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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

APR 12 2005

GARY M. BLAIR, Executive Officer
By *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF SANTA BARBARA
16 SANTA MARIA DIVISION

17 THE PEOPLE OF THE STATE OF CALIFORNIA,
18 Plaintiff,

19 vs.

20 MICHAEL JOE JACKSON
21 Defendant.

) CASE NO. 1133603
) MR. JACKSON'S REQUEST FOR
) CLARIFICATION OF THE COURT'S
) ORDER KNOWN TO PROSECUTION AND
) UNKNOWN TO DEFENSE

) HEARING
) DATE: TBD
) TIME: TBD
) Place: Dept. SM-2

I.

REQUEST FOR CLARIFICATION

On March 10, 2005, Mr. Sneddon asked Gavin Arvizo questions about a computer and email account Mr. Jackson gave Gavin Arvizio and about Gavin's email passwords, as follows:

BY MR. SNEDDON:

Q: Good morning.

A: Morning, Tom; Mr. Sneddon.

Q: I want to go back and talk about a couple of things that I neglected to cover yesterday. And I want to take you back in time to the first visit to Neverland Ranch, and in particular to the computer that Mr. Jackson gave you. Do you recall that?

A: Yes.

Q: What kind of computer was it?

A: It had an apple on it. I think it was a Mac computer or something like that. It was, like, a laptop.

Q: After Mr. Jackson gave you the computer, did you -- were you contacted by somebody to set up some kind of Internet account for that computer?

A: Yes. Well, Michael told me to call Evvy and see -- because he said he wanted me to get the Internet for the computer.

Q: Did you know who Evvy was?

A: She was, like, an assistant lady for Michael.

Q: Did you do that?

A: Yeah.

Q: And as a result of that, did you -- did somebody contact you after you talked to Evvy?

A: Yeah. It was a guy named David, I think.

Q: And what was the purpose for which David contacted you?

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1 A: To help -- to tell me how to set up the Internet account, because I didn't
2 know how.
3 Q: And who paid for that?
4 A: Michael did.
5 Q: Now, when you set up the Internet account, did you have an e-mail address?
6 A: Yes.
7 Q: And where did you -- what was the e-mail address?
8 A: Whitehawk344, I think.
9 Q: Now, you say "whitehawk." Where did the e-mail address come from?
10 A: Well, my name "Gavin" in Irish, it means -- well, it means a lot of stuff. It
11 means, like, three different things, but one of the things it means is
12 "whitehawk."
13 Q: So where did you get the idea to do that?
14 A: Because "Gavin" means "whitehawk," so that's why I put it on my screen
15 name.
16 Q: Did you have a password?
17 A: Yeah.
18 Q: What was your password?
19 A: Well, it could have been a lot of things, but I think it was "American."
20 Q: Did you change it from time to time?
21 A: Yes.
22 Q: Do you remember any of the other passwords you used?
23 A: Password 123456, 654321.
24 Q: So you just changed the sequence of the numbers?
25 A: Yeah.

26 (3/10/05 Tr. Trnspt., pg. 1536, ln. 16 through pg. 1538, ln. 20.)
27
28

1 On March 14, 2005, Mr. Mesereau unsuccessfully attempted to cross-examine
2 Gavin Arvizo about the email passwords due to Mr. Sneddon's objection on the ground
3 that that there was a Court Order, as follows:

4 BY MR. MESEREAU:

5 Q: Okay. So a few days after you returned from your first trip to Neverland, you
6 tried to set up an AOL account on the computer that Mr. Jackson had
7 given you, right?

8 A: Yes. I did set up an AOL account.

9 Q: Was that the first computer you'd ever owned?

10 A: Yes.

11 Q: Was it the first computer you'd ever used?

12 A: No, because I -- no.

13 Q: Explain -- let me rephrase that. When did you first learn to use a computer?

14 A: In the first grade.

15 Q: Okay. Did you own a computer at any time before Mr. Jackson gave you the
16 computer?

17 A: No.

18 Q: Okay. But you knew how to use one, correct?

19 A: I wasn't like a cyber guy, but I knew how to generally use a computer.

20 Q: You knew what an AOL account was, right?

21 A: Not really. They told me.

22 Q: But you immediately started to set one up when you got home with the
23 computer Mr. Jackson gave you, right?

24 A: Not when I got home. A few days later.

25 Q: You called up Evvy about setting up that account, right?

26 A: Yeah. Because -- well, yeah. Yeah.

27 Q: And you requested a screen account name of gblade2000 -
28

1 MR. SNEDDON: I'm going to object to that.

2 THE COURT: Sustained.

3 BY MR. MESEREAU:

4 Q: Do you remember the password -- excuse me, let me rephrase that. Do you
5 remember the prosecutor asked you questions about passwords?

