment of the Court and any decisions on motions which precede this plea or judgment. Appeal is not waived as to sentencing errors.

7. I understand that I also have the following constitutional rights, which I now give up to enter my plea; these rights also apply to any prior convictions or enhancements I am charged with:

I understand this right

I give up this right

RS
RS
RS
RS

- I understand I have the right to be represented by a lawyer at all stages of the proceedings, including this one. I can hire my own lawyer, or represent myself, or the court will appoint a lawyer for me if I cannot afford one.
- The right to be tried by jury, in a speedy public trial.
- The right to confront and cross-examine all witnesses against me.
- The right to remain silent (unless I choose to testify in my own behalf).
- The right to present evidence and to have witnesses subpoenaed to testify in my behalf at no cost to me.

8. No one has threatened or promised to reward me, my family or anyone else to get me to enter this plea. No one has told me, or promised or suggested to me, that I will receive a lighter sentence, or probation, or any other favors to get me to enter this plea, except that I have entered into the following PLEA AGREEMENT:

This is a conditional & negotiated plea. I agree to plead guilty to count 1 of the indictment, a felony violation of PC §187(a) Murder in the First Degree. Further, I admit enhancement I.F. is true: PC §190.2(a)(1)(6), Special Circumstance for ^{murder} During the Commission or Attempted Commission of First Degree Burglary per PC §460. I will receive a sentence of imprisonment in state prison for life without the possibility of parole (LWOP). The remaining counts & enhancements in the indictment are dismissed.

9. If I willfully fail to appear for my probation interview or for judgment and sentencing, without good cause, or later I am found to have violated any term of my probation, I may be sentenced without regard to the conditional terms of this PLEA AGREEMENT.

10. I understand that as a result of my plea, I will be subjected to the following additional consequences:

- If I am not a United States citizen or born in the U.S., I may be deported, excluded from admission to the United States, or denied naturalization (Penal Code Section 1016.5).
- Since I am being convicted of an aggravated felony per 8 U.S.C. sec. 1101(a)(43), if I am not a United States citizen I will be deported, excluded from admission to the United States, or denied naturalization.
- I will not be allowed to own or possess any firearm. (Penal Code Sect. 12021, 12021.1)
- I will be required to pay a restitution fine of \$200 to \$10,000. (Govt. Code Sect. 13967)
- I will be required to register pursuant to Penal Code sect. 290/Health & Safety sect. 11590.
- If I am on probation in any other case, a plea of GUILTY/NO CONTEST may result in a violation of probation in that case and a county jail or state prison sentence.
- I will be required to register pursuant to Penal Code section 457.1.

11. My attorney has explained to me that if the court refuses to accept the above-stated agreement, I will be allowed to withdraw my plea.

12. I understand that the matter of probation and sentence is to be determined solely by the Court.

13. I am freely and voluntarily pleading Guilty because in truth and in fact I am guilty or I believe the evidence is sufficient to prove my guilt at trial.

14. My lawyer explained this form and its entire contents to me and I understand what I have said in this Declaration and the consequences thereof.

- 15. This is a conditional plea. I will receive no state prison at the outset and will be placed on Penal Code Section 1210.1(a) probation. (Proposition 36) If I refuse drug treatment as a condition of probation, this plea will remain in effect and I will be sentenced without any conditions on the plea.
- 16. This is a deferred entry of judgment as to Count(s) _____, If I fail or am terminated from Drug Court, judgment will be entered pursuant to any conditions as set forth in paragraph 8 herein. If I successfully complete Drug Court, the Count(s) listed above shall be dismissed pursuant to Penal Code Section 1000, et seq.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/30/08 at Woodland California, in the presence of my lawyer.

[Signature]
Defendant's Signature

DEFENSE ATTORNEY'S DECLARATION

I am the attorney for the defendant. I have gone over this form with my client and have explained the foregoing rights to the defendant and answered all the defendant's questions with regard to this plea. I have discussed the facts of this case with the defendant and explained the consequences of the plea(s), the elements of the offense(s), and the possible defenses. To the best of my knowledge and belief, defendant understands the matters set forth in this declaration and each of the statements herein is accurate and true, and is voluntarily and understandingly made. I witnessed the defendant's execution of this declaration. I CONCUR/~~DO NOT CONCUR~~ in this plea and the defendant's decision to waive constitutional rights.

Date 5/1/08

[Signature]
Attorney's Signature

INTERPRETER'S DECLARATION

I am a qualified interpreter with my affidavit on file with the Court Clerk. I have translated this Plea Agreement to the defendant and I believe he/she understands it completely.

Date _____

Interpreter's Signature

DISTRICT ATTORNEY'S CONCURRENCE

The District Attorney DOES/DOES NOT concur with this Plea Agreement.

Date _____

Deputy District Attorney's Signature

ORDER

THE COURT FINDS THAT: there is a factual basis to support the charge(s) to which the defendant is pleading; the defendant understands his/her constitutional rights, the nature of the crime(s) charged, the consequences of this plea, and that the defendant is understandingly and voluntarily pleading and waiving such rights and the right to have the charges read.

