

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA STREET ADDRESS: 312-C East Cook Street MAILING ADDRESS: P.O. Box 5369 CITY AND ZIP CODE: Santa Maria, CA 93456-5369 BRANCH NAME: Cook Division	FOR COURT USE ONLY <b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARBARA AUG 06 2004
People of the State of California v. Michael Joe Jackson	GARY M. BLAIR, Executive Officer By <i>Carrie L. Wagner</i> CARRIE L. WAGNER, Deputy Clerk
<b>FINDINGS AND ORDER RE SEALING MOTIONS, OPPOSITIONS AND REPLIES</b>	CASE NUMBER: 1133603

On June 29, 2004, the Defendant filed a Motion to Set Aside the Indictment (Pen. C. § 995) under conditional seal. On July 9, 2004, the court granted Defendant's motion to seal that document. On July 9, 2004, the DA filed its Opposition to Motion to Set Aside the Indictment under conditional seal. On July 27, 2004, the court granted its motion to seal that document. On July 23, 2004, the Defendant filed its Reply to Opposition to Motion to Set Aside the Indictment under conditional seal. On July 27, 2004, granted its motion to seal that document. Redacted versions of each of these documents were released on July 23, 2004.

On June 22, 2004, the Defendant filed a Motion to Suppress Evidence (Part I) (Pen. C. § 1538.5) under conditional seal. On June 25, 2004, the court granted Defendant's motion to seal that document. On June 30, 2004, the DA filed its Opposition to the Motion to Suppress (Part I) under conditional seal. On July 27, 2004, the court granted its motion to seal that document. On July 6, 2004, Defendant filed his Reply to Opposition to Motion to Suppress (Part I) under conditional seal. On July 27, 2004, the court granted his motion to seal that document. Redacted versions of each of these documents were released on July 8, 2004.

On July 8, 2004, the Defendant filed a Motion to Suppress Evidence (Part II) (Pen. C. § 1538.5) under conditional seal. On July 27, 2004, the court granted its motion to seal that document. A redacted version was released on July 7, 2004.

On July 13, 2004, the Defendant filed a Motion to Continue Trial under conditional seal. On July 27, 2004, the court granted Defendant's motion to seal that document. On July 23, 2004, the DA filed its Response to Motion to Continue Trial under conditional seal. The court granted its motion to seal that document on July 27, 2004. Redacted versions of these documents were released on July 23, 2004.

On July 23, 2004, the DA filed a Motion to Quash Certain Subpoenas under conditional seal. On July 27, 2004, the court granted the DA's motion to seal that document. A redacted version of that document was released on July 27, 2004.

The Court makes the following findings:

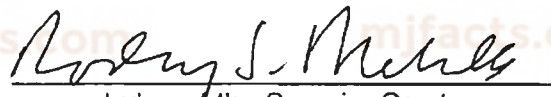
Each of these documents in their unredacted form identifies potential witnesses and specifies items of evidence the admissibility of which has yet to be determined by the Court and provides the identity of the minor complaining witness or his family. In particular, the Motion to Set Aside the Indictment argues that the indictment should be set aside, in part, based on the insufficiency of the evidence and on the inadmissibility of the evidence. The Opposition and Reply to that Motion each discuss particular items of evidence and identifies witnesses. The Motion to Quash Certain Subpoenas identifies members of the complaining witnesses family as well as other witnesses. The Motion to Suppress Evidence (Part II) challenges the sufficiency of the affidavit in support of the search warrants and therefore necessarily discloses items of evidence the admissibility of which has yet to be determined by the Court and provides the identity of the minor complaining witness or his family.

In this case, protection of the Defendant's right to a fair trial and protection of the identity of the minor complaining witness and his family overcomes the right of public access to the record. A substantial probability exists that those interests will be prejudiced if the record is not sealed as requested. The intensity of the media coverage in this case is unprecedented. Each court hearing is thoroughly reported and exhaustively analyzed by the media. It is substantially probable that if the evidence expected to be given at trial were to be released pretrial, it would be similarly reported and analyzed. The sealing order is necessary to maintain the integrity of the available jury pool by limiting its exposure to the expected evidence and testimony pretrial and to prevent exposure to inadmissible items of evidence. The Court has consistently held that because of the pervasive media coverage in this case, the Defendant's right to a fair trial outweighs public access. Those findings are relevant here and incorporated by reference. [See Findings and Order re: Motion for Protective Order, filed January 23, 2004 and Findings and Order re: Sealing of Search Warrant Materials, filed January 23, 2004]

There are no less restrictive means to protect those interests. The extraordinary circumstances present in this case overcome the presumption that cautionary admonitions and instructions to the jury pool would have a curative effect. It is far more desirable to avoid the prejudice in the first instance than to hope to identify unaffected jurors later.

The Court acknowledges that its order must be narrowly tailored to accommodate the maximum public disclosure. Each document has been redacted and released in its redacted form, as indicated above.

Dated: AUG 06 2004

  
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Judge of the Superior Court

PROOF OF SERVICE

1013A(1)(3), 1013(c) CCP

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

I am a citizen of the United States of America and a resident of the county aforesaid. I am employed by the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 312-H East Cook Street, Santa Maria, California.

On AUGUST 6, 20 04, I served a copy of the attached FINDINGS AND ORDER RE SEALING MOTIONS, OPPOSITIONS AND REPLIES addressed as follows:

THOMAS W. SNEDDON, DISTRICT ATTORNEY  
DISTRICT ATTORNEY'S OFFICE  
1105 SANTA BARBARA STREET  
SANTA BARBARA, CA 93101

THOMAS A. MESEREAU, JR.  
COLLINS, MESEREAU, REDDOCK & YU, LLP  
1875 CENTURY PARK EAST, 7<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90067

FAX

By faxing true copies thereof to the receiving fax numbers of: 805-568-2398 (DISTRICT ATTORNEY); 310-861-1007 (THOMAS A. MESEREAU, JR). Said transmission was reported complete and without error. Pursuant to California Rules of Court 2005(i), a transmission report was properly issued by the transmitting facsimile machine and is attached hereto.

MAIL

By placing true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States Postal Service mail box in the City of Santa Maria, County of Santa Barbara, addressed as above. That there is delivery service by the United States Postal Service at the place so addressed or that there is a regular communication by mail between the place of mailing and the place so addressed.

PERSONAL SERVICE

By leaving a true copy thereof at their office with their clerk therein or the person having charge thereof.

EXPRESS MAIL

By depositing such envelope in a post office, mailbox, subpost office, substation, mail chute, or other like facility regularly maintained by the United States Postal Service for receipt of Express Mail, in a sealed envelope, with express mail postage paid.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 6<sup>TH</sup> day of AUGUST, 20 04, at Santa Maria, California.

  
CARRIE L. WAGNER