

DM
RB.

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
3 J. GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney
4 GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
5 1112 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
FAX: (805) 568-2398
7

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

11 ~~PROPOSED~~ REDACTED VERSION

12 THE PEOPLE OF THE STATE OF CALIFORNIA,
13 Plaintiff,
14 v.
15 MICHAEL JOE JACKSON,
16 Defendant.

No. 1133603
PLAINTIFF'S MOTION FOR
ADMISSION OF CERTAIN
STATEMENTS BY DEFENDANT
ON "LIVING WITH MICHAEL
JACKSON" AND "60 MINUTES"
AS EXCEPTIONS TO THE
HEARSAY RULE.
DATE: February 21, 2005
TIME: 9:30 a.m.
DEPT: TBA (Mcville)

RECEIVED
FEB 23 10 11 2005

FILED

19
20
21 TO: THE CLERK OF THE COURT, TO DEFENDANT, AND TO
22 DEFENDANT'S COUNSEL:

23 PLEASE TAKE NOTICE that on ~~February 21, 2005~~, the People will move the
24 court for the admission at trial of certain statements by Defendant (a) in the course of the
25 filming of Martin Bashir's "Living with Michael Jackson" documentary, which was broadcast
26 in the United Kingdom on February 3, 2003, and (b) on the CBS television program "60
27 Minutes" on December 28, 2003, for the truth of the matters asserted, on the ground they
28 qualify as "admissions" and so come within one or more exceptions to the hearsay rule.

1 This motion will be based on this notice, the accompanying memorandum of points
2 and authorities, the court's records and files in this matter, and upon such evidence and further
3 argument as may be permitted at the hearing of the motion.

4 DATED: February 10, 2005

5 Respectfully submitted,

6 THOMAS W. SNEDDON, JR.
7 District Attorney

8 By: 15/
9 Gerald McC. Franklin, Senior Deputy
10 Attorneys for Plaintiff
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIES

CERTAIN OF DEFENDANT'S RECORDED STATEMENTS
CONSTITUTE ADMISSIONS AND SO COME WITHIN AN
EXCEPTION TO THE HEARSAY RULE

Evidence Code section 1220 provides, in pertinent part: "Evidence of a statement is not made inadmissible by the hearsay rule when offered against the declarant in an action in which he is a party" CALJIC 2.71 instructs the jury that "An admission is a statement made by the defendant which does not by itself acknowledge his guilt of the crimes for which the defendant is on trial, but which statement tends to prove his guilt when considered with the rest of the evidence."

Defendant's admissions include his acknowledgement that the Doe brothers shared his room with him for the night. The Doe brothers agree this statement is true as to the first night they stayed at Neverland back in 2000. At that time the brothers slept in the bed and Defendant slept on the floor. [REDACTED]

[REDACTED] Defendant's admission that he shared the room with the boys is admissible in that it establishes that the John and James Doe were in an intimate setting with the defendant when they said they were.

Defendant's statement that he has slept with many boys is admissible as corroboration of the Doe brother's allegation that he slept with them. Certainly the admission that he has slept with many boys clearly shows his willingness to sleep with boys, his acknowledgement that that type of conduct is permissible and even appropriate, and as evidence of his intent to continue to share his bed with children.

Attached to this Motion as Exhibit A is what Plaintiff regards as the relevant portions of the transcript of "Living with Michael Jackson."

Attached to this Motion as Exhibit B is what Plaintiff regards as the relevant portions of the transcript of the "60 Minutes" interview of Defendant by Ed Bradley.

1 Full transcripts of both "Living with Michael Jackson" and the "60 Minutes"
2 interview will be lodged with the Court. The portions excerpted as Exhibit A and Exhibit B are
3 highlighted in the full transcripts for ease of the Court's reference.

4 DATED: February 10, 2005

5 Respectfully submitted,

6 THOMAS W. SNEDDON, JR.
7 District Attorney

8 By: IS/
9 Gerald McC. Franklin, Senior Deputy

10 Attorneys for Plaintiff
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A
EXCERPTS FROM "LIVING WITH MICHAEL JACKSON"

1 "Living with Michael Jackson"

2 Excerpts from the program transcript (from ITV.com)

3 [P.38]

4 [Bashir, speaking to ██████]

5
6 Bashir: What is it, ██████, about Michael that makes him connect so well with children?
7 What is it?

8 [End p. 38]

9
10 [P. 39.]

