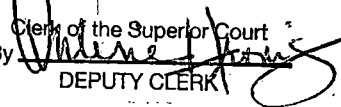


FILED  
SAN MATEO COUNTY

APR 02 2026

Clerk of the Superior Court  
By  DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN MATEO

|                                    |   |                                   |
|------------------------------------|---|-----------------------------------|
| PEOPLE OF THE STATE OF CALIFORNIA, | ) | Case No. SCO55500A                |
| Plaintiff,                         | ) | Related cases:                    |
| vs.                                | ) | Supreme Court No. S132449         |
|                                    | ) | Court of Appeal No A167615        |
| SCOTT LEE PETERSON,                | ) | <b>ORDER ON DEFENDANT'S</b>       |
| Defendant                          | ) | <b>RENEWED MOTION FOR DNA</b>     |
|                                    | ) | <b>TESTING (PEN. CODE § 1405)</b> |

On October 8, 2025, Defendant filed the instant motion. The People filed their opposition on January 5, 2026. Defendant filed his reply on January 9, 2026. Penal Code § 1405(f) provides that a hearing on the motion is discretionary as the court "deems necessary" if the court "determines that the convicted person has met all of the requirements of [Penal Code § 1405(d)(1)(A)-(F)]".<sup>1</sup> Because the court determines based on the extensive pleadings that Defendant has failed to meet those requirements, the Court denies the motion without further hearing.

<sup>1</sup> All further undesignated statutory references in this order refer to the Penal Code.

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1       Once the court finds a prima facie showing under subdivision  
2 (d), subdivision (g) sets forth the required findings for granting  
3 the motion. To grant the motion, the court must find all of the  
4 following:

5       (1) The evidence to be tested is available and in a condition  
6 that would permit the DNA testing requested in the motion.

7       (2) The evidence to be tested has been subject to a chain of  
8 custody sufficient to establish it has not been  
9 substituted, tampered with, replaced, or altered in any  
10 material aspect.

11       (3) The identity of the perpetrator of the crime was, or should  
12 have been, a significant issue in the case.

13       (4) The convicted person has made a prima facie showing that  
14 the evidence sought to be tested is material to the issue  
15 of the convicted person's identity as the perpetrator of,  
16 or accomplice to, the crime, special circumstance, or  
17 enhancement allegation that resulted in the conviction or  
18 sentence. The convicted person is only required to  
19 demonstrate that the DNA testing they seek would be  
20 relevant to, rather than dispositive of, the issue of  
21 identity. The convicted person is not required to show a  
22 favorable result would conclusively establish their  
23 innocence.

24       (5) The requested DNA testing results would raise a reasonable  
25 probability that, in light of all the evidence, the  
26 convicted person's verdict or sentence would have been more  
27 favorable if the results of the DNA testing had been  
28 available at the time of conviction. The court in its

1 discretion may consider any evidence whether or not it was  
2 introduced at trial. In determining whether the convicted  
3 person is entitled to develop potentially exculpatory  
4 evidence, the court shall not decide whether, assuming a  
5 DNA test result favorable to the convicted person, they are  
6 entitled to some form of ultimate relief.

7 (6) The evidence sought to be tested meets either of the  
8 following criteria:

9 (A) The evidence was not tested previously.

10 (B) The evidence was tested previously, but the requested  
11 DNA test would provide results that are reasonably  
12 more discriminating and probative of the identity of  
13 the perpetrator or accomplice or have a reasonable  
14 probability of contradicting prior test results.

15 (7) The testing employs a method generally accepted within the  
16 relevant scientific community.

17 (8) The motion is not made solely for delay.

18 Evidence is "material" when it is "relevant to the issue of  
19 identity, rather than dispositive of it." Richardson v. Superior  
20 Court (2008) 43 Cal.4<sup>th</sup> 1040, 1049. To prevail on a section 1405  
21 motion, "the defendant must demonstrate that, had the DNA testing  
22 been available, in light of all of the evidence, there is a  
23 reasonable probability - that is, a reasonable chance and not  
24 merely an abstract possibility - that the defendant would have  
25 obtained a more favorable result." Richardson v. Superior Court,  
26 *supra*, at 1051. The trial court does not, and should not, decide  
27 whether, assuming a DNA test result favorable to the defendant,  
28 that evidence in and of itself would ultimately require some form

1 of relief from the conviction. Richardson v. Superior Court,  
2 *supra*, at 1051.

3 When determining whether the movant has demonstrated a  
4 reasonable probability of a more favorable outcome, the court is  
5 to assume a favorable DNA result from the proposed testing. The  
6 court's task is "not to speculate what about what the results of  
7 DNA testing would be, but instead to decide whether a result  
8 favorable to the defendant could reasonably have impacted the  
9 outcome." Jointer v. Superior Court (2013) 217 Cal.App.4<sup>th</sup> 759,  
10 783. Trial courts should "liberally apply the 'reasonable  
11 probability' standard to permit testing in questionable case."  
12 Jointer v. Superior Court, *supra*, at 769. However, the trial  
13 court is not required to order DNA testing where the results might  
14 be helpful to a habeas corpus proceeding or an executive clemency  
15 request, but only where the requirements of the statute have been  
16 fulfilled. Richardson v. Superior Court, *supra*, fn. 7.

## 17 II. FINDINGS AND ORDERS

18 The instant motion seeks testing of the following items: the  
19 "Target Bag", the "Target Bag Duct Tape" found on and around the  
20 Target bag, and the "Tangle of Duct Tape" found on shore near the  
21 Target bag; "cloth from mattress" found in a partially burned  
22 orange van; "a piece of partially burned mattress cloth" from the  
23 same van; and "metal fuel container in the center of the mattress"  
24 located in the orange van. Each of these items was the subject of  
25 a prior motion under section 1405 brought by Defendant before this  
26 court, heard and decided on May 29, 2024. Defendant now brings  
27 this motion on the basis of asserted new evidence not available to  
28 him at the 2024 proceedings.

1       The court begins by noting that Defendant's motion fails in  
2 its entirety because it is not verified as required by Penal Code  
3 section 1405, subd. (d). As noted above, a "verified" pleading is  
4 one in which the affidavit of the verifying party states that *the*  
5 *pleading* is true of his own knowledge, except where matters are  
6 stated on information and belief, and as to those matters the  
7 verifying party believes them to be true. The verification may be  
8 phrased as an averment that the matters are pled "under penalty of  
9 perjury." Normally an attorney may verify a pleading as an agent  
10 for a client for facts that are within the attorney's knowledge.  
11 Oak Grove School District of Santa Clara County v. City Title Ins.  
12 Co. (1963) 217 Cal.App.2d 678, 706-707. Section 1405(d)  
13 specifically requires verification by the convicted person. While  
14 the instant motion attaches a declaration by Defendant as an  
15 exhibit, that declaration was signed on November 29, 2023 - just  
16 short of two years prior to the filing of the motion. The  
17 averment provides that Defendant reviewed "this declaration" in  
18 its entirety, that the declaration "is accurate to the best of my  
19 knowledge", followed by a declaration under penalty of perjury  
20 that "the foregoing" (referring to the five-page declaration) is  
21 true and correct. The motion itself, filed on October 8, 2025,  
22 contains no verification by either Defendant or his counsel.  
23 Instead, both the motion and the accompanying points and  
24 authorities state that they are "respectfully submitted" by  
25 Defendant's counsel. Counsel attached two sworn declarations as  
26 exhibits - one to the initial motion and a second to the reply  
27 filed on January 9, 2026. Counsel's declaration attached to the  
28 motion explains the history of searches within defense files for

1 results of prior testing. It does not purport to verify the  
2 renewed 1405 motion. The declaration submitted as an exhibit to  
3 the reply discusses the history of counsel's discovery of evidence  
4 asserted to be new. It also does not purport to verify the  
5 renewed 1405 motion.

6 The requirement for verification by the convicted person is  
7 statutory. Its absence renders the motion procedurally defective  
8 from its inception for failure to adequately plead the required  
9 predicate showing under subdivision (d) of section 1405. Nor is  
10 the requirement for verification merely a technical one of form.  
11 The legislative history of section 1405 indicates it "balance[d]  
12 the need for discovering the truth with procedural fairness and  
13 practicality. It [the bill] does not allow DNA testing in every  
14 case - only where the identity of the accused was a significant  
15 issue at trial, and the court finds, among other things, that the  
16 result of the testing will produce new evidence that is material  
17 and relevant to the defendant's assertion of innocence. The bill  
18 also provides safeguards to ensure that the evidence is available  
19 and reliable." California Bill Analysis, S.B. 1342, Assem.  
20 6/20/2000. Section 1405 was amended in 2001 to clarify the  
21 Legislature's intent that counsel be appointed early in the  
22 process - prior to actual filing of the motion - because "early  
23 appointment of counsel will help to streamline the process and  
24 ensure that frivolous or ill-prepared requests for DNA testing do  
25 not clog the courts and drain precious resources." California  
26 Bill Analysis, S.B. 83 Sen. 5/08/2001. "...[T]he apparent intent of  
27 the Legislature in enacting section 1405, as revealed by the  
28 legislative history... was to provide defendants with a narrowly

1 circumscribed opportunity to develop new evidence...". Richardson  
2 v. Superior Court (2008) 43 Cal.4<sup>th</sup> 1040, 1047. In a section 1405  
3 motion, the court "may consider any evidence whether or not it was  
4 introduced at trial." Penal Code section 1405, subdivision  
5 (g)(5). In reviewing a motion under section 1405, the court's  
6 duty is not "ministerial", but discretionary - that is - based on  
7 the trial court's judgment as to whether the motion establishes a  
8 reasonable probability of a more favorable verdict or sentence "in  
9 light of all the evidence". Richardson v. Superior Court, supra,  
10 p. 1047. Because the court's consideration of the motion is not  
11 confined to evidence introduced at trial, the requirement of a  
12 verified pleading is designed to assist the court in its duty by  
13 ensuring that the proffered contentions in support of the motion  
14 bear sufficient indicia of reliability to warrant relief. A  
15 pleading lacking verification fails to serve that purpose.

