

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA

DEC 17 2004

CLERK OF COURT
BY *[Signature]*
CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

11	THE PEOPLE OF THE STATE OF)	Case No.: 1133603
12	CALIFORNIA,)	Order for Release of Redacted Documents
13	Plaintiff,)	[People's Opposition Response to Defense
14	vs.)	Motion to Continue Trial]
15	MICHAEL JACKSON,)	
16	Defendant.)	

The redacted form of the People's Opposition Response to Defense Motion to Continue Trial attached to this order shall be released and placed in the public file. The court finds that there is more material in the motion that should be redacted than that contained in the proposed redacted version. The unredacted originals shall be maintained conditionally under seal pending the hearing December 20, 2004.

DATED: DEC 17 2004

Rodney S. Melville
RODNEY S. MELVILLE
Judge of the Superior Court

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 GORDON AUCHINCLOSS (State Bar No. 150251)
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF SANTA BARBARA
 10 SANTA MARIA DIVISION

11 REDACTED VERSION

12 THE PEOPLE OF THE STATE OF CALIFORNIA,)

No. 1133603

13 Plaintiff,

PEOPLE'S OPPOSITION
 RESPONSE TO DEFENSE
 MOTION TO CONTINUE

14 v.

15
 16 MICHAEL JOE JACKSON,

17 Defendant.

DATE: December 20, 2004
 TIME: 8:30 a.m.
 DEPT: SM 2 (Mcville)

18
 19 FILED UNDER SEAL
 20

21 In addressing the defendant's motion to continue, we have no quibble with their
 22 statements of the law. The decision to continue a trial is, indeed, a discretionary, fact-based
 23 judicial decision. On the other hand, to say we quibble with the defense's factual assertions is
 24 an understatement. The following response will place the defendant's assertions in a more
 25 factual context.

26 The People's response must necessarily begin the defendant's ludicrous assertion
 27 that they had "... provided over 30,000 pages of discovery to the People." In fact, among the
 28 documents provided to the prosecution by the defense were documents related to the J.C.

1 Penny's case, which were provided to each side in early April of 2004 by mutual agreement
2 and court order. Senior Deputy District Attorney Jerry Franklin drove to Los Angeles in April
3 and picked up those materials, copies of which were eventually provided to the defense.
4 Among the thousands of pages provided to us were simply materials that we had already
5 provided to the defendant.

6 Similarly, among this alleged massive amount of material were the voluminous
7 medical and school records previously subpoenaed to the court in September. Again, by
8 mutual agreement, the court ordered the People to take those documents, make copies for both
9 sides and return the originals to court. The documents were released to the People for that
10 purpose on a Friday and returned to the court early the following week. Copies of those
11 materials were provided to the defense even before the originals were returned to the court.
12 Those medical and school records are approximately 10 to 11 inches thick and constitute
13 almost all of the remainder of the alleged defense discovery.

14 In between the disc contains two rather large breaks in Bates numbers. The first
15 is from #17243 to #22861. The second is another 2000 page break between Bates stamp
16 #25870 and #27871. The assertion that 30,000 pages of discovery were provided to the People
17 is a sham. In actuality, they simply returned to us documents that we had already provided to
18 them over five months ago. It is no wonder that the defense whines about a lack of preparation
19 for trial; they waste valuable time playing games in the discovery process.

20 The following addresses each defense contention by paragraph.

21 Paragraph a. The defense alleges that the prosecution "dumped" 14,000 pages of
22 discovery on them in the last 60 days.

23 Actually the People haven't "dumped" anything on the defense. Discovery has
24 been provided according to the court's directions, deadlines and orders. The "14,000-pages"
25 figure also bears some discrete analysis in terms of the actual number of new materials
26 provided.

27 -- **The 1993-94 Sheriff's Department Investigation Material.**

28 On September 17, 2004, after the defense requested discovery of the 1993-94

1 investigation during a proceeding in open court, the Court asked the People whether such
2 documents were available to them. The People responded the next day that they had not yet
3 determined whether any of the witnesses involved in that earlier investigation, or materials
4 gathered in the course of that investigation would be used in the instant case. Nevertheless, we
5 agreed without reservation to obtain and provide the information. The court ordered the
6 production of the materials forthwith. Between January 29, 2004 and July 6, 2004, over 2,827
7 pages of discovery had been provided to the defense. Between July 6 and September 18, the
8 day of the court's order, it stood at 4,486. By September 28, 2004, the number had risen to
9 4,770.