11 ██████: Because he's really a child at heart. He acts just like a child. He knows how a child
12 is. He knows what a child thinks. See, 'cause I think that you don't necessarily
13 have to be a child just because society says, 18 and up, you're an adult. That
14 doesn't really matter. You're an adult when you want to be one.

15

16 Bashir: When you stay here, do you stay in the house? Does Michael let you enjoy the
17 whole premises?

18 ██████: There was one night, I asked him if I could stay in his bedroom. And he let me
19 stay in the bedroom. And I was like, "Michael you can sleep in the bed," and he
20 was like "No, no, you sleep on the bed," and I was like "No, no, no, you sleep on
21 the bed." And then he finally said, "Okay, if you love me, you'll sleep on the bed."
22 I was like "Oh, mannnn?" And so I finally slept on the bed. But it was fun that
23 night.

24 Jackson: I slept on the floor. Was it a sleeping bag?

25 ██████: You packed a whole bunch of blankets on the floor.

26
27 Bashir: But Michael, you're a 44-year-old man now, what do you get out of this?
28

1 [REDACTED]: [He ain't 44;] he's 4!

2 [End p. 39; check alternative versions of this conversation]

3
4 [P. 40.]

5 Jackson: Yeah, I'm four. I love; I feel; see, I think what they get from me, I get from them.
6 I've said it many times: my greatest inspiration comes from kids. Every song I
7 write, every dance I do, all the poetry I write, is all inspired from that level of
8 innocence, that consciousness of purity. And children have that. I see God in the
9 face of children. And, man, I just love being around them all the time. [Jackson to
10 [REDACTED]] Are you guys still staying up late? Sometimes I call your house, it's so late.
But you tell me to call. You tell me to call late.

11 Bashir: When people that children from other families have come and they've stayed in
12 your house, they've stayed in your bedroom . . .

13 Jackson: Well, very few.

14
15 Bashir: But, you know, some have. And they say, "is that really appropriate for a man, a
16 grown man, to be doing that?" How do you respond to that?

17 Jackson: I feel sorry for them because that's judging someone who just wants to really help
18 people. Why can't you share your bed? The most loving thing to do is to share
19 your bed with someone, you know.

20 Bashir: You really think that?

21
22 Jackson: Yeah. Of course.

23 [REDACTED]: You're taking a position that you use every single night that you go into. You sleep
24 and you're sharing it with another.

25 Jackson: I said, 'You can have my bed if you want. Sleep in it. I'll sleep on the floor. It's
26 yours. Always give the best to the company. Like to him, I said; 'cause he was
27 going to sleep on the floor. I said "No, you sleep on the bed, I'll sleep on the f
28 floor."

1 Bashir: But haven't you got a spare room or a spare house here where he could have
2 stayed?

3 Jackson: Yes. We have guest units. But whenever kids come here they always want to stay
4 with me. They never want to stay in the guest [rooms?], and I have never invited
5 them in my room. They always just want to; they say, "Can I stay with you
6 tonight?" I go "If it's OK with your parents, yes, you can."

7 Bashir: Were your parents happy that you were here with Michael?

8 [End p. 40]

9
10 [P. 41.]

11 [REDACTED]: Yeah, well, my mom is very, very, very happy. And I know they're happy, because
12 I was happy.

13 Bashir: Do they come with you?

14
15 [REDACTED]: Most of the time. But I wasn't really with my parents, I was mainly with Michael.

16 Bashir: But they were happy that you were here?

17
18 [REDACTED]: Yeah.

19 (P. 49.)

20
21 Bashir: When you are talking about children, we met [REDACTED]. And it was a great privilege to
22 meet [REDACTED] because he's had a lot of suffering in his life.

23 Jackson: Yeah.

24 Bashir: When [REDACTED] was there he talked about the fact that he shares your bedroom.

25
26 Jackson: Yes.

27
28 Bashir: Can you understand why people would worry about that?

1 Jackson: Because they're ignorant.

2
3 Bashir: But is it really appropriate for a 44-year-old man to share a bedroom with a child
4 that is not related to him at all?

5 Jackson: That's a beautiful thing.

6
7 (End p. 49)

8 (P. 50)

9
10 Bashir: That's not a worrying thing?