16 The court recognizes that it need not reach whether section  
17 1405's further requirements under subsections (d) and (g) would  
18 have been satisfied had the motion been adequately verified.<sup>1</sup> The  
19 court elects to do so to explain fully its conclusion that the  
20 motion fails both procedurally and on its merits should writ  
21 review be sought. For purposes of the findings articulated under  
22 subdivision (d) as to each item of evidence, the court assumes  
23 that all representations in the instant motion would have been  
24 maintained without modification had Defendant verified the motion.

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28 <sup>1</sup> Indeed, the court need not make on-the-record findings to support its ruling  
at all. Richardson v. Superior Court, supra, fn. 7.



1                   **A. Evidence related to the Target bag**

2                   **(i) Findings under Subdivision (d)**

3           Had the instant motion been adequately verified, the court  
4 would make the following findings related to the Target bag, the  
5 duct tape found on the Target bag, and the tangle of duct tape  
6 pursuant to Section 1405, subdivision (d).

7           **(a) Declaration of innocence**

8           Defendant's declaration asserts his innocence of the crimes  
9 of conviction under penalty of perjury.

10           **(b) Identity of perpetrator at issue**

11           In 2024, this court found at the prior section 1405 motion  
12 that the identity of the perpetrator was at issue at trial. In  
13 this court's view, it was the only substantial trial issue.

14           **(c) Identify the evidence sought to be tested and type of**  
15           **DNA testing sought**

16           The defense motion adequately describes the specific items  
17 sought to be tested and the proposed testing methods.

18           **(d) Explain how the requested testing would raise a**  
19           **reasonable probability of a more favorable outcome**

20           For reasons explained further in the subdivision (g) results  
21 below, the court finds that the defendant has failed to adequately  
22 explain how the requested testing would raise a reasonable  
23 probability of a more favorable outcome.

24           **(e) Reveal prior known test results**

25           The defense motion indicates that the Target bag was visually  
26 examined and tested for latent fingerprints by the prosecution.  
27 The lab analyst's notes indicate that a visual examination of the  
28 bag noted lady bugs, insect wings, and a shrimp-like crustacean

1 but no barnacles on the bag. The bag was stained with dirt, mud,  
2 and a "light coating" of algae, with orange brown stains noted.  
3 Duct tape residue was noted. Three pieces of duct tape were stuck  
4 on the bag. The analyst did not note any odor of decomposing  
5 tissue, nor did the analyst observe any decomposed fatty tissue on  
6 the bag. There were scrape marks and holes on the bag described  
7 as "from handling" or "wear and tear". The duct tape adhered to  
8 the bag was described as containing plant and bug debris, a  
9 feather, and pollen. No barnacles were observed on the tape  
10 adhering to the bag. No decomposed fatty tissue was observed on  
11 the tape adhering to the bag, and no "blood-like" stains were  
12 observed. There were no hairs or hair-like fibers in the debris  
13 that fell from the bag when visually examined. The bag was  
14 processed for latent fingerprints, none were located.

15 The DOJ examination of the "tangle of tape" identified three  
16 pieces of tape in varying lengths. All were observed to have blue  
17 stains consistent with blue ink transfer from the printed logo on  
18 the Target bag. Similar staining was also observed on the tape  
19 that directly adhered to the Target bag. The lengths of tangled  
20 tape were examined under a microscope, and photographs in the  
21 criminalist's bench notes showed a wide variety of rocks,  
22 feathers, a small shell, algae, and an insect body that the  
23 criminalist described as "water critter (?)". One stereoscope  
24 image of a section of the tape labeled by the criminalist as "Item  
25 1-11C: shell" shows a single object that, to the court, might be  
26 fairly described as depicting a barnacle based on the shape and  
27 recessed circular center similar to the appearance of a barnacle.  
28 See Renewed Motion for DNA Testing, Exhibit 3, Bates 023786. The

1 images attached to the motion are black and white, and the  
2 photocopy quality is poor. The criminalist who physically  
3 examined both the tape adhering to Laci Peterson's remains and the  
4 tangle of tape concluded: "No barnacles were observed on the  
5 pieces of duct tape from the 'Target products' plastic tarp from  
6 the bay (Item 1-10), the three pieces of duct tape from the bay  
7 (Items 1-11a, 1-11b, and 1-11c) and the piece of duct tape on the  
8 black and white plastic packaging from the bay (Item VDP1)."  
9 Renewed Motion for DNA Testing, Exhibit 3, Bates 023759. In the  
10 court's view, none of the attached photographs other than 1-11C  
11 appear to depict items sufficiently similar to the appearance of a  
12 barnacle to question the criminalist's conclusion after direct  
13 observation.

14 All of the tape was compared to the tape found adhering to  
15 Laci Peterson's remains, which had a thread count of 38 across the  
16 width. None of the tape from the Target bag or the tangle had the  
17 same thread count as the tape adhering to Laci Peterson's remains.  
18 The tape on the Target bag had a thread count of 44 across its  
19 width. Two of the three pieces of tangled tape had a thread count  
20 of 42 across the width, and the third had a thread count of 40  
21 across its width. All three were observed to have possible  
22 missing threads, meaning that all three had an indisputably higher  
23 thread count than the tape adhering to the remains of Laci  
24 Peterson.

25 A retained defense laboratory tested the Target bag in 2004,  
26 but not for DNA. The motion states that the results of prior  
27 defense testing on the Target bag were lodged with the court but  
28 not filed on July 30, 2024. That was the same date that the court

1 had directed Petitioner's counsel to file a declaration disclosing  
2 prior test results for the 2024 section 1405 motion that had not  
3 been pled in support of the motion, in which it had been  
4 represented that Petitioner's current counsel was unaware of any  
5 prior defense testing. The prosecution opposition to the present  
6 motion disputes that the actual test results were lodged on July  
7 30, 2024. The defense reply asserts "The Forensic Science  
8 Analytics report that Respondent mistakenly states has not been  
9 filed, is part of the record and was filed on July 30, 2024," and  
10 goes on to repeat its offer to "re-file" the report if it would be  
11 helpful to the court. The court reviewed the pleading filed by  
12 defense counsel on July 30, 2024. It states: "I am providing the  
13 FSA report to the prosecution and the Court rather than filing it  
14 with the Court, due to the sensitive nature of its content, as the  
15 prosecution has done with prior testing records it submitted to  
16 the court on July 15, 2024." Declaration of Paula M. Mitchell  
17 filed July 30, 2024, paragraph 10, L. 7-9. The FSA report was  
18 never filed. If "lodged" without the court's advance approval,  
19 the court has been unable to locate any copy. The court declines  
20 the defense invitation to "re-file" that which 1) it should have  
21 filed in the first place to meet the pleading requirements of the  
22 2024 motion seeking testing of the Target bag, 2) it should have  
23 filed when the court specifically ordered a declaration to correct  
24 the original pleading defect for omitting results of prior defense  
25 testing of items subject to the 2024 motion and 3) it should have  
26 filed in connection with this motion. The explanation that it was  
27 not filed for the sake of avoiding redundancy, when the motion and  
28

1 exhibits (excluding requests for notice of prior materials)  
2 exceeded 500 pages, is unconvincing.

3 Defense counsel's summary of the FSA testing indicates that  
4 the laboratory conducted a presumptive test for blood with "a weak  
5 positive reaction" that was "not characteristic of blood"  
6 detected. Although the report referenced samples collected for  
7 later analysis, defense counsel represents that diligent search of  
8 the defense files failed to locate any subsequent testing. For  
9 purposes of this motion, the court accepts the accuracy of that  
10 representation.<sup>1</sup>

11 **(f) State history of prior 1405 motions and outcomes**

12 The defendant fails to accurately state the history of  
13 "whether any motion for testing under this section" has been filed  
14 previously and the results. While the defense details the filing  
15 of the January 17, 2024 motion under section 1405, the instant  
16 motion completely omits reference to a prior section 1405 motion  
17 litigated in 2013 by prior counsel Lawrence A. Gibbs. The court  
18 therefore finds that even had Defendant adequately verified the  
19 instant motion, he would not have met the pleading requirement of  
20 section 1405(d)(1)(F).<sup>2</sup>

21  
22 <sup>1</sup> The People's opposition correctly asserts that similar representations that  
23 later turned out to be incorrect were made in open court before the discovery  
24 and belated partial disclosure of the 2004 FSA results in the 2024 section 1405  
25 proceedings. The court accepts defense counsel's explanation of the reason for  
26 that occurrence, which related to the differing record-keeping practices of  
27 multiple counsel who have represented defendant over the years and the  
28 difficulty of locating material within the voluminous files generated by this  
case, and concludes that counsel's comments in open court were a good faith  
error.

<sup>2</sup> Had defense asserted that such disclosure is not required by section 1405  
because the defense currently seeks to test different items than those litigated  
in the 2013 motion, the court would reject any such contention. The plain  
language of the section requires disclosure of "any motion for testing under  
this section", not "any motion for testing under this section related to the  
items sought to be tested in the prior motion."

1       The defense also mistakenly asserts that the 2024 motion did  
2 not seek testing of the "tangle of tape" recovered near the Target  
3 bag. It did. (See Motion for DNA Testing filed 1/17/2024, p. 5,  
4 L.3). The prosecution argues that the defense motion fails to  
5 specifically plead the results of DNA testing ordered after the  
6 2024 motion. Subdivision (d)(1)(F) requires the movant to state  
7 the results of prior motions, if known. The defense motion  
8 referenced the 2024 section 1405 motion and the court's partial  
9 grant of the motion, which were heard by this court. This court  
10 ordered the results of the 2024 testing sealed pursuant to section  
11 1405, subdivision (m) and is aware of the results based on their  
12 filing under seal by the People pursuant to this court's prior  
13 order. Had they been verified, the defense reference to the 2024  
14 motion and the court's partial grant of it would have been  
15 sufficient to meet their pleading burden to disclose the history  
16 of the 2024 motion under the circumstances.

