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MICHAEL J. JACKSON
17

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 FOR THE COUNTY OF SANTA BARBARA
20 SANTA MARIA DIVISION
21

22 THE PEOPLE OF THE STATE OF
CALIFORNIA,

23 Plaintiff,

24 vs.

25 MICHAEL J. JACKSON

26 Defendant.
27
28

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JUL 26 2004

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

*unsealed pursuant
to 6/16/05 Court
order

CASE NO. 1133603

MR. JACKSON'S REPLY
MEMORANDUM IN SUPPORT
OF HIS MOTION TO CONTINUE
TRIAL

~~FILED UNDER SEAL~~

Hearing Date: July 27, 2004
Time: 8:30 A.M.
Place: SM Department 2

1 Defendant Michael J. Jackson, through his counsel, hereby submits this reply
2 memorandum of points and authorities in support of his motion to continue trial.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 I. **THE NATURE OF THE ALLEGATIONS AND THE VOLUME OF**
5 **DISCOVERY FROM THE PROSECUTION MAKE IT**
6 **IMPRACTICABLE TO PREPARE ADEQUATELY FOR TRIAL BY**
7 **SEPTEMBER OF THIS YEAR**

8 The prosecution's approach to this motion is to quibble about the status of
9 discovery. There is no dispute however, that the volume of discovery is huge.
10 Forensic testing continues and because the investigation is ongoing, discovery by the
11 prosecution continues in piece-meal fashion.

12 Moreover, the defense is receiving discovery materials weeks, if not months,
13 after the government has possessed and developed the information. Materials
14 pertaining to interviews that occurred or documents obtained months ago have, at
15 best, been provided recently.

16 Simply put, despite repeated assurances to the contrary, discovery by the
17 prosecution is not nearly complete. Just by way of illustration, the prosecution
18 recently produced a compact disk purporting to contain a recorded conversation with
19 Janet Arviso. The copy delivered to the defense is inaudible. On July 13, 2004,
20 counsel for the parties took the time necessary to arrange return of the defective CD
21 because the prosecution wanted to exchange that one for an audible copy. Again,
22 this discovery item pertains to an interview that occurred in the summer of last year.^y

23 There is also no dispute that the amount of seized materials requires literally
24 months of review, analysis and follow-up, even by a team of lawyers and

25
26 _____
27 ^y Defense counsel have just requested, in writing, fifty-two categories of
28 discoverable information not yet received from the prosecution. For the Court's
convenience, a copy of the July 22, 2004 letter from Thomas Mesereau, Jr. to Thomas
Sneddon is attached hereto.

investigators. The prosecution has had the benefit of access to those materials for as much as eight months. Defense access to all that materials has just begun.

**II. A SUBSTANTIAL CONTINUANCE IS NECESSARY TO COMPLETE
INDISPENSABLE INVESTIGATION AND OTHER WORK BY
DEFENSE COUNSEL**

The prosecution concedes that a continuance is necessary. The length of the continuance must be decided by more than the prosecution's estimate of when it can be ready for trial. The *in camera* declaration filed by defense counsel sets forth the work necessary to prepare for trial. No less than months more than the continuance agreed to by the prosecution is indispensable for proper trial preparation. This case really began following issuance of the indictment. Therefore, a continuance into early 2005 preserves this Court's objective for a prompt trial.

III. CONCLUSION

The usual criteria that govern the timing of trial obviously compel a continuance. The amount of work to be done render this litigation more akin to a complex white collar matter than a routine prosecution.

Big cases like this are commonly tried a year or more after preliminary hearing or indictment. It is not possible, necessary, or reasonable for this case to proceed to

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1 trial five to eight months within arraignment on the indictment. A significant
2 continuance is essential to preserve Mr. Jackson's right to a fair trial.