11 Jackson: Why should it be worrying? Who's the criminal? Who's Jack the Ripper in the
12 room? This is a guy trying to help heal a child. I gave him the bed because he
13 has a brother named [REDACTED]. So him and [REDACTED] took the bed. And I'm on the floor in
14 a sleeping bag.

15 Bashir: Did you ever sleep in the bed with them?

16 Jackson: No. But I have slept in a bed with many children. I slept in the bed with all of
17 them. When Macauley Culkin was little, Kieran Culkin would sleep on this side,
18 Macauley Culkin was on this side, his sisters in there. We all would just jam in the
19 bed. And we'd wake up like dawn and go in the hot air balloon. You know, we,
20 have the footage. I have all that footage.

21 Bashir: But is that right, Michael?

22 Jackson: It's very right. It's very loving, that's what the world needs now, more love, more
23 —

24 Bashir: The world needs . . .

25 Jackson: More heart.

26
27 Bashir: The world needs a man who's 44, who's sleeping in a bed with children?

28 Jackson: No, no you're making it all wrong. That's wrong.

1 Bashir: Well, tell me. Help me
2
3 Jackson: Because what's wrong with sharing a love? You don't sleep with your kids? Or
4 some other kid who needs love who didn't have a good childhood?
5 Bashir: No, no I don't. I would never dream of sleeping . . .
6
7 Jackson:
8 [End p. 50]
9
10 [P. 51]
11 [Jackson:] I would. I would. Because you've never been where I've been mentally . . .
12
13 Bashir: What do you think people would say if I said well – "I've invited some of my
14 daughter's friends round or my son's friends round and they're going to sleep in a
15 bed with me tonight?"
16 Jackson: That's fine.
17 Bashir: What do you think their parents would say?
18 Jackson: If they're wacky they would say "You can't," but if you're a close family, like your
19 family, you know them well and . . .
20
21 Bashir: But Michael, I wouldn't like my children to sleep in anybody else's bed.
22 Jackson: Well, I wouldn't mind. If I knew the person well, and; like, I am very close to
23 Barry Gibb. Paris and Prince can stay with him anytime. My children sleep with
24 other people all the time.
25 Bashir: And you're happy with that?
26 Jackson: I'm fine with it. They're honest. They're sweet people. They're not Jack the Ripper.
27
28

1 (P. 51, cont'd)

2 Bashir: Just cast your mind back. What was that like when you first heard the allegations
3 that were being made against you?

4 Jackson: It was shocking, and I'm not allowed to talk about this by way of law, so . . .

5
6 Bashir: But how did you feel about what was being said? I'm not asking you to talk about
7 what was said.

8 [End p. 51]

9
10 [P. 52]

11 Jackson: I was shocked because God knows in my heart how much I adore children.

12
13 Bashir: But isn't that precisely the problem? That when you actually invite children into
14 your bed, you never know what's going to happen.

15 Jackson: But when you say "bed," you're thinking sexual. They make that sexual. It's not
16 sexual. We're going to sleep. I tuck them in. I put little, like, music on. Story
17 time. I read a book. Very sweet; put the fireplace on. Give them hot milk. You
18 know; we have little cookies. It's very charming; very sweet.

19 Bashir: Sure.

20 Jackson: It's what the whole world should do.

21
22

23 Jackson: We're; don't even eat with their fathers, anymore. Their mothers. The family
24 bond has been broken. It's an outcry for attention, why kids are going to school
25 with guns. They want love. They want to be touched. They want to be held. But
26 they're busy off on their day job and, you know; and they leave them at home on
27 the computer. And they're just doing all kind of crazy stuff. And that's destroying
28 our world. We need to bond again. That's very important, Martin.

////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT B
EXCERPTS FROM "60 MINUTES" TRANSCRIPT

1 60 Minutes Interview with Michael Jackson
2 December 28, 2003
3 Ed Bradley and Michael Jackson

4 BRADLEY: That British documentary last February — which you didn't like —

5 JACKSON: Yeah, I didn't like it.

6 BRADLEY: You — you said in that documentary that— that many children have slept in
7 your bedroom.

8 JACKSON: Yeah.

9 BRADLEY: You said, and — and I'm gonna quote here, "Why can't you share your bed? A
10 most loving thing to do is to share your bed with— with someone."