17                   **(ii) Findings under Subdivision (g)**

18           **(a) Available and in a condition for testing**

19       The defense has not made a prima facie showing of the  
20 availability and preservation of the Target bag, associated duct  
21 tape, and the tangle of tape. The record demonstrates that these  
22 items were collected by law enforcement when the remains of Laci  
23 and Conner Peterson were discovered and maintained in law  
24 enforcement custody through the time of the original trial. The  
25 defense motion mistakenly identifies the Target Bag as a defense  
26 trial exhibit (D5A-1) and the Target Bag duct tape as a People's  
27 trial exhibit (251B). The court examined the trial exhibit lists,  
28 and neither the bag nor the tape was admitted into evidence - the

1 referenced exhibit numbers were photographs of those items. All  
2 trial exhibits<sup>1</sup> in the custody of the trial court were transferred  
3 to the custody of the Stanislaus County Superior Court by order of  
4 Presiding Judge Donald E. Shaver of the Stanislaus County Superior  
5 Court dated and filed February 20, 2007 in Stanislaus County case  
6 number 1056770. From the time of trial until the California  
7 Supreme Court's reversal of the Defendant's original death  
8 sentence, section 1417.1(d)(1) required the court to retain all  
9 exhibits "introduced or filed" in the criminal action until 30  
10 days after the execution of the death sentence. Penal Code §§  
11 1417, 1417.1. While the defendant is entitled to rely on that  
12 presumption for preservation of exhibits in the court's custody,  
13 no such duty extends to evidence seized but not filed or  
14 introduced into evidence. For any items of evidence seized by  
15 search warrant, defendant is entitled to rely on Penal Code §  
16 1536's command that such evidence be retained by law enforcement  
17 "subject to the order of the court". The Target bag and both  
18 items of duct tape were not seized based on a search warrant but  
19 collected when they washed up from the Bay 150 to 250 yards north  
20 of the recovered remains of Laci Peterson.

21 Finally, defendant asserts that Penal Code § 1417.9(a)  
22 required law enforcement to maintain the Target bag and duct tape  
23 items for the duration of his incarceration unless they provided  
24 notice to him pursuant to Penal Code § 1417.9(b) of their  
25 intention to dispose of them. The court is not persuaded. Section  
26

27  
28 <sup>1</sup> The order excepted People's Exhibits 299 and 300, a fishing boat and trailer,  
from storage by the Court. Those items were returned to the custody of the  
Stanislaus County District Attorney's Office pursuant to Penal Code 1417.3.

1 1417.9(a) requires retention of "any object or material that  
2 contains or includes biological material that is secured in  
3 connection with a criminal case..." California Penal Code §  
4 1417.9(a). The defense has not actually demonstrated, even to a  
5 prima facie level, that the Target bag or any of the associated  
6 tape contains biological material. All prior examination and  
7 testing of those items conducted by both parties have failed to  
8 demonstrate the presence of any biological material such as  
9 fingerprints, blood, tissue, or even "blood like stains" that  
10 would suggest the likely presence of biological material from  
11 which human DNA could be recovered.

12 The defense faults the court and the prosecution for any  
13 failure of proof of the present location and ability to test these  
14 items because the prosecution refused voluntary production of  
15 present chain of custody logs and the court denied defendant's  
16 2024 request to order production under section 1405(c). Discovery  
17 orders under Section 1405(c) are discretionary. In 2024 the court  
18 explained that it exercised that discretion to deny production of  
19 chain of custody logs for those items where defendant failed to  
20 demonstrate materiality, or that testing would raise a reasonable  
21 probability of a more favorable result. Defendant's present  
22 attempt to remedy those deficiencies fails to meet even the basic  
23 statutory requirement for verification of his motion.

24 Had the Defendant complied with section 1405's verification  
25 requirement, and had any properly pled motion changed the Court's  
26 2024 conclusions, the court would have made the requested  
27 discretionary discovery orders and set a hearing on the present  
28 motion to allow the defense the opportunity to gather information



1 necessary to prove the present location and condition of the items  
2 prior to ruling on the instant motion. However, even if treated  
3 as verified, the Defendant's present motion fails to change the  
4 court's 2024 conclusions on materiality and reasonable probability  
5 of a different result. If anything, for the reasons explained  
6 below in paragraph (d), the new evidence asserted by the defendant  
7 in the present iteration of this motion makes any asserted  
8 connection between the Target bag, duct tape, and tangle of tape  
9 and Laci's remains more tenuous, not less.

10 **(b) Subject to a sufficient chain of custody**

11 The defense relies on statutory presumptions that the court  
12 finds inapplicable to assert a prima facie chain of custody  
13 argument. For the same reasons identified in the foregoing  
14 paragraph regarding present location and suitability for testing  
15 above, the court finds that Defendant's motion fails to adequately  
16 demonstrate a sufficient chain of custody for testing of the  
17 Target bag, associated tape, and tangle of tape required by  
18 section 1405(g) (2).

19 **(c) Identity of perpetrator at issue**

20 As in 2024, this court finds that the identity of the  
21 perpetrator was the only substantial issue at trial of the action.  
22 Properly verified, Defendant's motion would make the showing  
23 required by section 1405(g) (3).

24 **(d) Prima facie showing of materiality to identity of**  
25 **perpetrator**

26 In 2024, the court denied defense motion for testing of the  
27 Target bag, associated duct tape, and tangle of tape because it  
28 found that the defendant failed to make a prima facie showing that

1 any of this evidence is material to the issue of the convicted  
2 person's identity as the perpetrator of the crime. The court  
3 articulated its basis for that finding as follows:

4 "Physical examination of the duct tape conducted at the  
5 laboratory at the time of the original trial  
6 demonstrated that based on the structure and the thread  
7 count of the tape none of those items were consistent  
8 with the type of tape that was found adhering to Laci  
9 Peterson's remains. Their condition, a lack of  
10 barnacles or associated adipocere [spelling omitted],  
11 also suggest these items were in the water for a  
12 different amount of time than the victim's remains and  
13 suggest a lack of connection to the remains.

14 None of the witnesses or the witnesses offered through  
15 multiple layers of hearsay that the defense has  
16 referenced in their initial pleadings or in their reply  
17 pleadings suggest any connection between any kind of  
18 wrapping or covering [and] the remains of Laci or  
19 Conner, nor any connection between any of the third  
20 party culpable alleged suspects alleged to have been  
21 involved and the construction site where the Target bag  
22 came from or originated.

23 The totality of the evidence suggests that a large  
24 amount of unrelated debris washed up in the area where  
25 Laci and Conner's remains were found after a powerful  
26 storm immediately before they were found. [Summary of  
27 Gene Ralston evidence omitted since defendant has now  
28 abandoned reliance on Mr. Ralston's opinion that he  
observed Laci's remains on side-scan sonar prior to  
their recovery.]

There were no barnacles on the Target bag. There are no  
barnacles on the tape that's associated with the Target  
bag. There's no adipocere on any of it. The physical  
conditions and the weight of the evidence associated  
with these items does not demonstrate any more than an  
abstract possibility that they might be somehow  
associated with the bodies. That does not rise to the  
level of a reasonable probability that the Court is  
required to find in order to order the testing  
requested." Renewed Motion for DNA Testing, Exhibit 2,  
RT pp. 86-88.

Defendant's renewed motion completely abandons his prior  
reliance on evidence asserted in the 2024 motion that Gene

1 Ralston conducted side-scan sonar searches of the San  
2 Francisco Bay and observed an object in the Richmond shipping  
3 channel that he believed were the remains of Laci Peterson.  
4 Due to weather conditions, divers were unable to examine or  
5 surface that object. After a large tanker moved through the  
6 channel on March 27, 2003, it was no longer visible on sonar.  
7 Ralston's descriptions of the object he observed formed a  
8 major part of the new evidence Defendant relied on in 2024 to  
9 seek testing of the Target bag, associated duct tape, and  
10 tangle of tape. Defendant now concedes that the position of  
11 the object Ralston observed is inconsistent with the opinion  
12 of his present expert on movement of bodies in water, Dr.  
13 Rusty Feagin. The maps attached to the 2024 motion for DNA  
14 testing depicted the location of the worksite where the  
15 Target Products bags were in common use near the Richmond  
16 Bridge in relation to the coordinates where Ralston observed  
17 the object in the water that he believed to be Laci  
18 Peterson's remains. According to the scale on the map  
19 provided, Ralston's location was approximately one mile from  
20 the jobsite where Target Products bags were in common use.

21 Defendant's current motion relies on Dr. Feagin's  
22 opinion that given data regarding historical wind, weather,  
23 and water movement patterns, topography of the San Francisco  
24 Bay, and the location where Laci and Conner's remains were  
25 recovered, their bodies were most likely deposited in the  
26 water somewhere near the Albany Bulb. According to the same  
27 map depicting the location of the Richmond job site, the  
28 Ralston object, and the Albany Bulb, the Richmond job site is

1 approximately five miles from Dr. Feagin's posited location  
2 where the bodies were deposited.