IT IS ORDERED that the defendant's plea(s) of GUILTY/NO CONTEST, the admission of special enhancement charges, including any prior felony conviction(s), prior prison term(s), and waiver of rights be accepted and entered in the minutes of this court, as a deferred entry of plea/Judgment as to count(s) _____, and that the preceding Declaration be filed.

Done in open court this _____ day of _____

JUDGE

Exhibit-M-N

1 Don L. Meyer,
2 Chief Probation Officer
3 Of Yolo County
4 By: R. G. Partlow,
5 Deputy Probation Officer II
6 2780 E. Gibson Rd.
7 Woodland, CA 95776
8 (530) 406-5320
9 (530) 661-1211 facsimile
10 probation@yolocounty.org

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF YOLO**

13 **THE PEOPLE OF THE STATE**
14 **OF CALIFORNIA,**

15 **Plaintiff,**

16 **vs.**

17 **Ronald Vernon Smith,**

18 **Defendant.**

19 **COURT NO.: 05-7707**

20 **PROB. NO.: 100194**

21 **REPORT OF THE**
22 **PROBATION OFFICER**

23 **HEARING DATE: 5/16/08**

24 **DEPT: Three**

25 **LEGAL STATUS**

CONVICTED OF: Penal Code section 187(a) Murder in the First Degree, with special circumstances as described under Penal Code section 190.2(a)(17)(G) for Murder During the Commission of a First-degree Burglary.

PLEA AGREEMENT OF 4/30/08: "This is a conditional & negotiated plea. I agree to plead guilty to count 1 of the indictment, a felony violation of Penal Code §187(a) Murder in the First Degree. Further, I admit and enhancement 1.f. is true: P. C. §190.2(a)(17)(G), special circumstances for murder during the commission or attempted commission of first-degree burglary per PC §460. I will receive a sentence of imprisonment in state prison for life without the possibility of parole (LWOP). The remaining counts & enhancements in the indictment are dismissed."

Exhibit-0

Exhibit-O *Ray*

AGREEMENT ON DETAINERS FORM VII

IMPORTANT: This form should only be used when an offer of temporary custody has been received as the result of a Prisoner's request for disposition of a detainer. If the offer has been received because another prosecutor in your state has initiated the request, use Form VIII. Copies of Form VII should be sent to the warden/superintendent, the other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrator of both the sending and receiving states. Copies should be retained by the person filing the acceptance and the judge who signs it.

PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED IN CONNECTION WITH A PRISONER'S REQUEST FOR DISPOSITION OF A DETAINER

TO: SYDNEY PRICE, CRS, STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS, MONROE CORRECTIONAL COMPLEX, PO BOX 777, MONROE, WA 98272-0777

In response to your letter received on August 1, 2006, and offer of temporary custody regarding RONALD VERNON SMITH who is presently under indictment, information or complaint in the Yolo County Superior Court of which I am the Chief Deputy District Attorney, please be advised that I accept temporary custody and that I propose to bring this person to trial on the indictment, information or complaint named in the offer within the time specified in Article III(a) of the Agreement on Detainers.

I hereby agree that immediately after the trial is completed in this jurisdiction, I will return the prisoner directly to you or allow any jurisdiction you have designated to take temporary custody. I agree also to complete Form IX, the Notice of Disposition of a Detainer, immediately after trial.

Comments: [If your jurisdiction is the only one named in the offer to take temporary custody use the space below to indicate when you would like to send your agents to conduct the prisoner to your jurisdiction. If the offer of temporary custody has been sent to other jurisdictions in your state, use the space below to make an inquiry as to the order in which you will receive custody, or to indicate any arrangements you have already made with other jurisdictions in your state in this regard.]

Dated: 8-7-06

Ann J. Hurd
ANN J. HURD, Chief Deputy District Attorney
301 Second Street
Woodland, CA 95695
(530) 666-8180

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainees.

Dated: 8/7/06



[Signature]
Judge of Yolo County Superior Court
25 Court Street
Woodland, CA 95695
(530) 406-6700

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Plaintiff's name:
Scott Frakes

vs.

Case Number: *07-7707*

Defendant's name:
Ronald V. Smith

PROOF OF SERVICE

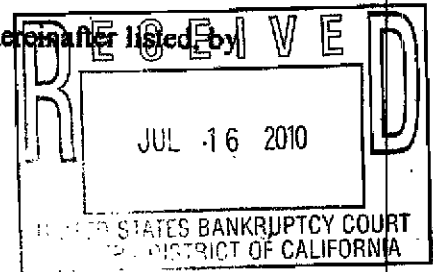
I, the undersigned, hereby certify that I am over the age of eighteen years and not a party to the above-entitled action.

On *July 14*, 20 *10*, I served a copy of _____

Petition of Habeas Corpus, by _____

placing said copy in a postage paid envelope addressed to the person hereinafter listed by depositing said envelope in the United States Mail:

(LIST ALL DEFENDANTS SERVED IN THIS ACTION)



I declare under penalty of perjury that the foregoing is true and correct.

Patricia A. Carlton
(Signed) *Patricia A. Carlton*
(mother)