

FILED

SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JUN 08 2004

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Carrie L. Wagner
CARRIE L. WAGNER, Deputy Clerk

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA BARBARA
10 SANTA MARIA DIVISION

12 THE PEOPLE OF THE STATE OF CALIFORNIA,
13 Plaintiff,
14 v.

No. 1133603

15 MICHAEL JOE JACKSON,

16 Defendant.

17 APPLICATION TO SEAL
18 PLAINTIFF'S MOTION FOR
19 RELEASE OF CERTAIN
EVIDENCE CURRENTLY IN
THE POSSESSION OF THE
COURT, ETC., AND TO
20 MAINTAIN THAT MOTION
21 UNDER CONDITIONAL SEAL
22 UNTIL FURTHER ORDER OF
23 COURT: DECLARATION OF
GERALD McC. FRANKLIN;
24 MEMORANDUM OF POINTS
AND AUTHORITIES.

(Cal. Rules of Ct., rule 243.1 et seq.)

DATE: June 25, 2004
TIME: 8:30 a.m.
DEPT: SM 2 (Melville)

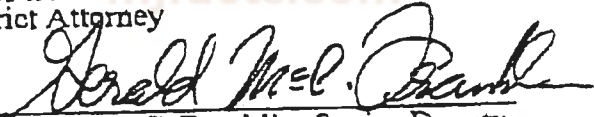
25 TO: THE CLERK OF THE COURT, AND TO MICHAEL JOE JACKSON, AND
26 TO THOMAS A. MESEREAU, JR., STEVE COCHRAN, AND ROBERT SANGER, HIS
27 ATTORNEYS OF RECORD; AND TO GIBSON, DUNN & CRUTCHER, ATTORNEYS
FOR (COLLECTIVELY) THE MEDIA:

28 Plaintiff requests that the Court maintain under conditional seal the accompanying

1 motion for release of certain evidence currently in the Court's custody. This request is based
2 upon the orders of Judge Melville in this case regarding the need to file motions of a potentially
3 sensitive nature under seal.

4 Dated: June 8, 2004.

5 THOMAS W. SNEDDON, JR.
6 District Attorney

7 By: 
8 Gerald McC. Franklin, Senior Deputy

9 Attorneys for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

The procedure for sealing records under California Rules of Court, rule 243.1 et seq. applies only to records that are deemed public. (*Id.*, rule 243.1(a)(2).)

Rule 243.1(d) provides that

The court may order that a record be filed under seal only if it expressly finds facts that establish:

- (1) There exists an overriding interest that overcomes the right of public access to the record;
- (2) The overriding interest supports sealing the record;
- (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
- (4) The proposed sealing is narrowly tailored; and
- (5) No less restrictive means exist to achieve the overriding interest.

Rule 243.1(e) provides, in pertinent part:

(1) An order sealing the record must (i) specifically set forth the facts findings that support the findings and (ii) direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each documents or page must be included in the public file.

Rule 243.2(b) provides, in pertinent part, that "Pending the determination of the motion [of a party to file a record under seal], the lodged record will be conditionally under seal."

Pursuant to the Court's prior instructions, including instructions reiterated on May 28, 2004, the People are submitting this APPLICATION TO SEAL PLAINTIFF'S MOTION FOR RELEASE OF CERTAIN EVIDENCE CURRENTLY IN THE POSSESSION OF THE COURT, etc. As set forth in the accompanying Declaration of the undersigned, the accompanying motion makes references to statements of witnesses, documents, evidence

1 presented to the grand jury and potential evidence at the trial of this matter, and discusses the
2 evidentiary significance thereof, that would appear to bring the motion within the pretrial rule
3 regarding the documents under seal, and that publication of the accompanying motion will
4 prejudice the right of both sides to a fair trial before an unbiased jury.

5 DATED: June 8, 2004

6 Respectfully submitted,

7 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
8 County of Santa Barbara

9 By: *Gerald McC. Franklin*
10 Gerald McC. Franklin, Senior Deputy

11 Attorneys for Plaintiff



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