3 The trial evidence demonstrated that Laci Peterson  
4 disappeared from Modesto, a distance that the California  
5 Supreme Court observed was approximately 90 miles from the  
6 site where her remains washed ashore. The map of the  
7 relative locations of the Richmond job site, the Albany Bulb,  
8 and the Berkeley Marina demonstrates that to obtain one of  
9 the Target bags, any perpetrator would have had to drive at  
10 least five miles beyond the posited dump site at the Albany  
11 Bulb to get to the Richmond job site. As in 2024, the  
12 Defendant has still failed to plead any evidence - even  
13 hearsay - suggesting any connection between the Richmond job  
14 site and any of the Petitioner's third-party culpability  
15 suspects associated with either the Medina burglary or the  
16 Modesto Hardcore Skinheads that might demonstrate knowledge  
17 of the availability of wrapping material at that location.  
18 The Defendant has failed to produce any remotely reliable  
19 evidence - even hearsay - that any person alleged to have  
20 made inculpatory statements about being involved in Laci  
21 Peterson's murder said anything about wrapping her body prior  
22 to disposing of it.<sup>1</sup>

23  
24 <sup>1</sup> Defendant's motion includes a sworn declaration by Danielle Leaf, DNA Case  
25 Coordinator for the Los Angeles Innocence Project. In paragraphs 7-11, Ms. Leaf  
26 recounts a summarized hearsay conversation with an unidentified witness  
27 recounting hearsay conveyed to the first witness in 2018 or 2019 by a second  
28 unidentified witness confessing to being "the person responsible for placing  
Laci's body in the bay." Ms. Leaf asserts the second witness is a person who  
"appears to have been incarcerated for most of his adult life" and appears to  
have "deep ties" to the Airport District in Modesto, the "Peckwoods", the Aryan  
Brotherhood, and the Modesto Hardcore Skinheads. According to Ms. Leaf's  
declaration, the Innocence Project has determined that the "possible suspect"  
was in custody in Modesto in the fall of 2002, but has not been able to verify

1 Defendant points out that prior to the recovery of Laci  
2 Peterson's remains, the Modesto Police Department consulted  
3 the San Francisco Medical Examiner for information about how  
4 a body deposited in the bay might move and decompose over  
5 time and under various conditions. Defendant argues that  
6 because the police asked the expert to assume that the body  
7 had been anchored and wrapped in either plastic wrap or  
8 chicken wire, their suspicion is support for the reasonable  
9 assumption that the body was in fact wrapped in plastic.  
10 Defendant fails to acknowledge that the medical examiner  
11 opined on a variety of scenarios, including that the body  
12 might not be wrapped at all - in which case it would be  
13 expected to completely disarticulate and become buried in  
14 mud; or that the body might be partially covered by clothing,  
15 in which case the portions covered by clothing would be more  
16 intact than the uncovered portions.

17 On discovery, Laci Peterson's remains were both  
18 partially disarticulated and partially clothed, with evidence  
19 of animal feeding on the portions not still clothed and  
20 extensive decomposition and adipocere formation. The  
21 condition of the remains was inconsistent with the San  
22 Francisco medical examiner's prediction that if wrapped in  
23 plastic and deposited in deeper waters with colder  
24 temperatures, adipocere formation would be inhibited and

25  
26 that he was out of custody between December 24, 2002 and April 14, 2003. Ms.  
27 Leaf's recitation of the multiple hearsay conversation makes no mention of the  
28 alleged confessor stating that Laci's body was wrapped in any way.  
The court assumes that the reference to "Peckwoods" was intended to be  
"Peckerwoods" - a white supremacist prison gang that has "loosely affiliated"  
out-of-custody factions sharing the same ideology. See People v. Williams  
(2008) 167 Cal.App.4<sup>th</sup> 983.

1 decomposition slowed to the point of the body potentially  
2 being located in "relatively pristine" condition. In light of  
3 the totality of the evidence, the condition of Laci's remains  
4 on discovery was most consistent with the medical examiner's  
5 prediction of how a body partially covered with clothing  
6 would appear when recovered.

7 Defendant's motion offers further information on the  
8 colonization habits of barnacles to challenge the court's  
9 2024 observation that the lack of barnacles on the Target bag  
10 and tape suggested a lack of connection to the remains of  
11 Laci Peterson. He posits that the "environment inside the  
12 protected covering" would have been "more stationary and  
13 stable for barnacle colonization than the substratum of the  
14 surface of the Target Bag, related Duct Tape, and Tangle of  
15 Duct Tape (Items 1-10 and 1-11) that were not inside the  
16 protective covering." Notice of Motion; Renewed Motion for  
17 DNA Testing Based on Newly Discovered Evidence, p. 42, L. 19-  
18 23. He similarly informs the court that "[a]dipocere is a  
19 substance that forms *on decomposing remains* through the  
20 decomposition of adipose tissue found within a body', not on  
21 inanimate objects." Notice of Motion; Renewed Motion for DNA  
22 Testing Based on Newly Discovered Evidence, p. 43, L. 12-13,  
23 emphasis in original.

24 Those arguments ignore the basic premise that the Target  
25 bag had two sides - one that would have been exposed to the  
26 water and one that would have been in direct contact with the  
27 remains it is posited to have wrapped. Defendant's motion  
28 posits neither expert evidence nor persuasive argument for

1 why the side of the bag assertedly in contact with Laci's  
2 remains would not be expected to demonstrate either barnacle  
3 formation or transferred adipocere from the remains -  
4 particularly when the inanimate tape adhering directly to  
5 Laci's remains was covered with both.

6 Defendant points to statements of the law enforcement  
7 officer who recovered the bag that it smelled like  
8 decomposition as support for the bag being connected to the  
9 remains. The Defendant fails to note that the trial evidence  
10 established that the same officer reported that a cadaver dog  
11 was exposed to the bag when it was recovered and did not  
12 alert on it. 99 RT 18664. A second officer present said that  
13 the bag smelled like it had come out of the Bay and did not  
14 note the smell of decomposition. The criminalist who  
15 examined the bag did not note the smell of decomposition.  
16 Visual examination of the bag did not show any staining  
17 consistent with blood or tissue, or any adipocere. That  
18 result contrasts starkly with the tape adhering to Laci's  
19 remains - which was so covered with adipocere that only a  
20 small, folded corner of it was suitable for DNA testing. The  
21 court finds it extraordinarily unlikely that a bag and duct  
22 tape asserted to have wrapped Laci's remains for over three  
23 months would be entirely free of transferred adipocere or  
24 decomposed tissue when all of the other clothing and tape  
25 adhering to her remains had such tissue.

26 In summary, the court continues to find that the defense  
27 has failed to demonstrate materiality of the Target bag,  
28 tape, and tangle of tape to the identity of the perpetrator

1 of Laci Peterson's murder. The bag washed ashore over 100  
2 yards away from Laci's Peterson's remains after a strong  
3 storm. Trial evidence disclosed that numerous other items  
4 did as well, including a pair of women's underwear, elastic  
5 material, and miscellaneous fabric. The proximity of the bag  
6 to the remains alone does not demonstrate any tendency in  
7 reason to prove that the bag was used to wrap Laci Peterson's  
8 body. No evidence pled suggests any connection between any  
9 asserted third-party suspect and the site where the bag  
10 likely originated. No evidence pled suggests that any  
11 asserted third-party suspect admitted wrapping her body. No  
12 evidence pled connects the physical condition of the bag and  
13 associated tape with the condition of the recovered remains  
14 or tape attached to them. No prior physical examination or  
15 testing of the bag or tape conducted by either side  
16 demonstrates the appearance or existence of any material  
17 reasonably likely to yield a human DNA sample. Even if  
18 Defendant's motion were properly verified, the court would  
19 still find that he has failed to make a prima facie showing  
20 that the evidence he seeks to test is material to the issue  
21 of his identity as the perpetrator of the crimes of  
22 conviction.

23 **(e) Requested testing would raise reasonable probability of**  
24 **a more favorable result**

25 In 2024, the court denied defense motion for testing of the  
26 Target bag, associated duct tape, and tangle of tape because it  
27 found that the defendant failed to make a prima facie showing that  
28 the requested testing would raise a reasonable probability of a



1 more favorable result. For each of the reasons articulated in its  
2 2024 ruling on the prior motion, and for those additional reasons  
3 outlined in the immediately foregoing section (d), the court  
4 continues to find that there is no reasonable probability, in  
5 light of all of the evidence, that a favorable DNA test result of  
6 the Target bag, associated tape, and tangle of tape would lead to  
7 a more favorable outcome of Petitioner's case.

8 **(f) Not previously tested or better testing available**

9 The Defendant has demonstrated that the Target bag,  
10 associated duct tape, and tangle of tape have never been tested  
11 for DNA by either side. Had it been properly verified, the  
12 Defendant's motion would have met the requirement of section  
13 1405(g)(6)(A).

14 **(g) Generally accepted testing method proposed**

15 The court finds that the proposed testing method in the  
16 motion is generally accepted within the relevant scientific  
17 community. Had his pleading been verified, the Defendant would  
18 have met the requirement of section 1405(g)(7).

19 **(h) Motion not made for delay**

20 The court finds that this motion is not made for purposes of  
21 delay. Had his pleading been verified, the Defendant would have  
22 met the requirement of section 1405(g)(8).

23 **B. Evidence related to the orange van**

24 **(i) Findings under Subdivision (d)**

25 Had the instant motion been adequately verified, the court  
26 would make the following findings related to the two cuttings of  
27 fabric from the mattress found in the back of the burned orange  
28

1 van and the metal fuel container located on the same mattress  
2 pursuant to Section 1405, subdivision (d).

3 **(a) Declaration of innocence**

4 Defendant's declaration asserts his innocence of the crimes  
5 of conviction under penalty of perjury.

6 **(b) Identity of perpetrator at issue**

7 In 2024, this court found at the prior section 1405 motion  
8 that the identity of the perpetrator was at issue at trial. In  
9 this court's view, it was the only substantial trial issue.

10 **(c) Identify the evidence sought to be tested and type of**  
11 **DNA testing sought**

12 The defense motion adequately describes the specific items  
13 sought to be tested and the proposed testing methods.

14 **(d) Explain how the requested testing would raise a**  
15 **reasonable probability of a more favorable outcome**

16 For reasons explained further in the subdivision (g) results  
17 below, the court finds that the defendant has failed to adequately  
18 explain how the requested testing would raise a reasonable  
19 probability of a more favorable outcome.

20 **(e) Reveal prior known test results**

21 The court finds that Defendant has not met the pleading  
22 requirement of section 1405(d)(1)(E) that he reveal all prior  
23 known test results based on failing to verify the pleading in  
24 which counsel states those results.

25 **(f) State history of prior 1405 motions and outcomes**

26 For the same reasons stated above in the findings related to  
27 the Target bag evidence, the court finds that even had Defendant  
28

1 adequately verified the instant motion, he would not have met the  
2 pleading requirement of section 1405(d)(1)(F).