10 On October 8, 2004, in compliance with the court's order, the defense was given
11 6,721 pages of discovery related to the Santa Barbara County Sheriff's Department's 1993-94
12 investigation into the allegations against Michael Joe Jackson of child molestation.

13 One of the unfortunate consequences of our effort to comply with the court's
14 concern that these materials be provided promptly to the defense was our decision to reproduce
15 the documents without first carefully examining them. Our later examination revealed that
16 over a quarter of the materials provided to the defense were duplicates. The numerous blank
17 pages the defense complains of in their motion to compel are just simply that: They are copies
18 of the divider sheets used by the detectives to separate one report from another. This fact is
19 readily apparent to any reasonably thoughtful person.

20 Moreover, at least 2,000 of the pages involved deposition transcripts of witnesses
21 in the [REDACTED] lawsuit against the defendant. The defense has had those transcripts for
22 years.

23 The assertion that the quantity of these materials has somehow created an
24 obstacle to defense trial preparation simply is not consistent with the dates discovery was
25 provided the defense, the nature of the materials provided and the appreciation that nowhere
26 near the gross number of pages discovered involved new information or materials not already
27 possessed by the defense.

28 Unquestionably, a discovery order more narrowly-tailored to be consistent with

1 the requirements of Penal Code section 1054.1 would have resulted in considerably less
2 discovery. For example, among the materials provided the defense are at least 500 pages of
3 reports involving allegations against Mr. Jackson that investigators determined to be
4 unfounded. In addition, there are reports of a considerable number of interviews that do not
5 even begin to come within the purview of section 1054.1 or *Brady*. It is difficult to see why
6 the People's right to a speedy trial should now be compromised by the fact that we complied so
7 completely, so rapidly and so thoroughly to the defense's request and court's order.

8 -- Attorney General Investigation

9 On October 29, 2004, over 1,100 pages of the Attorney General's report and
10 investigation into the defendant's allegations against the Sheriff's Department, including the
11 Attorney General's finding that the allegations were unfounded, were provided to the defense.
12 This was done to accommodate an informal request for discovery by the defense and despite
13 the fact that it is difficult to understand how discovery of that report would have been
14 compelled by Penal Code section 1054.1. Nevertheless, the People sought and obtained an
15 order of the Court requesting the Attorney General turn over the materials to the People. The
16 People in turn provided the materials to the defense within three days of their receipt by the
17 District Attorney's Office.

18 -- Santa Barbara District Attorney's 1993-94 Investigation Materials

19 On October 28, 2004, nearly 2,800 pages of materials from the 1993-1994
20 investigation by the District Attorney's Office into the child molestation allegations against
21 Michael Jackson were turned over to the defense. A review of those materials disclosed most
22 were duplicates of the Sheriff's materials, except for several Grand Jury transcripts of Mr.
23 Jackson's employees, none of whom are on the People's witness list.

24 -- Document Search Warrant

25 As the court is aware, numerous search warrants were issued to various
26 telephone, bank and credit card companies. This is not a case where a large volume of
27 discovered pages necessarily correlate to a larger number of witnesses. Those search warrants
28 were issued to obtain telephone subscriber information, telephone call data, bank records and

1 credit card records relating to several individuals connected with the defendant in this case.

2 The defense included these warrants and business records in complaining about
3 the large number of documents received by them. The effect of that inclusion was to overstate
4 the impact on the defense preparation time its examination of those records would have. The
5 true effect was far less burdensome than the numbers suggest.

6 Paragraph b. Evidence Code section 1054.1 requires the People to provide the
7 names and addresses of witnesses they intend to call at trial. Defendant complains that
8 Plaintiff's list of the names of its prospective witnesses did not include the addresses of those
9 witnesses.

