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FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

JAN 24 2005

GARY M. BLAIR, Executive Officer  
BY *Carrie L Wagner*  
CARRIE L WAGNER, Deputy Clerk

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

11  
12 THE PEOPLE OF THE STATE OF CALIFORNIA, )

No. 1133603

13 Plaintiff. )

PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S MOTION FOR  
ORDER ALLOWING  
INDIVIDUAL SEQUESTERED  
VOIR DIRE OF PROSPECTIVE  
JURORS

14 v.

15  
16 MICHAEL JOE JACKSON,

17 Defendant. )

DATE: January 28, 2005  
TIME: 8:30 AM  
DEPT.: SM2 (Melville)

UNDER SEAL

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21  
22 Introduction:

23 The People have no quarrel with the defendant's citation of the *Ramos* case and its  
24 well-settled rule that whether a trial court conducts a sequestered jury selection process is left  
25 to the discretion of the trial court. (*People v. Ramos* (2004) 34 Cal.4th 494, 513.)

26 Contrary to defendant's suggestion, it does not follow that the only reasonable  
27 alternative available to a trial court is to either grant a sequestered voir dire or a continuance.  
28 (Motion 5:17-19; 6:3-6.)

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2 A more thorough reading of *Ramos* reveals otherwise. *Ramos* was a capital case.  
3 The trial court exercised its discretion not to conduct a sequestered jury voir dire. The Supreme  
4 Court affirmed the conviction, approving numerous alternatives employed by the trial court in  
5 lieu of a sequestered jury selection process.

6 Among the alternatives approved in *Ramos* was a jury questionnaire which fully  
7 explored media bias and probed the effect of any media exposure, allowing the defense to  
8 conduct private questioning of a particular juror when that necessity was demonstrated, a trial  
9 court admonition to jurors not to read media accounts and the court's own in-depth questioning  
10 on the death penalty and pre-trial publicity issues presented by that case.

11 This Court has already stated jury admonitions will be given and a joint proposed  
12 jury questionnaire which contains extensive questions about pre-trial publicity has been  
13 submitted to the Court.

14 In addition to the remedies suggested above, this Court has also allowed the defense  
15 to publicly respond to the leak issue. It has been quite gracious in allowing both the defendant  
16 and defense counsel to make separate press releases addressing the issues raised by the  
17 disclosures and highlighting the process by which the leaked information was obtained.

18 In support of their motion, the defense not so subtly implies that the People or  
19 someone with a similar motive to the People leaked the Grand Jury transcript and other  
20 information complained of by the defense. While at first blush the People may seem to be an  
21 easy target to blame for the leaks, a more thoughtful consideration would suggest otherwise.

22 The prosecution has been targeted for criticism by numerous news outlets and media  
23 commentators as being responsible for these leaks. The ostensible purpose of the leaks is to  
24 influence prospective jurors. The effect is quite the opposite. These untruthful and unfounded  
25 media assertions impugning the integrity and the credibility of the prosecution team have the  
26 potential of creating a negative image with the prospective jury panel.

27 Such a hypothesis also ignores the fact that it was the defense team, not the  
28 prosecution, who wanted the Grand Jury transcripts released months ago. It was the People

1 who sought the "Protective Order" at the very earliest stages of these proceedings. Not  
2 unexpectedly, the defense has used the leaks to again insinuate that the only real solution to the  
3 problem is a continuance. Why in the world would the People jeopardize the start of the trial  
4 and provide the defense with even the slightest excuse to again renew their request to postpone  
5 this trial; a request they have so ardently and repeatedly sought since these charges were filed.  
6 The People have made it clear throughout these proceedings that they are not interested in a  
7 continuance.

8           Revelation of this information at this particular time does not benefit the People. It  
9 would have been disclosed during the course of the trial. The net potential effect of the leaks  
10 could be to shrink the number of prospective, qualified jurors. This does not help the  
11 prosecution.

12           Nor does the defense finger point as straight to the prosecution team as the defense  
13 would like. The fact is the individual responsible for the Smoking Gun website articles made  
14 two short trips to Los Angeles, not Santa Barbara, prior to publication of his website articles. It  
15 is ABC that leaked the Grand Jury transcript. It is the defense who has a direct, personal and  
16 long standing association with one of the ABC's lead reporters on this case.

17           Moreover, neither the defendant nor the defense team have been sitting idly on the  
18 sidelines since these proceedings began. It was the defendant and defense camp who arranged  
19 for the high-publicity Christmas party at Neverland Valley Ranch. It's the defendant's father,  
20 his press companion, Deb Opri and family publicist, Angel Howanshy, who appeared last  
21 weekend on the Rita Cosby Show, smearing the prosecution and suggesting only a change of  
22 venue or a continuance would be an adequate remedy to protect Jackson's fair trial rights. It is  
23 the defense who arranged for the production and showing of the pro Jackson "Footage You  
24 Were Never Meant to See," which is now being rebroadcast on the eve of trial.

#### 25 CONCLUSION

26           The People oppose the defense request for a sequestered jury selection process and  
27 oppose their request for a continuance. Numerous alternatives are available to offset the  
28 impacts of these leaks. For all of the above reasons, the People request that the court deny the

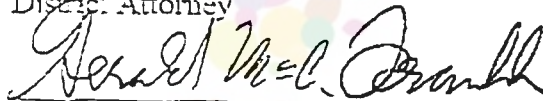
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1 motion in its entirety.

2  
3 DATED: January 24, 2005

4 Respectfully submitted,

5 THOMAS W. SNEDDON, JR.  
6 District Attorney

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8 Attorneys for Plaintiff

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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 January 24, 2005, I served the within PLAINTIFF'S OPPOSITION TO MOTION FOR AN ORDER ALLOWING INDIVIDUAL SEQUESTERED VOIR DIRE on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by personally delivering a true copy to Mr. Sanger's office and a true copy to be transmitted to Mr. Mesereau at the confidential facsimile number given us for their Santa Maria branch office, and then causing that copy to be mailed to Mr. Mesereau at the address 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 24th day of January, 2005.

  
Gerald McC. Franklin

SERVICE LIST

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