3 **(ii) Findings under Subdivision (g)**

4 **(a) Available and in a condition for testing**

5 Defendant seeks testing of two sets of items related to the  
6 orange van: two mattress cuttings and a metal fuel canister  
7 located on top of the partially burned mattress. The mattress  
8 cuttings were previously tested by the Department of Justice in  
9 2019 and found to contain trace amounts of male human DNA. They  
10 therefore contain biological evidence and are subject to the  
11 requirements of Penal Code § 1417.9(a) that they not be destroyed  
12 without advance notice to the Defendant. Defendant asserts he has  
13 received no such notice. Exhibit 2B to Defendant's pending habeas  
14 corpus petition in this court, of which he requests judicial  
15 notice, also demonstrates that the cloth from the mattress was  
16 marked for preservation with a cross-reference to his case in May  
17 of 2005. Had the motion been verified, the court finds it would  
18 adequately establish that the mattress cuttings are available and  
19 in suitable condition for DNA testing.

20 The court does not find that Defendant's motion, even if  
21 verified, would establish that the metal fuel can remains in law  
22 enforcement custody and available for testing. Exhibit 2B to the  
23 Defendant's pending trial court habeas corpus petition, Bates page  
24 ACHP-041, is the property log sheet for the orange van and the 3-  
25 gallon fuel container. The log demonstrates that the fuel  
26 container was in the van. The log sheet indicates the "dispo" of  
27 the van was "A&R" with the word "tow" written in the field for  
28 "Final Dispo Date" and the handwritten notation "Ceres PD rec

1 stolen" and a date of January 2, 2003 with the notation "per  
2 Shipley". The pleadings establish that Detective Shipley was a  
3 Modesto police officer who responded to the stolen van and  
4 accompanied CSO Doug Lovell when he collected the mattress  
5 cuttings from the burned van and conducted the presumptive blood  
6 test further described below. The prosecution's opposition to the  
7 motion indicates that the notations on the log sheet demonstrate  
8 that the van and its contents were released as a recovered stolen  
9 vehicle on January 2, 2003, and that "A&R" describes the tow yard  
10 where the van was stored. Both CSO Lovell's report<sup>1</sup> and the report  
11 of fire investigator Bryan Spitulski<sup>2</sup>, describe initially  
12 responding on December 31, 2002 to A & R Towing to examine the van  
13 and transporting the van to a second location - described by  
14 Lovell as "a covered secure area" and by Spitulski as the Modesto  
15 Police Department Evidence and Property Locker where the mattress  
16 cutting samples were collected. The property release form in  
17 Exhibit 2B is consistent with the release of the van to the tow  
18 yard as a recovered stolen vehicle after the described evidence  
19 processing on December 31, 2002 - the form demonstrates that the  
20 van and canister were returned to the tow yard from the Modesto  
21 Police Department on the approval of Detective Shipley, who had  
22 been assigned to investigate the van theft and fire per  
23 Spitulski's report. All of the evidence presented to the court  
24 regarding chain of custody supports the prosecution's contention  
25 that van and associated canister were released from law  
26  
27

28 <sup>1</sup> Habeas Corpus exhibit 2A, lower right Bates page 3781.

<sup>2</sup> Habeas Corpus exhibit 2B, Bates AHCP-032.

1 enforcement custody on January 2, 2003, and are no longer  
2 available or in a condition for testing.

3 Defendant asserts in this motion that he is unable to produce  
4 evidence of the van's and fuel canister's current location and  
5 suitability for testing because of the prosecutor's refusal to  
6 voluntarily produce a chain of custody log and the court's refusal  
7 to order its production in the 2024 proceedings. Regarding these  
8 specific items, the court finds that contention to be entirely  
9 without merit. The property log in Exhibit 2B demonstrates that  
10 evidence of the disposition of the van came into Petitioner's  
11 prior counsel's custody during the litigation of his initial  
12 habeas corpus petition filed in 2015 - apparently because the  
13 prosecution produced it in that litigation. The court bases that  
14 conclusion on the absence of a top or bottom Bates number  
15 consistent with the trial level Bates numbering and the presence  
16 of an "ACHP" Bates number used by Defendant's prior habeas corpus  
17 counsel on the property disposition document. Most claims in that  
18 habeas corpus petition were resolved by the California Supreme  
19 Court in 2020.

20 Further, evidence of the van's present location and condition  
21 is not "exclusively" in the custody of the prosecutor as argued by  
22 Defendant. Since the disposition form in the possession of  
23 Defendant's prior counsel since at least 2020 indicates the  
24 release of the van to A & R Towing in 2003, presumably A & R  
25 Towing could still have a record of the van's present location if  
26 still in their possession or a record of its eventual sale or  
27 destruction if it is no longer in their possession. Despite  
28 hundreds of pages of pleadings documenting interviews of numerous

1 witnesses by Defendant's present counsel, his pleadings nowhere  
2 assert that anyone on his behalf has ever - for example - called  
3 A & R Towing to ask what happened to the van, filed a public  
4 records request on the van's registration with DMV, or run an  
5 open-source CarFax report of the van's VIN<sup>1</sup> to determine if there  
6 was any sale or accident history subsequent to 2003. Those  
7 investigative avenues not subject to prosecutorial control might  
8 have shed additional light on the disposition of the van and its  
9 contents. Section 1405 puts the burden of pleading that  
10 information squarely on the defendant making the motion, and he  
11 failed to carry it.

12 **(b) Subject to a sufficient chain of custody**

13 Based on the requirements of Penal Code § 1417.9(a), the lack  
14 of notice of any intended destruction of the mattress cuttings  
15 under Penal Code § 1417.9(b), and the presumption that an official  
16 duty has been regularly performed under Evidence Code § 664, the  
17 court finds that if verified, Defendant's motion would adequately  
18 establish the chain of custody of the mattress cuttings required  
19 by Penal Code § 1405(g)(2). For the reasons articulated in the  
20 immediately foregoing section, the court finds Defendant's motion  
21 fails to establish a sufficient chain of custody for the metal  
22 fuel container.

23 **(c) Identity of perpetrator at issue**

24 As in 2024, this court finds that the identity of the  
25 perpetrator was the only substantial issue at trial of the action.  
26 Defendant has made the showing required by section 1405(g)(3).  
27  
28

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<sup>1</sup> Documented in Bates ACHP-020.

1           **(d) Prima facie showing of materiality to identity of**  
2           **perpetrator**

3           In 2024, the court found that Defendant failed to make a  
4 prima facie showing of materiality of testing of the mattress  
5 cuttings to identity of the perpetrator of the crime, failed to  
6 demonstrate that testing would raise a reasonable probability of a  
7 more favorable result, and failed to demonstrate that testing had  
8 a reasonable probability of contradicting or achieving more  
9 discriminating results than prior DNA testing. The court  
10 articulated the following reasons for those findings:

11           Testing in 2019 of the two cuttings that are identified  
12 as number 1 and number 2, resulted in 17 separate  
13 sampled areas across the two cuttings. Although, the  
14 initial testing that was discussed by Mr. Spitulski at  
15 the time of the recovery of the van indicated that there  
16 was a faint presumptive positive result for blood. That  
17 testing was unable to be replicated with the methods  
18 available in 2019. None of the 17 separately sampled  
19 areas on those two cuttings even presumptively  
20 demonstrated the presence of blood.

21           Under the terms of the stipulation the testing could  
22 have stopped there. It didn't. Those areas were  
23 subject to further confirmatory testing for human  
24 hemoglobin to determine whether or not there was - the  
25 lab was able to confirm that the red-brown staining on  
26 the mattress was blood. Those tests for human  
27 hemoglobin were also negative leading the lab to  
28 conclude that they could not verify that the substance  
on the mattress was blood.

Trace amounts of male human DNA were found on the  
mattress, but, as [defense counsel] pointed out in her  
argument, were not even associated with the red-brown  
staining areas and could not be identified as sourced as  
any kind of blood as opposed to other male DNA on the  
mattress.

The only way this Court would find that any evidence  
associated with the orange van would be material to Mr.  
Peterson's identity as the perpetrator of these crimes  
would be if there was a reasonable probability developed

1 that Laci Peterson had ever been in the orange van at  
2 some point during the commission of the crime.

3 The DNA result of the DNA testing that's referenced  
4 above conducted with the agreement of the Attorney  
5 General's Office in 2019 failed to raise any such  
6 reasonable probability. There is nothing in the defense  
7 pleadings, nothing in the DNA expert's declaration that  
8 was submitted with those pleadings that explains how the  
9 currently proposed testing methods for this evidence  
10 differ from the tests conducted in 2019 or why those  
11 tests would make a more discriminating or contradictory  
12 result reasonably probable. Those are all requirements  
13 for the pleading of proof of the 1405 motion. Renewed  
14 Motion for DNA Testing, Exhibit 2, .pdf pp. 184-186.

15 In relation to the mattress cuttings, defense asserts that  
16 additional testing is needed based on newly discovered evidence in  
17 this case that "includes evidence that exonerates Mr. Peterson,  
18 the presence of human DNA on the mattress, and Mr. Anjaria's  
19 further research into the effects of high heat on hemoglobin,  
20 which compromises the ability to chemically detect the presence of  
21 blood, additional testing is needed." Renewed Motion for DNA  
22 Testing, p. 14.

23 Evidence of human DNA on the mattress is not newly discovered  
24 in relation to the 2024 motion. It was known at the time of that  
25 motion and cited by the court in its ruling. The defense motion  
26 fails to acknowledge that the "human DNA" located on the mattress  
27 is from a male. In its 2024 findings denying defense request for  
28 testing of twine found on the remains of Conner Peterson, the  
court discussed the trial evidence demonstrating that Conner  
Peterson died *in utero* and became separated from Laci Peterson's  
remains after they were deposited in the San Francisco Bay<sup>1</sup> -

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<sup>1</sup> See Renewed Motion for DNA Testing, Exhibit 2, .pdf p. 193-194.



