

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 NOV 04 2004 GARY M. BLAIR, Executive Officer BY <i>Carrie L. Wagner</i> GARRIE L. WAGNER, Deputy Clerk CASE NUMBER: 1133603
People of the State of California v. Michael Joe Jackson	
FINDINGS AND ORDER RE SEALING OPPOSITIONS TO MOTION FOR RECUSAL OF SANTA BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PEN. C. § 1424 AND REPLY THERETO	

On October 20, 2004, the District Attorney filed is Opposition to Defendant's Motion for Recusal of District Attorney's Office under conditional seal. The redacted version was released on October 20, 2004. On October 28, 2004, the AG filed its Opposition to Defendant's Motion for Recusal. The redacted version was released on October 29, 2004. On November 1, 2004, the Defendant filed his Reply. The redacted version was released that same day. On November 4, 2004, the court granted the motions to seal the documents.

The Court makes the following findings:

The Oppositions and Reply in unredacted form identify the complaining witness and his family by name as well as other potential witnesses in this proceeding. These names are the only items redacted from the documents.

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: NOV 04 2004

Rodney S. McMillin

 Judge of the Superior Court
 RODNEY S. McMILLIN

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 NOVEMBER 4, 20 04, I served a copy of the attached FINDINGS AND ORDER RE SEALING OPPOSITIONS TO MOTION FOR RECUSAL OF SANTA BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PEN. C. § 1424 AND REPLY THERETO addressed as follows:

THOMAS SNEDDON
DISTRICT ATTORNEY'S OFFICE
1112 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

FAX

By faxing true copies thereof to the receiving fax numbers of: (805) 568-2398 (Thomas Sneddon); (310) 861-1007 (Thomas Mesereau, Jr.), Said transmission was reported complete and without error. Pursuant to California Rules of Court 2005(1), 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 4TH day of NOVEMBER, 20 04, at Santa Maria, California.


CARRIE L. WAGNER