3 July 22, 2004

Respectfully submitted,

4 Thomas A. Mesereau, Jr.
5 Susan Yu
6 COLLINS, MESEREAU, REDDOCK & YU

7 Steve Cochran
8 Stacey McKee Knight
9 KATTEN MUCHIN ZAVIS ROSENMAN

10 Robert M. Sanger
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12 Brian Oxman
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14 By:

15 *Steve Cochran (Sak)*

16 Steve Cochran
17 Attorneys for Defendant
18 MICHAEL J. JACKSON
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THOMAS MESEREAU, JR.
A PROFESSIONAL LAW CORPORATION
SPECIALIZING IN CRIMINAL DEFENSE

July 22, 2004

VIA FACSIMILE (805) 568-2398

Thomas Sneddon, Esq
District Attorney
District Attorney's Office
1105 Santa Barbara Street
Santa Barbara, CA 93108

Re: People v. Jackson, SBSC Case No. 1133603

Dear Mr. Sneddon:

Because of the complexity of this matter and the involvement of so many individuals and entities, we request that you provide us with a Bates-stamped copy of all discovery provided to date, and that all discovery provided to us in the future be Bates-stamped consecutively as well.

Additionally, in your discovery to date, you have neglected to include the following materials. These materials are critical to our trial preparation. Please consider this a continuing request for discovery pursuant to Penal Code Sections 1054 and 1054.5(b):

1. Please provide us with all clues that were called in, e-mailed and or sent via mail, in the matter involving Michael Jackson;
2. All crime reports prepared in relation to the investigation and prosecution of this case including Grand Theft, Child Abduction and False Imprisonment crime reports;
3. In the event the alleged crimes occurred in other jurisdictions, please identify the jurisdiction and the personnel from that jurisdiction;
4. All bail enhancement requests and documents;
5. All photographs, jail video and audio tapes, logs, and reports generated prior to, during and after Mr. Jackson was booked;

6. List of all sworn and civilian employees who were present when Mr. Jackson was booked;
7. List of all suspects who were being held in holding tank(s) when Mr. Jackson was being booked;
8. All supervisor and watch commander logs that were generated and reflect issues concerning Mr. Jackson's arrest and or investigation;
9. All inter or intra departmental communications referencing Mr. Jackson's arrest, investigation and or inquiry;
10. Please provide us with all officer or investigator notes and note books, chronological records and logs, audio and/or video tapes, and police reports generated by the Santa Barbara Sheriff's Department, the Santa Barbara District Attorney's Office, or any other social, law enforcement or criminal justice entity, involved in the pre arrest and or post arrest investigation of Michael Jackson;
11. Please provide us with all audio and video tapes, transcripts of every tape, and please identify by name, address and phone number all participants and/or witnesses (including law enforcement officers, whether or not the individual is audible and/or visible on the recording), in each situation, transaction and/or occurrence recorded;
12. Please provide us with all e-mail communications (relevant to the Michael Jackson investigation) involving law enforcement, their agents and sworn and or civilian witnesses. This request pertains to all known investigations and or inquiries, regardless of time;
13. Please provide us with all notes, records, reports, phone conversations, statements (whether telephonic, in person, verbal, written, signed or unsigned), recordings (audio, video and/or transcripts), involving District Attorney Tom Sneddon's contacts with, but not limited to, Diane Diamond, Gloria Allred, Larry Feldman, Dr. Stanley Katz and Carole Lieberman. This request is limited to issues concerning Michael Jackson's arrest, past and present investigations and or inquiries conducted and or directed by Mr. Sneddon on behalf of the Santa Barbara District Attorney's Office and or by the current and former Sheriff of Santa Barbara County;
14. Any books, papers, documents, letters, photographs or tangible objects relevant to this case, particularly including the evidence which the prosecution intends to produce at trial, including, but not limited to any physical evidence obtained from or belonging to the defendants, or taken during searches involved in this matter. Any and all photographs, contact sheets, motion pictures or sound recordings, or transcripts of such sound recordings, which relate in any way to the issues involved

in this case, whether taken or made at, prior to or subsequent to the time of commission of the alleged offense, and whether or not intended to be used by the prosecution at the time of the trial:

15. All reports relating to the investigation, including but not limited to the results of any electronic surveillance (including wire tapping) of conversations to which defendant was a party, and, if so, any and all recorded conversations, electronic, mechanical, stenographic or otherwise, between the defendant and any other persons, whether or not acting on behalf of the prosecution, which are relevant to the subject matter charged, and which are in the custody and control of the prosecution, whether or not intended to be used as evidence by the prosecution,
16. The results of any polygraph examination performed on any witness or potential witness in this case;
17. Any evidence of any understanding or agreement as to any future prosecution or punishment of any potential witnesses;
18. Any and all informants (sworn or civilian) in this case;
19. The records of all misdemeanor and felony convictions and/or rap sheets, including the existence of all pending charges and/or cases against any informant(s) involved in this matter;
20. The records of all payments and /or deals given to any informant used in this case;
21. All information, in any form, of any inducements, promises, representations or assurances, whether or not reduced to writing, given to any informant(s) involved in this matter, related to this matter, including, but not limited to plea agreements, dismissals of charges, and agreements not to prosecute, related to either the informant or any third party beneficiary;
22. Police reports of any cases pending against the informant(s) at the time when the information in the instant case was given;
23. The physical description and photographs (if any) of any confidential informant;
24. The name and address of any informant's employment, if employed;
25. Any relevant material or information which has been provided by an informant;
26. The prosecution shall provide all information which qualifies their informant as reliable, including, but not limited to, defendant's name and case number for all cases in which the informant gave information, what the specific information

provided was, and what was subsequently discovered;

27. All notes or memoranda, handwritten or typed, concerning conversations with informants;
28. All statements taken from or made by any person, including witnesses in relation to this case, typed, written or unwritten, signed or unsigned, including any oral conversations, and all notes, memoranda, or recordings or documentation thereof with any member of any law enforcement agency, their agents, employees, representatives or investigators, or any person in any way relevant to the allegations charged herein whether or not the prosecution intends to call them at any hearings or trial;
29. The names, addresses and telephone numbers of all persons whom the prosecution may call as witnesses;
30. The following information concerning each witness the prosecution intends to call; date of birth, place of birth and physical descriptions; all aliases, aka's or pseudonyms; occupation and employment address; any charges pending against them, including the name of the court, case number, status of case, charges, investigating agency and witnesses thereto; any immunity agreements, whether written or unwritten, formal or informal;
31. The records of all arrests and convictions (i.e., "rap sheets"), both domestic and foreign, of any prospective witnesses;
32. The contents of all statements made to the potential witnesses and/or informants in order to induce potential witnesses and/or informants to cooperate with the investigation, preparation and/or prosecution of the above-entitled action;
33. All crime reports (including, but not limited to, follow up reports, property reports, scientific investigation reports, activity reports, coroner reports, etc.) prepared in relation to the investigation and prosecution of this case. This includes the notes of all police officers of their activities and observations during the period of the investigation of this case;
34. All notes made by police officers regarding their conversations with witnesses;
35. All notes made by prospective witnesses relating to matters to be covered in their testimony at the trial;
36. Documents used by witnesses to refresh their memory for the trial;

37. The contents of all statements made to the prosecution in interviews, testimony or by any person who claims to have information regarding the above-entitled action;
38. All experts who were in any way contacted by or involved in the investigation of witnesses;
39. Identities, including names, addresses, phone numbers, badge numbers, occupation titles, and present assignments of all experts who prepared reports concerning their analysis or examinations upon any physical evidence, whether or not the prosecution intends to call them at the trial;
40. A current summary and itemization of the course of instruction or other training given to persons who are expected to testify as experts on any issue connected to this case, including, but not limited to a course summary, a list of all prior similar cases in which the "expert" has conducted an investigation and/or has testified, and a list of instructors and their qualifications;
41. Any and all writings or publications used in any way by the experts in forming opinions, or in obtaining a basis for forming an opinion, including teaching manuals, journals, treatises, textbooks, bulletins and other records of classes in the expert's field of expertise, or otherwise;
42. A list of all suspects, witnesses and defense counsel to whom the expert has spoken, who have provided information used in any way by the expert as a basis for forming any opinion;
43. All physical evidence including but not limited to, all documents, computers, papers, books, records, photographs, phone records, which may be introduced at the trial;
44. All other physical evidence which is now in the possession of the prosecutors or law enforcement officers or which has been examined and which is in any way relevant to this proceeding;
45. For each piece of physical evidence set forth in this letter, the present location and the name, address and phone number of the present custodian of said evidence;
46. Any reports or raw notes describing any of the physical evidence set forth in this communication;
47. The name, address, and phone number of each person to whom any of the physical evidence in this case was submitted for analysis including, but not limited to all criminalists, handwriting experts, psychologists, et al.;