1 meaning that the trial evidence would establish that even if some  
2 other perpetrator were responsible for Laci's murder and used a  
3 van in the commission of the crime, there is no reasonable  
4 probability of locating Conner's DNA in the van. For any DNA  
5 located in the van to be material to Defendant's identity as the  
6 perpetrator, the DNA would need to be from Laci - to establish a  
7 nexus between the van and her murder. The location of male DNA  
8 alone in the van has no tendency in reason to demonstrate the  
9 van's connection to Laci's murder or the identity of her killer.

10 To meet the court's 2024 finding that the evidence related to  
11 the orange van is not material in the absence of a prima facie  
12 showing of a reasonable probability of Laci's presence in the van,  
13 defense offers the declaration of Misty Rodriguez Morales. Ms.  
14 Rodriguez Morales resided in the Airport District in 2002. She  
15 left in March 2003. She knew Steven Todd, Glenn Pearce, Shawn,  
16 Adam, and Bryan Tenbrink, Jason Nolan, Richard Zarate, Tony Lugo,  
17 and other residents of the Airport District. She lived near the  
18 residence of Todd and Pearce and they frequently came to her  
19 residence to hang out. Ms. Rodriguez Morales was shown a picture  
20 of the burned orange van and recognized it from seeing it being  
21 driven around the Airport District. She identified the people she  
22 saw driving it as Steven Todd, Glenn Pearce, Tony Lugo, and  
23 Richard Zarate. Her declaration states that people she knew in  
24 the Airport District who used drugs frequently committed  
25 burglaries to sell the stolen property for money they could use to  
26 buy drugs. Burglars from the neighborhood would help each other  
27 and split the proceeds, but not in an organized way. Ms.  
28 Rodriguez Morales recalls overhearing a conversation at her

1 residence including Jason Nolan, Richard Zarate, and "others".  
2 She heard them discussing Steven Todd "casing" a house across the  
3 street from the Peterson home, and that Todd needed a car to get  
4 property out of the house. She said that the men were saying a  
5 van was used to get stuff out, but she does not know which van was  
6 used or whether it was the orange van she saw Todd driving around  
7 the neighborhood. Ms. Rodriguez Morales said that Zarate said  
8 when "he and Todd" were doing the burglary, a pregnant woman from  
9 across the street came over and confronted them, and they told her  
10 to "go home." Zarate said the woman's dog was barking. According  
11 to Ms. Rodriguez Morales, "it was clear to everyone there that the  
12 pregnant lady they were talking about was Laci Peterson." It was  
13 additionally "clear" to Ms. Rodriguez Morales that the burglary  
14 happened on December 24, but she does not articulate how that was  
15 clear to her based on the content of the overheard conversation.  
16 Ms. Rodriguez Morales "tried to understand more about what  
17 happened after they interacted with Laci" but the men were  
18 "talking in circles" and all Ms. Rodriguez Morales concluded was  
19 that they saw her and told her to "go home." Though Ms. Rodriguez  
20 Morales has followed the Peterson case "somewhat" over the years,  
21 she did not come forward until 2025 because of acquaintances still  
22 in the Airport District and because she was "not certain the  
23 information was helpful or needed."

24 Ms. Rodriguez Morales's declaration is new evidence.  
25 Considering her statement in combination with all the evidence,  
26 however, the court still finds that it fails to raise a reasonable  
27 probability of Laci Peterson's presence in the orange van. Ms.  
28 Rodriguez Morales is not a percipient witness - she is relating

1 hearsay that is, at this point, nearly a quarter-century old.  
2 Portions of her statement are inconsistent with both the trial  
3 evidence and evidence presented elsewhere in Defendant's pleadings  
4 for both this motion and his pending habeas corpus petition.

5 Ms. Rodriguez Morales recalls seeing Steven Todd driving the  
6 orange van around the Airport District. Officer Hicks, who  
7 arrested Steven Todd for the Medina burglary and obtained his  
8 confession, stated he had known Todd for several years based on  
9 prior contacts with him as a police officer. He had never known  
10 Todd to drive or have a car. Evidence produced by Defendant in  
11 support of his present habeas corpus petition contains interviews  
12 by defense investigator Carl Jensen with Todd's sister, Lisa  
13 Stringfellow, who said that she picked him up and drove him to and  
14 from his mother's home on Christmas. Melissa McDaniel, the mother  
15 of Todd's children, said that he rode his bicycle to her home on  
16 Christmas morning before going to his mother's house. Donald Glen  
17 Pearce, who assisted Todd in committing the burglary and at whose  
18 home the Medina's stolen safe was found, said that he used his  
19 mother's Honda to help Todd remove the safe from the house. Todd  
20 asked him to do so because Todd did not have a car. When police  
21 detained Pearce, they saw him drive up to the home in the Honda.  
22 Adam Tenbrink told defense investigator Carl Jensen that Steven  
23 Todd was known to commit burglaries by riding back and forth on  
24 his bike and pulling a cart behind it. Both Adam Tenbrink and  
25 D.M. assert that Steven Todd called them for help with the  
26 burglary because he did not have a car.

27 The only witness who potentially corroborates Ms. Rodriguez  
28 Morales's observation of Steven Todd driving a van is Homer

1 Maldonado. Mr. Maldonado reported that while he and his wife were  
2 running errands on the morning of December 24, 2002, they stopped  
3 at a gas station. While Mr. Maldonado was getting gas sometime  
4 after 9:30 AM, he saw a tan van with dull paint, a chrome rear-  
5 mounted ladder, a chrome roof rack, and a spare tire cover with a  
6 chrome rim that otherwise matched the paint color of the van. The  
7 van had rear windows and side windows on the passenger's side, all  
8 partially covered by white curtains. Mr. Maldonado described  
9 seeing a white man approach the van and hearing another man inside  
10 ask about cigarettes. In an interview with defense investigator  
11 Gary Ermoian, Mr. Maldonado later said that he recognized the man  
12 outside the van as Steven Todd based on pictures of Todd in the  
13 newspaper. When speaking to Mr. Ermoian, Mr. Maldonado described  
14 the van as older, and tan colored with some yellow. In a 2004  
15 interview with a Stanislaus County District Attorney Inspector,  
16 Mr. Maldonado described the van as an older dull brownish yellow  
17 van with windows on the passenger's side and the rear doors. He  
18 continued to describe the van as having a chrome ladder, roof  
19 rack, and matching painted spare tire.

20 Mr. Maldonado's various descriptions of the color of the van  
21 are inconsistent with the bright orange color of the burned van.  
22 The burned van did not have a roof rack.<sup>1</sup> The burned orange van  
23 did have a chrome ladder and mounted rear spare tire. Bryan  
24 Spitulski's report indicates that the passenger side and rear  
25 windows of the van were broken out during the fire suppression  
26 efforts, and the photographs of the van interior are of

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27  
28 <sup>1</sup> Renewed Motion for DNA Testing, p. 72, photograph of the burned van.

1 insufficient quality to determine if the van had mounting hardware  
2 for curtains on either the passenger side or rear windows. Neither  
3 Spitulski's report nor Lovell's describe observing curtains or  
4 burned material consistent with curtains in the van.

5       Mr. Maldonado's wife, Helen, was with him at the gas station  
6 that day. She described the van she saw as "beat up" and "old"  
7 but did not reference its color. She recalled chatting with gas  
8 station cashier Kathy Albert about the van and the men with it  
9 "giving her [Kathy] trouble." Ms. Maldonado's memory of the date  
10 of that conversation might be mistaken, however, because when  
11 Kathy Albert was interviewed by Gary Ermoian she told him she did  
12 not work on December 24. She did describe the van that was  
13 hanging around the gas station in December 2002, and she said it  
14 was cream or tan. She described the men associated with it as a  
15 "Mexican" man who was 6 feet tall with short hair and a large  
16 build, and a "scruffy" white man who was medium height and 135  
17 pounds. Ms. Albert said she last saw the van at the gas station  
18 on December 21. She also said the occupants frequently used the  
19 pay phone to make calls, and shortly after those calls a white  
20 Dodge pickup truck would appear and meet them at the gas station.

21       Even if Ms. Rodriguez Morales did see Todd driving the orange  
22 van at some point prior to the Medina burglary, she clearly states  
23 that she does not know if the orange van was actually used in the  
24 burglary. The defense has presented numerous declarations and  
25 reports, old and new, from witnesses claiming a connection between  
26 the Medina burglary and a van. Some of the content of those  
27 declarations was either introduced at trial or known prior to  
28 trial and not presented. Those include Diane Jackson, who

1 variously described the van she saw as white, tan, or brown; Niniv  
2 T., who described the van as white; and Linda Chilles, who  
3 described seeing a van that "did not have any paint on it" at 9:30  
4 AM - before the Medinas had left home. Carlos Hernandez, a  
5 witness who came forward in 2024, described the van he saw in  
6 front of the Medina residence as white. None of those witnesses  
7 establish any connection between the Medina burglars and an orange  
8 van.

9 The instant motion references eyewitness Mike Chiavetta  
10 reporting seeing a "bright orange, late model, 'Cal Trans vehicle'  
11 with square headlights, parked in La Loma Park the morning of  
12 December 24, 2002" in support of the conclusion that the vehicle  
13 Chiavetta saw is "almost certainly" the burned orange van.<sup>1</sup> Mike  
14 Chiavetta actually told the police the following:

15 "Chiavette [sic] also mentioned noticing a bright orange  
16 Blazer type vehicle in East La Loma Park. He said it was at least  
17 15 years old and had square headlights. The Blazer was noticeable  
18 because of the bright orange color, which reminded him of a  
19 CalTrans vehicle. A 'gang banger' type Hispanic male got out of  
20 the vehicle and went into the restroom. Chiavette was running  
21 east toward El Vista when he noticed the Blazer. He also noticed  
22 it when he went back west toward home. He did not have any more  
23 information about the vehicle."<sup>2</sup> Chiavetta stated he began his run  
24 around 9:15 AM and ended around 10:15 AM.