11 JACKSON: Yes.

12 BRADLEY: As — as we sit here today, do you still think that it's acceptable to share your
13 bed with children?

14 JACKSON: Of course. Of course. Why not? If you're gonna be a pedophile, if you're gonna
15 be Jack the Ripper, if you're gonna be a murderer, it's not a good idea. That I'm
16 not. That's how we were raised. And I met — I didn't sleep in the bed with the
17 child. Even if I did, it's okay. I slept on the floor. I give the bed to the child.

18 BRADLEY: But given all that you've been through —

19 JACKSON: Yeah?

20 BRADLEY: Given the allegations, given the innuendo — why would you put yourself in a
21 position where something like this could happen again?

22 JACKSON: Well, I'm always more cautious. But I will never stop helping and loving people
23 the way Jesus said to. He said, "Continue to love. Always love. Remember
24 children. Imitate the children." Not childish, but childlike.

25 BRADLEY: You're a parent. You've got three children.

26 JACKSON: Yes.
27
28

1 BRADLEY: Would you allow your children to sleep in the bed with a grown man, who was
2 not a relative, or to sleep in the bedroom?

3 JACKSON: Sure, if I know that person, trust them, and love them. That's happened many
4 times with me when I was little.

5 BRADLEY: Would you, as a parent, allow your children to sleep in the same bedroom with
6 someone, who has the suspicious and allegations that have been made against
7 you, and about you today? Would you allow that?

8 JACKSON: Someone —

9
10 BRADLEY: If you knew someone, who had the same —

11 JACKSON: I'm not —

12
13 BRADLEY: — kind of allegations —

14 JACKSON: Ed, I — I know exactly what you're saying.

15
16 BRADLEY: — that were made against you — would you let your children —

17 JACKSON: My children?

18
19 BRADLEY: — sleep in that man's bedroom?

20 JACKSON: Mmm, if I — if I knew the person personally. 'Cause I know how the press is,
21 and how people can twist the truth, if I knew the person personally, absolutely
22 yes. Absolutely. I wouldn't have a problem with it.

23 BRADLEY: Do you know how this looks to a lot of people? I mean, do you understand
24 that?

25 JACKSON: How does what look?

26
27 BRADLEY: How the fact that you —

28

1 JACKSON: Know why? People think sex. They're thinking sex. My mind doesn't run that
2 way. When I see children, I see the face of God. That's why I love them so
3 much. That's what I see.

4 BRADLEY: Do you know any other man your age, a 45-year-old man, who shares his
5 bedroom with children?

6 JACKSON: Of course. Not for sex. No. That's wrong.

7 BRADLEY: Well, let me — let me say, from my perspective, my experience, I don't know
8 any 45-year-old men, who are not relatives of the children, who share their
9 bedroom with other children.

10 JACKSON: Well, what's wrong with sharing your bed? I didn't say I slept in the bed. Even
11 if I did sleep in the bed, it's okay. I am not going to do anything sexual to a
12 child. It's not where my heart is. I would never do anything like that. That's not
13 Michael Jackson. I'm sorry. That's someone else.

PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF SANTA BARBARA } SS

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attorney's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara, California 93101.

On February 10, 2005, I served the within *Redacted version of* PLAINTIFF'S MOTION FOR ADMISSION OF CERTAIN STATEMENTS BY DEFENDANT ON "LIVING WITH MICHAEL JACKSON" AND "60 MINUTES" INTERVIEW on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN by causing a true copy thereof to be transmitted to Mr. Mesereau at his confidential facsimile number in Santa Maria and to Mr. Sanger at the facsimile number shown on the Service List.

I declare under penalty of perjury that the foregoing is true and correct.
Executed at Santa Barbara, California on this 10th day of February, 2005.

151

GERALD McC. FRANKLIN

SERVICE LIST

1
2
3 THOMAS A. MESEREAU, JR.
4 Collins, Mesereau, Reddock & Yu, LLP
5 1875 Century Park East, No. 700
6 Los Angeles, CA 90067
7 FAX: [CONFIDENTIAL]

8
9 Attorney for Defendant Michael Jackson
10

11
12 ROBERT SANGER, ESQ.
13 Sanger & Swysen, Lawyers
14 233 E. Carrillo Street, Suite C
15 Santa Barbara, CA 93001
16 FAX: (805) 963-7311

17
18 Co-counsel for Defendant
19

20
21 BRIAN OXMAN, ESQ.
22 Oxman & Jaroschak, Lawyers
23 14126 E. Rosserans Blvd.
24 Santa Fe Springs, CA 90670

25
26 Co-counsel for Defendant
27
28