6 A: Yes.

7 Q: And do you remember you talked about what passwords you wanted?

8 A: Not -- to the prosecutor?

9 Q: Yeah. Did you say something about "hawk"?

10 A: Oh, I told him that one of my screen names that I had was whitehawk344.

11 Q: Please tell the jury what a screen name is.

12 A: It's on the Internet. You have like a name that you go by, and that's the
13 screen name.

14 Q: Do you remember asking Mrs. Tavasci to change the password to "sexy."
15 s-e-x-y?

16 MR. SNEDDON: Your Honor, I'm going to object again. This is in violation of the
17 Court's order.

18 THE COURT: Sustained; that is a violation. The jury's admonished to disregard that.
19 You're instructed not to go into that.

20 MR. MESEREAU: Yes, Your Honor.

21 (3/14/05 Tr. Trnsct., pg. 1875, lines 2-24)

22 The defense believes that Mr. Sneddon opened the door on Gavin's email
23 passwords and thus properly attempted to cross-examine Gavin on that issue. However,
24 because the Court sustained Mr. Sneddon's objection, the defense believed that there was
25 a prior Court Order which prohibited questioning about Gavin's email passwords. The
26 defense searched for such an Order, but could not find it.

27

28

1 The only Order that may relate to Gavin's email passwords is the Court's March 11,
2 2005 tentative ruling on the defense's sexual conduct motion¹ as follows:

3 Under Evidence Code Section 782, the Court shall review the
4 affidavit submitted in support of the motion to determine if the
5 offer of proof is sufficient to order the hearing. If it is, the Court
6 shall order a hearing out of the presence of the jury, and at the
7 hearing allow the questioning of the witnesses. The affidavit offered
8 in this case -- which, as you know, 782 requires an affidavit. The
9 affidavit which seeks to authenticate the interview reports is from
10 Susan Yu, and the Court finds that affidavit to be inadequate. The
11 only area in the -- what I'm doing here is ruling without prejudice that
12 the affidavit's inadequate, and I will consider a further submission
13 of a sealed affidavit that would clarify the date of the male witness's
14 alleged observation. The other suggested ones that were not by a
15 male - this is how I'm identifying this - that were not observed by a
16 male are not admissible. I'm not allowing them. But the incident that is --
17 that the affidavit shows was -- where the witness was a male, I will
18 consider upon further affidavit. And just to be sure you heard
19 me correctly, that the deficiency is in the date of the male witness's
20 alleged observations. Now, as guidance to the defense, this does
21 not mean to preclude the defense from examination of
22 witness -- of the complaining witness or other -- a percipient
23 witness in that situation of your cross-examination.

24 (March 11, 2005 Trial Transcript, p. 1781, ln. 19 through p. 1782, ln. 21.)

26 _____
27 ¹ The defense filed a sexual conduct motion under seal pursuant to Evidence Code
28 Section 782. Accordingly, the password mentioned in that motion will not be revealed in
this Request.

1 This ruling, however, does not address Gavin's email passwords. Nor does it
2 prohibit the defense from questioning Gavin about the email passwords. Accordingly, the
3 defense requests a clarification as to whether there is an Order precluding the defense
4 from inquiring about Gavin's email passwords.

5
6 DATED: April 11, 2005

Respectfully submitted,

7
8 Thomas A. Mesereau, Jr.
9 Susan C. Yu
10 COLLINS, MESEREAU, REDDOCK & YU

11 Robert M. Sanger
12 SANGER & SWYSEN

13 Brian Oxman
14 OXMAN & JAROSCAK

15 By:

16 
17 Susan C. Yu
18 Attorneys for Mr. MICHAEL J. JACKSON

1 PROOF OF SERVICE

2 I, the undersigned, declare:

3 I am a citizen of the United States of America, am over the age of eighteen (18)
4 years, and not a party to the within action. I am employed at 1875 Century Park East, 7th
5 Floor, Los Angeles, CA 90067. On April 12, 2005, I served the following document:

6 **MR. JACKSON'S REQUEST FOR CLARIFICATION OF THE COURT'S ORDER KNOWN
7 TO PROSECUTION AND UNKNOWN TO DEFENSE**

8 on the interested parties addressed as follows:

9 Thomas Sneddon, EsQ:, District Attorney
10 Gerald Franklin, EsQ:
11 Ronald Zonen, EsQ:
12 Gordon Auchincloss, EsQ:
13 District Attorney's Office
14 1105 Santa Barbara Street
15 Santa Barbara, CA 93108
16 FAX: (805) 568-2398

17 BY MAIL: I placed each envelope, containing the foregoing document, with postage
18 fully prepaid, in the United States mail at Los Angeles, California: I am readily familiar
19 with the business practice for collection and processing of mail in this office; that in the
20 ordinary course of business said document would be deposited with the US Postal Service
21 in Los Angeles on that same day.


22 BY FACSIMILE: I served a copy of the within document on the above-interested
23 parties, by way of a facsimile, at the facsimile numbers listed above.

24 BY PERSONAL SERVICE: I personally served the within document on the above
25 interested parties.

26 (State) I declare under penalty of perjury under the laws of the State of California
27 that the foregoing is true and correct.

28 (Federal) I declare that I am employed in the office of a member of the bar of this
court at whose direction the service was made.

Executed on April 12, 2005, at Los Angeles, California:

22 
23 Susan C. Yea