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27 <sup>1</sup> Renewed Motion for DNA Testing, p. 74, L. 3-9.

28 <sup>2</sup> Petitioner's Habeas Corpus Exhibit 2A, Bates 2721.

1       The burned orange van is a full-sized Chevy van. Other than  
2 the driver's door, the driver's side of the vehicle is completely  
3 solid with no doors or windows. The passenger's side had a  
4 sliding side door with windows, and the van had two rear doors  
5 that opened outward. It had a mounted spare tire and ladder. A  
6 1989 Chevy Blazer has a body style distinct from a van, which  
7 resembles a pickup truck with an attached camper shell. The front  
8 engine compartment extends further in front of the windshield than  
9 a van. It has side windows on both sides of the vehicle. Only  
10 the color and headlight shape of the burned orange van bears any  
11 similarity to the vehicle that Chiavetta described. The man  
12 Chiavetta described getting out of the van bears no resemblance to  
13 the photographs of Steven Todd and Donald Glenn Pearce, neither of  
14 whom were Latino. Jason Nolan, whom Ms. Rodriguez Morales  
15 identified as one other driver of the orange van, was in custody  
16 on December 24, 2002. The defense has provided no description of  
17 Tony Lugo or Richard Zarate suggesting that either fits  
18 Chiavetta's description.

19       Defendant has also included evidence in his previous 1405  
20 motion and present habeas corpus pleadings relating various  
21 statements of Tom Harshman. Harshman reported to Modesto Police  
22 that he saw a pregnant woman appearing to be in distress and  
23 pushed into a van accompanied by two men. Harshman made his  
24 initial report to the MPD tip line on December 28, 2002 reporting  
25 that he saw that occurrence three or four days prior. He reported  
26 in person to the MPD command post on January 3, 2003, reporting  
27 that he saw the van and the pregnant woman 6 days prior (which  
28 would have been on December 28). He described the van as white or

1 tan, having three windows on the driver's side. Detective Craig  
2 Grogan interviewed Harshman in May 2004. At that time, Harshman  
3 said he made his observations on the same day that he first called  
4 the tip line, December 28. He described the van he saw as an  
5 American model, beige with a white stripe that looked like a  
6 lightning bolt or check mark from the driver's side door all the  
7 way to the end of the "extra long" van. He described long  
8 vertical windows on the driver's side that had blinds covering  
9 them. He could see white sneakers and jeans at the bottom of the  
10 blinds. He described the van as having an extended top that would  
11 allow a person to stand up inside, and that it was a van that  
12 could be used for camping. In 2018, Harshman completed a  
13 declaration about his observations. He described the van as "old,  
14 beat-up" and "light colored (cream or tan)". All of Harshman's  
15 descriptions of the van are inconsistent with the burned orange  
16 van. In addition, on multiple occasions he reported seeing the  
17 van on December 28 - three days after the orange van had been  
18 burned and taken into police custody.

19 Driving instructor Leora Garcia saw a suspicious van on  
20 December 24 around 10:30 AM on Buena Vista near steps going down  
21 into a park. She saw the side door close quickly with a piece of  
22 material like a coat caught in the door. It looked to her as  
23 though a "scuffle" had just occurred. She tried to get the plate  
24 number of the van. She described the van as older model, light  
25 colored, off white or light tan, with a metal rack on top,  
26 possibly a Chevy, with paint chipping on the upper right rear  
27 side. It had a solid sliding door with no windows. The partial  
28 plate she obtained was NGH4, from Texas, with a rainbow on it.



1 The burned van had no roof rack, windows on the sliding door, and  
2 California license plate 6S66512, and Ms. Garcia's description of  
3 the van she saw did not match the color of the burned van.

4 Defendant points to several post-trial witnesses who have  
5 come forward relating hearsay statements of others who have either  
6 claimed responsibility for Laci Peterson's murder or claimed to  
7 have overheard others do so. Those third-party culpability  
8 subjects are: "D.M.", who was directly interviewed by defense  
9 investigators. He denied any responsibility for Laci Peterson's  
10 disappearance and said he has never made any statements to the  
11 contrary.<sup>1</sup> D.M. also executed a declaration<sup>2</sup> stating that Steven  
12 Todd called him on December 24 from inside a house on Coven  
13 asking for help with a burglary. Todd told D.M. that he needed a  
14 car, but D.M. did not have a car so did not go to the Medina home  
15 to help Todd. D.M.'s declaration states that Todd called him a  
16 second time from inside the house on either December 25 or 26, at  
17 which point D.M. told Todd to stop calling him because D.M. didn't  
18 want his number to show up on the Medina's phone bill.

19 Other witnesses told defense investigators that D.M. had made  
20 statements admitting involvement in Laci's murder. "R.R."<sup>3</sup> claimed  
21 that D.M. told her he and other men were burglarizing a house when  
22 Laci saw them while walking her dog. One of the men "grabbed her  
23 from behind" and they had to "shut her up." R.R. said that over  
24 time, D.M. gave different versions including that Laci was taken  
25 and held in a vacant house for a period of time. D.M. gave  
26

27 <sup>1</sup> Habeas Corpus Exhibit 43.

28 <sup>2</sup> Habeas Corpus Exhibit 31

<sup>3</sup> Habeas Corpus Exhibit 45.

1 different locations for the house, and the "details didn't really  
2 add up" for R.R. Nevertheless, R.R. came to believe that D.M. was  
3 telling the truth about Laci confronting the burglars and D.M.  
4 being somehow involved in the killing. R.R.'s declaration makes  
5 no reference to a van of any kind, or D.M. stating a van was used.

6 S.T.<sup>1</sup> and K.M.<sup>2</sup> reported going to a house in a strawberry  
7 field sometime in the spring of 2022. They encountered D.M. and  
8 heard him discussing Laci Peterson's murder. S.T. says that D.M.  
9 claimed to have staked out the Medina home with others in a white  
10 van. S.T. said that D.M. said Laci caught them dragging a safe  
11 out of the house toward a white van and threatened to call the  
12 police, so the others he was with killed her and dumped her body  
13 in the bay. K.M. recalled the same incident, but fewer details of  
14 what D.M. said. K.M.'s declaration makes no mention of a van.

15 D.L.B.<sup>3</sup> related different hearsay statements of Danny Chapman,  
16 who was in turn relating hearsay from a former cellmate.  
17 Chapman's description of the cellmate was "the man who talked to  
18 his brother on a recorded jail house phone call", which would  
19 refer to Adam Tenbrink. According to D.L.B., Danny Chapman's  
20 cellmate told him that he was involved in robbing the house across  
21 from the Petersons' and there were three guys outside the house  
22 and two inside. Laci saw them and said she would call the police.  
23 One of the men grabbed her from behind, they threw her into a  
24 white van and hit her over the head with a rock, and they later  
25 burned the van.

26  
27  
28 <sup>1</sup> Habeas Corpus Exhibit 46.

<sup>2</sup> Habeas Corpus Exhibit 47.

<sup>3</sup> Habeas Corpus Exhibit 44.

1 Adam Tenbrink was interviewed by Carl Jensen in December 2004  
2 and denied participating in the Medina burglary.<sup>1</sup> Adam Tenbrink  
3 said that Steven Todd called him on December 24, 2002 "about the  
4 time it was getting dark" to ask him for help getting stuff out of  
5 the house. Adam stated that he did not go assist Todd. Shawn  
6 Tenbrink<sup>2</sup> executed a declaration in 2009 stating that Adam called  
7 Shawn while Shawn was incarcerated at Norco Rehabilitation center.  
8 Adam told Shawn that Adam knew who robbed the house across the  
9 street from the Petersons. Shawn said Adam said that someone told  
10 Adam that Laci had seen Steven Todd rob the house. Shawn couldn't  
11 remember if Adam said Todd robbed the house with others. Shawn's  
12 declaration does not indicate that Adam ever admitted direct  
13 involvement in the burglary to him. Neither Adam's direct account  
14 nor Shawn's single-layer hearsay account reference a van being  
15 used in the burglary. Even assuming that Adam Tenbrink was the  
16 source of the hearsay that Danny Chapman related to D.L.B., the  
17 van in that version was white.

18 J.E.<sup>3</sup> provided a declaration in 2024 recounting various  
19 hearsay conversations he has participated in between 2022 and 2024  
20 during the service of his current prison sentence. In three  
21 different correctional facilities, J.E. has encountered three  
22 different prison inmates who claim affiliation to the Modesto  
23 Hardcore Skinheads<sup>4</sup>, each of whom has claimed that various  
24 unidentified "homeboys" of the MHS were responsible for Laci

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<sup>1</sup> Habeas Corpus Exhibit 24.

26 <sup>2</sup> Habeas Corpus Exhibit 48.

27 <sup>3</sup> Habeas Corpus Exhibit 49.

28 <sup>4</sup> Described by one of its former members in a Modesto Bee article from 2015 cited in Defendant's present habeas corpus petition as a "racially conscious political movement." See Ahumada, Ex-White Supremacist Gang Member Testifies in Modesto Double-Homicide Trial, *The Modesto Bee* (Sept. 1, 2015).

