

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JAN 25 2005

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

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

THE PEOPLE OF THE STATE OF

CALIFORNIA,

Plaintiff,

vs.

MICHAEL JACKSON,

Defendant.

Case No.: 1133603

Order for Release of Redacted Documents

[Plaintiff's Reply to Defendant's Opposition
re: Motion to Close the Courtroom Pursuant to
Penal Code §859.1]

The redacted form of the Plaintiff's Reply to Defendant's Opposition re: Motion to Close the Courtroom Pursuant to Penal Code §859.1 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 on January 28, 2005.

Dated: January 25, 2005

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)
Senior Deputy District Attorney
4 GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
5 1112 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
7 FAX: (805) 568-2398

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COUNTY OF SANTA BARBARA

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**REDACTED
COPY**

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

RECEIVED
05 JAN 25 PM 2:15
SUPERIOR COURT
SANTA BARBARA COUNTY
MILLER ENTRANCE

11
12 THE PEOPLE OF THE STATE OF CALIFORNIA,
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14 Plaintiff,
15
16 vs.
17 MICHAEL JOE JACKSON,
18 Defendant.

No. 1133603
PLAINTIFF'S REPLY TO
DEFENDANT'S
OPPOSITION RE: MOTION
TO CLOSE THE
COURTOOM PURSUANT
TO PENAL CODE § 859.1
DATE: January 28, 2005
TIME: 9:30 AM
DEPT.: SM2 (Mcville)

~~UNDER SEAL~~

21 Defendant protests that John and James Doe are not "innocent little lambs." He
22 asserts that they have [REDACTED]

23 [REDACTED]

24 [REDACTED] "lying."

25 By engaging in such demagoguery, defendant unwittingly assists the People in their
26 argument regarding the necessity of a closed courtroom. Defendant provides no legal or
27 factual support for his request to put John and James Doe on public display except to make
28 clear his intent to have his "seasoned" defense lawyers humiliate and attempt to destroy these

1 teenagers in public when they take the witness stand. This is one more compelling reason to
2 close the courtroom during their testimony.

3 Regarding the claim that the People's suggested compromise of providing an audio-
4 only feed to a separate courtroom is insincere, defendant overlooks the primary purpose of the
5 procedure authorized by Penal Code section 859.1: to preserve the privacy interests of child
6 witnesses by allowing them a degree of anonymity during their testimony. (See § 859.1, subd.
7 (a)(3) [preservation of "anonymity"] and (a)(6) [preservation of confidentiality of "identity"].)
8 In the nearly 15 years Penal Code section 859.1 has been on the books, no published decision
9 has discussed its limits. An argument can be made that the testimony of a minor who is
10 alleged to be the victim of a sex offense may be offered and received out of the presence of the
11 public and not disclosed to the public.

12 The People recognize that in this case, the Court may consider the public's right of
13 access to the information and provide for a compromise. The procedure suggested by the
14 People will accommodate the legitimate interests of the public and the minor children by
15 preserving for the witness' anonymity and allowing them to testify about sensitive sexual issue
16 without a courtroom packed with reporters, sketch artists and zealous fans of defendant.

17
18 DATED: January 25, 2005

19 Respectfully submitted,

20 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

21
22 By: _____

23 GORDON AUCHINCLOSS
24 Senior Deputy District Attorney

25 Attorneys for Plaintiff

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 25, 2005, I served the within PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION RE: MOTION TO CLOSE THE COURTROOM PURSUANT TO PENAL CODE § 859.1 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 Mesereau, and by causing a true copy thereof to be mailed to Mr. Mesereau, 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 25th day of January, 2005.



Gordon A. Hutchings

SERVICE LIST

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THOMAS A. MESEREAU, JR., ESQ.
Collins, Mesereau, Reddock & Yu, LLP
1875 Century Park East, No. 700
Los Angeles, CA 90067
FAX: [Confidential]
Attorney for Defendant Michael Jackson

ROBERT SANGER, ESQ.
Sanger & Swysen, Lawyers
233 E. Carrillo Street, Suite C
Santa Barbara, CA 93001
FAX: (805) 963-7311
Co-counsel for Defendant

BRIAN OXMAN, ESQ.
Oxman & Jaroscak, Lawyers
14126 E. Rosecrans Blvd.,
Santa Fe Springs, CA 90670
Co-counsel for Defendant

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 JANUARY 27, 2005, I served a copy of the attached ORDER FOR RELEASE OF REDACTED DOCUMENTS (PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION RE MOTION TO CLOSE THE COURTROOM PURSUANT TO PENAL CODE § 859.1) 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

FAX

By faxing true copies thereof to the receiving fax numbers of: (805) 456-0699 (Thomas Mesereau, Jr.); (805) 568-2398 (Thomas Sneddon). 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.

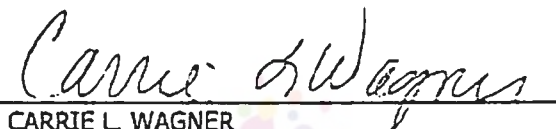
PERSONAL SERVICE

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 27TH day of JANUARY, 2005, at Santa Maria, California.


CARRIE L. WAGNER