10 During the last 12 months the People have provided reports containing the
11 names, addresses and in some appropriate instances, even the phone numbers of individuals we
12 later listed as potential witnesses. The People are not aware of any case, nor has any decision
13 been cited by the defense, that requires the People to cull, cross-reference and combine
14 information already provided to the defense in earlier-discovered reports in order to create a
15 single document naming prospective witnesses with names and addresses. Indeed, 70 of the
16 164 names on the People's witness list appear with addresses on the defense's list of their
17 prospective witnesses.

18 The names and addresses of [REDACTED] and [REDACTED] were provided to the
19 defense during the execution of the most recent Neverland search warrant and appear again in
20 reports discovered to the defense shortly after those events.

21 The defense complains that [REDACTED] one of the persons on the
22 prosecution's list of witnesses, does not exist. [REDACTED] does exist. He is a forensic
23 accountant, and his curriculum vitae has already been provided to the defense.

24 As for the witness, [REDACTED] and [REDACTED] they
25 cannot seriously contend that a telephone call could not have been faster and more expeditious
26 than the time it took to incorporate this trivia into this motion.

27 However, to ease the burden about which defendant complains, the People
28 prepared and provided the defense an amended witness list with addresses on December 16,

1 2004. While the task took several hours for us to accomplish, this is hardly the type of activity
2 calculated to rob the defense team of valuable trial preparation opportunities.

3 Paragraph c. The Prosecution's Newly Announced Battered Women's
4 Syndrome Defense of [REDACTED]

5 [REDACTED] when she was 16 years old. [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 Although the parameters of the domestic abuse testimony likely will be resolved in
11 a pretrial hearing, the People will ask leave to call an expert in domestic violence to assist the
12 jury in properly understanding the issues victims of domestic violence contend with. [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 The expert witness will not be testifying to the facts of the case and therefore will
16 not be furnishing a report. However, the prosecution has turned over to the defense the
17 curriculum vitae of each of the witnesses. The People will only be calling one of the
18 witnesses. The decision to list multiple witnesses was predicated upon the uncertainty created
19 by the length of jury selection, the speed of the trial, and other pre-trial evidentiary rulings that
20 could affect the date of the witnesses' appearance. Given these factors, we felt it wise to have
21 backup witnesses in the event of the unavailability of the primary one.

22 Paragraph d. The defense is correct in their assertion that the People recently
23 sought two search warrants [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

[REDACTED]

The December 3, 2004, warrant covered three subjects.

[REDACTED]

None involve matters that create good reason for a continuance.

[REDACTED]. The issues addressed in the probable cause for the execution of the search warrant and the search itself were simple in nature and not calculated to create evidentiary issues requiring the diversion of defense time or resources. [REDACTED]

Inasmuch as the defense now knows exactly what the People were looking for, as well as what the People's experts found, it should be able to confirm the findings of the People's experts in a matter of hours. That effort would not require defense counsel's presence or participation.

As for the third item, [REDACTED]

[REDACTED]

Paragraph e. It is true that the People's witness list contains names of parties

1 to the *Abdool vs. Jackson* lawsuit. It is not true that their testimony will involve the issues
2 framed by that lawsuit. The allegations involved in that lawsuit were wrongful termination,
3 wage issues, alleged cavedropping and intimidation by Mr. Jackson and several of his named
4 employees, not child molestation. As defense well knows – Attorney Sangcr was defendant’s
5 attorney in that case -- the court in that particular proceeding specifically ruled that no
6 reference to or evidence of the child molest allegations against Michael Jackson was to be
7 admissible.

8 As the People’s discovery disclosed, several of the witnesses in that case made
9 statements to law enforcement authorities in connection with the 1993-1994 investigation of
10 allegations [REDACTED]. These statements have nothing to do
11 with the civil suit brought years later.

12 The defense has had possession of information concerning that civil lawsuit for
13 years. Their claimed need for further access to that information is not a legitimate ground for a
14 continuance.

15 Paragraph f. The indictment in this case was filed on April 21, 2004. The
16 defense motion to dismiss the indictment pursuant to Penal Code section 995 was filed in July
17 and heard on July 27, 2004. The court ruled on the motion on October 14, 2004.

