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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

OCT 12 2004

GARY M. BLAIR, Executive Officer
Carrie Wagner
CARRIEL WAGNER, Deputy Clerk

~~PROPOSED~~
REDACTED VERSION

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 FOR THE COUNTY OF SANTA BARBARA, SANTA MARIA DIVISION

18 THE PEOPLE OF THE STATE OF
19 CALIFORNIA,

20 Plaintiff,

21 vs.

22 MICHAEL JOE JACKSON

23 Defendant.

) CASE NO. 1133603

) MR. JACKSON'S REPLY TO
) PROSECUTION'S RESPONSE TO
) INFORMANT MOTION

FILED UNDER SEAL & BY FAX

) HEARING

) DATE: OCTOBER 14, 2004

) TIME: 8:30 A.M.

) Place: Dept. SM-2

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 ARGUMENT

4 The Prosecution does not oppose the Informant Motion. Instead, it reveals two
5 individuals, i.e., [REDACTED] and [REDACTED], as supplementary informants
6 (i.e., in addition to [REDACTED]) and contends that the Informant Motion should be taken
7 off calendar or denied because such disclosure "complies" with the discovery
8 requirements under Penal Code §§ 1054.1 and 1054.7. The Prosecution's argument,
9 however, is, *at best*, disingenuous for at least the following three reasons.

10 First, the Prosecution omits any discussion whatsoever of, let alone fails to disclose,
11 the Confidential Citizen Informant referenced in the Probable Cause Statement for Search
12 Warrant Nos. 4953 (Exhibit 5) and 4959 (Exhibit 6). The Prosecution knows who this
13 informant is, yet deliberately withholds the identity. Such concealment amounts to
14 nothing more than a game, which cannot be countenanced by this Court. The Prosecution
15 must disclose this informant's identity and whereabouts or incur a dismissal. Twiggs v.
16 Superior Court, 34 Cal.3d 360, 194 Cal.Rptr. 152 (1983); (see Informant Motion, pages 7-8,
17 for references to Twiggs).

18 Second, the names of the informants are not enough. It is incumbent on the
19 Prosecution to disclose all pertinent information which might assist the defense to locate
20 them. Id.

21 Third, the Prosecution has repeatedly represented to this Court that it has "nothing
22 to hide," that it has provided or will provide the Defense with all discovery. Such bold
23 representation, however, is devoid of truth. As pointed out above, the Prosecution has
24 deliberately withheld the identities and whereabouts of the "Confidential Citizen
25 Informant" referenced in the Search Warrant Affidavits 4953 (Exhibit 5) and 4959 (Exhibit
26 6). Trial is fast approaching, yet the Prosecution is still withholding discovery.

1 The Prosecution still has not produced all of the search warrants and supporting
2 affidavits and probable cause statements. Additional search warrants have been sought,
3 obtained and sealed. The Defense has yet to receive them, which may very well contain
4 more references to informants.

5 The Prosecution repeatedly says "just ask." When the Defense asks, the Prosecution
6 says "we gave you everything" or "will give you everything, subject to provisions of
7 Section 1054.7." The Defense has not received "everything."

8 By way of a letter dated July 22, 2004 (Exhibit 11), the Defense requested disclosure
9 of informants. By way of a letter dated August 12, 2004 (Exhibit 12), the Prosecution
10 disclosed ██████████ as its only "confidential reliable informant." On August 19, 2004,
11 ██████████ testified that he was not the informant. On October 8, 2004, nearly two
12 months later and four days after the Defense filed the instant Informant Motion, the
13 Prosecution insists that ██████████ is the informant and discloses two more informants,
14 i.e., ██████████ and ██████████. The Prosecution says these informants
15 were "previously withheld as set forth in the People's August 12, 2004 letter." That letter,
16 however, says nothing about withholding informants.

17 The Prosecution must be ordered to disclose all of its informants.

18 V.

19 CONCLUSION

20 It is undisputed that the Defense is entitled to know who the Prosecution's
21 informants are. Accordingly, and as set forth above, Mr. Jackson respectfully requests
22 that the Court grant the Informant Motion and order the Prosecution to provide the

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1 Defense with the identities and whereabouts of all of its informants.

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3 DATED: October 12, 2004

Respectfully submitted,

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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 October 12, 2004, I served the following document:

6 **MR. JACKSON'S REPLY TO PROSECUTION'S RESPONSE TO INFORMANT MOTION**

7 on the interested parties addressed as follows:

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

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

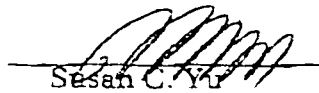
21 X BY FACSIMILE: I served a copy of the within document on the above-interested
22 parties, by way of a facsimile, at the facsimile numbers listed above.

23 BY MESSENGER/ATTORNEY SERVICE: I caused to personally serve the
24 within document on the above interested parties.

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

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

Executed on October 12, 2004, at Los Angeles, California.

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Susan C. Yu