

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 FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARBARA
People of the State of California v. Michael Joe Jackson	OCT 19 2004 GARY M. SLAIR, Executive Officer BY <i>Carrie L. Wagner</i> CARRIE L. WAGNER, Deputy Clerk
FINDINGS AND ORDER RE SEALING MOTION TO SUPPRESS AND RETURN MATERIALS SEIZED PURSUANT TO SW NO. 5135 ETC., OPPOSITION AND REPLY THERETO AND PRIVILEGE LOG FOR ITEMS SEIZED	CASE NUMBER: 1133603

On September 29, 2004, Mr. Jackson filed a Motion to Suppress and Return Materials Seized Pursuant to SW No. 5135 Pursuant to Penal Code Section 1538.5 etc. under conditional seal. In addition, Mr. Jackson filed a Privilege Log for Items Seized Pursuant to SW 5135. Redacted versions were released on October 1, 2004. On October 7, 2004, the DA filed its Opposition to the motion under conditional seal. A redacted version was released on October 12, 2004. On October 12, 2004, the Defendant filed a Reply to the DA's Opposition under conditional seal. A redacted version was released on October 13, 2004. On October 14, 2004, the court granted the motions to seal the documents.

The Court makes the following findings: The documents in unredacted form identify evidence the admissibility of which is yet to be determined. In particular, the Motion to Suppress attaches the search warrant, the search warrant affidavit, the statement of probable cause and the property form. The property form in particular identifies all the items of evidence seized with some particularity. In addition, the moving papers identify the individual who was the subject of the search as well as discusses with some particularity the items seized. The Privilege Log identifies those items of evidence that are believed to be protected by the attorney-client privilege with some particularity. The Opposition and Reply identifies the individual who was the subject of the search. That name was redacted.

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. Redacted versions of these documents were released as noted above.

Dated: OCT 19 2004

Robey S. Melville

 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 OCTOBER 19, 20 04, I served a copy of the attached FINDINGS AND ORDER RE SEALING MOTION TO SUPPRESS AND RETURN MATERIALS SEIZED PURSUANT TO SW NO. 5135 AND PRIVILEGE LOG FOR ITEMS SEIZED 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. 7TH FLOOR
LOS ANGELES, CA 90067

X FAX

By faxing true copies thereof to the receiving fax numbers of: (805) 568-2398 (District Attorney's Office); (310) 861-1007 (Thomas 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.

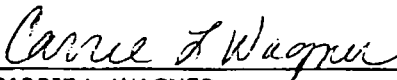
___ PERSONAL SERVICE

By leaving a true copy thereof at their office with the person having charge thereof or by hand delivery to the above mentioned parties.

___ EXPRESS MAIL

By depositing such envelope in a post office, mailbox, sub-post 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 19TH day of OCTOBER, 20 04, at Santa Maria, California.


CARRIE L. WAGNER