18 A request to produce the transcript of the selection process and/or a simple
19 request to review any proposed questions submitted by grand jurors should and could have
20 been submitted months ago. The information the defense needed to submit such request has
21 been available to them since early May of 2004. The issue of the Grand Jury’s questions was
22 raised at the last court hearing, but the defense made no effort to obtain and review this
23 information. One must reasonably conclude that these requests were deliberately delayed to
24 buttress the defense’s request for a continuance. The defense should not be rewarded with a
25 continuance for its self-imposed delays.

26 Paragraph g. The People do not agree with this statement. The phrase,
27 “significant amount” is typical defense hyperbole. The prosecution does, indeed, have an
28 ongoing obligation to provide discovery to the defense. The courts have always recognized


1 that "ongoing" discovery occurs up to and including trial. The fact of the matter is there is very
2 little discovery remaining to be provided the defense.

3 CONCLUSION

4 The defense motion to continue should be denied. The many reasons presented
5 were self-imposed delays. Others are matters of some import or impact on their ability to
6 prepare.

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8 DATED: December 15, 2004

9 Respectfully submitted,

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12 THOMAS W. SNEDDON, JR.
13 District Attorney
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3 **PROOF OF SERVICE**

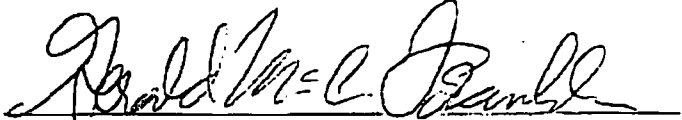
4 STATE OF CALIFORNIA }
5 COUNTY OF SANTA BARBARA } SS

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

10 On December 15, 2004, I served the within PEOPLE'S OPPOSITION RESPONSE
11 TO DEFENSE MOTION TO CONTINUE on Defendant, by THOMAS A. MESEREAU, JR.,
12 ROBERT SANGER, and BRIAN OXMAN by personally delivering a true copy thereof to Mr.
13 Sanger's office in Santa Barbara, by transmitting a facsimile copy thereof to Attorney
14 Mesereau, and by causing a true copy thereof to be mailed to Mr. Mesereau, first class postage
15 prepaid, at the addresses shown on the attached Service List.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed at Santa Barbara, California on this 15th day of December, 2004.

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19 _____
20 signature

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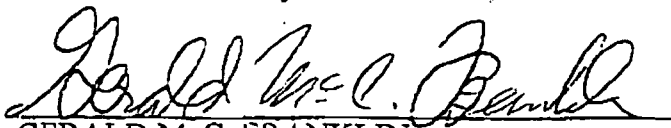
5 STATE OF CALIFORNIA)
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I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attorney's Office; Courthouse;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

On December 15, 2004, I served the within REDACTED VERSION OF PEOPLE'S OPPOSITION RESPONSE TO DEFENSE MOTION TO CONTINUE on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER, and BRIAN OXMAN by personally delivering a true copy thereof to Mr. Sanger's office in Santa Barbara, by transmitting a facsimile copy thereof to Attorney Mescreau, and by causing a true copy thereof to be mailed to Mr. Mescreau, first class postage prepaid, at the addresses shown on the attached Service List.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Santa Barbara, California on this 15th day of December, 2004.


GERALD McC. FRANKLIN

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SERVICE LIST

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Co-counsel for Defendant

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 DECEMBER 17, 20 04, I served a copy of the attached ORDER FOR RELEASE OF REDACTED DOCUMENTS (PEOPLE'S OPPOSITION RESPONSE TO DEFENSE MOTION TO CONTINUE TRIAL) addressed as follows:

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

THOMAS W. SNEDDON, JR.
DISTRICT ATTORNEY'S OFFICE
1112 SANTA BARBARA STREET
SANTA BARBARA, CA 93101

X FAX

By faxing true copies thereof to the receiving fax numbers of: (310) 861-1007 (Thomas Mesereau, Jr.); (805) 568-2398 (Thomas Sneddon). 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.

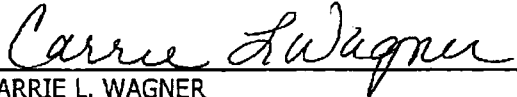
 PERSONAL SERVICE

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 17TH day of DECEMBER, 20 04, at Santa Maria, California.


CARRIE L. WAGNER