48. All reports of scientific tests and examination relative to this case which have been conducted by the prosecution and/or their agents;
49. The data and raw notes which were made in connection with the scientific tests in this case;
50. The content and nature of any finding or scientific or expert opinion which has been communicated to the prosecution but which has not been reduced to writing or a report;
51. All reports and scientific analyses performed at the request of the prosecution upon any physical evidence relating to this case, including, but not limited to, all computer reports, handwritten notes, transcriptions, charts, graphs, diagrams, sketches, raw scientific and analytical data, memoranda and laboratory worksheets or recordings of any kind used in the preparation and construction of final reports;
52. The following reports, forms, and evidence pertaining to the investigation of this case:
 - a. Follow-up investigation reports;
 - b. Supplemental reports;
 - c. Incident reports;
 - d. Chain of custody records;
 - e. Fingerprint discovery;
 - f. Manuals re criminal investigations (rules-procedures);
 - g. Property reports;
 - h. Activity reports (Daily, Weekly, Monthly);
 - i. Control logs, dockets;
 - j. Investigators/officers raw notes, logs, chronologies;
 - k. Tape recordings-video of witness statements and transcripts;
 - l. Criminal history concerning victims and witnesses;
 - m. All potentially exculpatory investigative leads;

- n. All investigators present during interviews/interrogations;
- o. Notifications;
- p. Teletypes (DMV checks, record checks, criminal checks, date-times);
- q. Disclosure statements;
- r. Investigators final reports;
- s. Chronological logs;
- t. Six Pack (photo) comparisons;
- u. Prior crime reports involving suspects or witnesses;
- v. Press releases.
- w. Press appearances by investigators/personnel & their agents;
- x. Newspaper articles;
- y. Analyzed evidence reports;
- z. Intra departmental correspondence from all involved;
- aa. Field activity reports;
- bb. Names of supervisors who approved reports;
- cc. Names of prosecutors who reviewed reports;
- dd. Prosecutors charge evaluation sheets;
- ee. List of people interviewed but not intended to be called as witnesses;
- ff. Communication tapes;
- gg. Correspondence to other agencies; and
- hh. Scientific analysis reports.

Thomas Sneddon, Esq.

July 22, 2004

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The prosecution must inform defense counsel of any and all evidence and/or information from any source that it has which is or may be favorable to the defense in that it tends to exonerate the defendant or constitutes information that the defense might use to impeach or contradict prosecution witnesses, including all information which may lead to such information.

The items requested herein must be made available to defense counsel forthwith, thus enabling counsel to utilize the requested items in the preparation of motions and the trial in this matter.

This is a continuing request and requires the prosecution to inform counsel for the defendants forthwith of any information covered by this request which comes to the attention of police or prosecution after this request is made.

Sincerely,



Thomas A. Mescreau, Jr.

PROOF OF SERVICE BY MAIL

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action, and my business address is Katten Muchin Zavis Rosenman (the "business"), 2029 Century Park East, Suite 2600, Los Angeles, California 90067.

() I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service; such correspondence would be deposited with the United States Postal Service the same day of deposit in the ordinary course of business.

(X) By Facsimile Machine, I caused the above-referenced document(s) to be transmitted to the above-named persons.

On July 26, 2004, I served the foregoing documents described as

MR. JACKSON'S REPLY MEMORANDUM IN SUPPORT OF HIS MOTION TO CONTINUE TRIAL

on the interested parties in this action as follows:

Thomas W. Sneddon, Jr.
District Attorney of Santa Barbara
1105 Santa Barbara Street
Santa Barbara, CA 93101

Fax: 805-568-2398

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Executed on July 26, 2004, at Los Angeles, California.


Marsha Davis