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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

* Unsealed pursuant
to 0116105 court
order

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 DIVISION

11 THE PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 MICHAEL JOE JACKSON,

15 Defendant.

No. 1133603

PLAINTIFF'S REPLY TO
DEFENDANT'S
OPPOSITION RE: MOTION
TO CLOSE THE
COURTROOM PURSUANT
TO PENAL CODE § 859.1

DATE: January 28, 2005

TIME: 8:30 AM

DEPT.: SM2 (Melville)

~~UNDER SEAL~~

21 Defendant protests that John and James Doe are not "innocent little lambs." He
22 asserts that they have committed "abominations" and are "seasoned perpetrators" with a
23 "sorted [sic] background." He goes on to call them "seasoned con-artists" who are actors
24 that are well-trained at "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 DATED: January 25, 2005

18 Respectfully submitted,

19 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

20
21 By: _____

22 GORDON AUCHINCLOSS
23 Senior Deputy District Attorney

24 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 Auchincloss

SERVICE LIST

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