1 Peterson's murder. The first inmate told J.E. that his "homeboys  
2 did it and their raggedy ass van was involved." The inmate  
3 neither specified the names of the "homeboys" nor the color of the  
4 "raggedy ass" van. The second inmate said that Scott "didn't kill  
5 her. My homeboys did with their old white trash van. They were  
6 doing burglaries in the area where Laci Peterson was." The second  
7 inmate was also not forthcoming with the names of the "homeboys"  
8 or the color of the "white trash" van. The third inmate was  
9 discussing the Peterson case in the prison dayroom during a  
10 televised program about the "fire investigator and the Innocence  
11 Project" in the case. That inmate saw a picture of the burned-up  
12 van that was aired on the news and said "you know he didn't do  
13 that, my homeboys did that. And I've been inside that van with my  
14 homeboys." The inmate was distressed and crying because Laci "was  
15 a beautiful woman" and he didn't know why "my dumbass homeboys did  
16 it." Others in the dayroom were apparently skeptical, and the  
17 third inmate responded by saying, "No, I'm serious, I know who did  
18 it," and "No, really, I know who did it. My homeboys did it. It  
19 wasn't Scott. He's innocent." Despite the third inmate's  
20 apparent willingness to discuss the subject, J.E. did not ask who  
21 the "homeboys" were and the third inmate did not volunteer the  
22 information. The third inmate also did not state that he had been  
23 involved in the murder himself, or that he knew or had heard that  
24 Laci had ever been inside the orange van that he saw on  
25 television. J.E.'s declaration also indicates he contacted law  
26 enforcement and was interviewed by an investigator from the  
27 Stanislaus County District Attorney's Office. J.E. attached  
28 copies of the letters he wrote to law enforcement - including that

1 he would be "ever so grateful" if he could get "time off" his  
2 sentence or "reward money" in exchange for providing the  
3 information. In another letter he followed up by asking for a  
4 transfer to a different correctional facility.

5 No evidence in the Defendant's motion, the attached exhibits,  
6 or the trial record even suggests that Steven Todd or Donald Glenn  
7 Pearce were affiliated with the Modesto Hardcore Skinheads. J.E.  
8 describes two of the three inmates with whom he spoke as having  
9 shaved heads and visible tattoos, some of which were indicative of  
10 white supremacist affiliation. None of the photographs of Steven  
11 Todd or Donald Glenn Pearce depict either shaved heads or tattoos.  
12 Diane Jackson described the three men she saw with the white van  
13 in front of the Medina residence as having dark complexions but  
14 not African American. She believed that they might be landscapers  
15 until they looked at her as she passed and she noticed that they  
16 had no tools with them. She could not remember any other details  
17 of their appearances but did not describe them as having shaved  
18 heads or tattoos. Ms. Jackson's description of the other  
19 potential Medina burglary suspects is highly inconsistent with the  
20 claim - asserted in multiple hearsay by incarcerated felons for  
21 the first time 20 years after the murder - that a white  
22 supremacist burglary crew was responsible for the Medina burglary.

23 In summary, only the following witnesses claim to have any  
24 information potentially relating an orange van to Laci Peterson's  
25 murder:

- 26 1) Misty Rodriguez Morales, who overheard hearsay which did  
27 not reference an orange van being used or burned, and  
28 whose claims of observations of Todd driving the van are

- 1 inconsistent with every other witness who stated that Todd  
2 used a bicycle in burglaries and did not have a car;
- 3 2) Homer Maldonado, whose description of the van color and  
4 roof rack are inconsistent with the burned van and  
5 inconsistent with the description of the same van by the  
6 gas station cashier who saw it on multiple occasions;
- 7 3) Thomas Harshman, who saw the van three days after it  
8 burned and whose description was demonstrably inconsistent  
9 with the burned van;
- 10 4) Mike Chiavetta, who did not claim the vehicle he saw was  
11 used in a burglary, and who described seeing a vehicle  
12 with a distinct body style from the burned van; and
- 13 5) J.E., a prison inmate relating multiple layers of hearsay  
14 from other inmates in hopes of consideration from law  
15 enforcement for a reduced sentence or housing transfer.

16 In light of all of the evidence, the court still concludes  
17 that none of the material attempting to relate an orange van to  
18 the murder of Laci Peterson establishes that DNA testing from the  
19 mattress would be material to the identity of the perpetrator.  
20 Because the asserted basis for testing the metal fuel container is  
21 the possibility that there was transferred DNA from the mattress,  
22 the court's findings of lack of materiality apply equally to the  
23 fuel canister.

24 **(e) Requested testing would raise reasonable probability of**  
25 **a more favorable result**

26 For all of the reasons identified in the immediately  
27 foregoing section (d), the court finds that the requested testing  
28

1 of the mattress cuttings and fuel canister would not raise a  
2 reasonable probability of a more favorable result.

3 **(f) Not previously tested or better testing available**

4 The metal fuel canister has never been tested, but the court  
5 has found above that it is not available to be tested nor has the  
6 chain of custody been demonstrated.

7 The mattress cuttings were previously tested for DNA in 2019  
8 by the California Department of Justice by stipulation of the  
9 parties. Those test results are described above in section (d).  
10 The instant motion incorporates by reference the 2025 declaration  
11 of Mehul Anjaria, a qualified expert witness in the testing and  
12 analysis of DNA. The bulk of his declaration describes the  
13 various presumptive blood testing and why the mattress's exposure  
14 to high temperatures from the fire likely degraded the stained  
15 material so that presumptive testing could not detect human  
16 hemoglobin even if it were present. He opines that additional  
17 testing for hemoglobin would consume remaining valuable sample  
18 material for little forensic value, since a presumptive test would  
19 only demonstrate the possible presence of blood. The court  
20 accepts those conclusions.

21 Mr. Anjaria posits that the 2019 testing cannot "rule out"  
22 the presence of female DNA on the mattress due to the small  
23 portion of the mattress cuttings tested. Mr. Anjaria attaches  
24 reference material demonstrating that exposure to high  
25 temperatures in fire degrades DNA samples and results in more  
26 difficulty detecting the presence of DNA. He therefore concludes  
27 that taking larger cuttings or swabbings of the mattress samples  
28 or using the M-Vac to sample "is a reasonable approach to

1 determine once and for all whether there is any DNA present from  
2 Laci or Conner Peterson (regardless of whether it can be  
3 associated with blood). This proposed method is clearly  
4 distinguishable from the approach that Keel took in 2019, which  
5 resulted in low levels of apparently male DNA."<sup>1</sup> This opinion does  
6 not differ substantially from his 2024 declaration<sup>2</sup>, which opined  
7 that "the entire surface area of the cuttings should be sampled."  
8 In short, he does not suggest that the 2019 testing was done  
9 improperly or that techniques for the testing of DNA have improved  
10 since 2019. His 2024 declaration clearly states that the  
11 criminalist in 2019 "took 2 small cuttings from stained areas away  
12 from areas of obvious burning" for each piece of mattress cloth  
13 tested.

14 Mr. Anjaria's declarations make clear that the 2019 testing  
15 was conducted with the difficulty of high heat in mind. The  
16 criminalist chose sampled areas away from obvious burned areas to  
17 minimize the possibility that exposure to high heat would prevent  
18 DNA detection. In addition to taking cuttings from the stained  
19 areas, the criminalist also selected background material for  
20 testing that was not stained. Only the stained material returned  
21 even a low-level DNA sample. No DNA was recovered from the  
22 unstained, unburned portion of the mattress material sampled. The  
23 2024 suggestion that the "entire surface area" be sampled,  
24 including burned areas, does not appear to comport with the  
25 opinion that the burned areas may not be capable of yielding valid  
26 results based on the exposure to high temperature. While the

27  
28 <sup>1</sup> Habeas Corpus Exhibit 21.

<sup>2</sup> Habeas Corpus Exhibit 38.



1 court has no disagreement with Mr. Anjaria's opinion that a larger  
2 sample area would be a "reasonable approach" to DNA testing of the  
3 mattress cuttings, the opinion does not answer the question posed  
4 by section 1405 - whether the sampling of a larger surface of the  
5 mattress and fabric would "provide results that are reasonably  
6 more discriminating and probative of the identity of the  
7 perpetrator or accomplice or have a reasonable probability of  
8 contradicting prior test results."

9 The court has already determined that the weight of the  
10 evidence does not support the conclusion that any DNA testing of  
11 material associated with the orange van would be "probative of the  
12 identity of the perpetrator". The court is similarly unpersuaded  
13 that the testing proposed by Mr. Anjaria would have a "reasonable  
14 probability" (as opposed to an abstract possibility) of  
15 conflicting with prior test results, given that the testing  
16 conducted in 2019 contemplated the difficulty of high heat  
17 exposure. Even had Defendant's motion been verified, the court  
18 would still conclude it fails to satisfy section 1405(g)(6)(B).

19 **(g) Generally accepted testing method proposed**

20 The court finds that the proposed testing method in the  
21 motion is generally accepted within the relevant scientific  
22 community. Had his pleading been verified, the Defendant would  
23 have met the requirement of section 1405(g)(7).

24 **(h) Motion not made for delay**

25 The court finds that this motion is not made for purposes of  
26 delay. Had his pleading been verified, the Defendant would have  
27 met the requirement of section 1405(g)(8).  
28

1                   **C. Ruling on requested discovery orders**

2           Section 1405(c) provides that upon request of the convicted  
3 person or their counsel, the court "may" order the prosecutor to  
4 make all reasonable efforts to obtain, and police agencies and law  
5 enforcement laboratories to make all reasonable efforts to provide  
6 documents in their possession or custody if they exist and  
7 generally describes categories of documents related to forensic  
8 testing and chain of custody. Use of the word "may" in a statute  
9 signifies that the court's power is discretionary. The instant  
10 motion makes requests pursuant to subdivision (c) for evidence  
11 logs, chain of custody logs, and reports related to evidence  
12 collected from or near the remains of Laci and Conner, including  
13 but not limited to the Target Bag and Target Bag Duct Tape, and  
14 Tangle of Duct Tape found near the Target Bag. Defendant  
15 similarly requests copies of evidence logs, and chain of custody  
16 logs and reports related to the orange van and its contents.  
17 Based on the court's foregoing conclusions that even if properly  
18 pled, Defendant's motion fails to meet the threshold showing  
19 required by subdivision (d) and fails to support the necessary  
20 findings required by subdivision (g) to grant the motion, the  
21 court exercises its discretion to deny the requests for discovery  
22 pursuant to subdivision (c).

23                   **D. Orders**

24           For all the foregoing stated reasons, the Defendant's Renewed  
25 Motion for DNA Testing Based on Newly Discovered Evidence filed  
26 October 8, 2025 and requests for discovery pled therein are  
27 denied.  
28

1 DATED: April 2, 2026



ELECTRONICALLY SIGNED

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Elizabeth M. Hill  
Judge  
Superior Court of California,  
County of San Mateo

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