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11 MICHAEL JOE JACKSON

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

MAR 25 2005

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

** Unsealed pursuant
to 6/16/05 court
order*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF SANTA BARBARA, SANTA MARIA DIVISION

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Plaintiff,

17 vs.

18 MICHAEL JOE JACKSON

19 Defendant.

) CASE NO. 1133603

) SUPPLEMENTAL DECLARATION OF
) SUSAN YU RE DATE THE MALE WITNESS
) OBSERVED GAVIN ARVIZO AND STAR
) ARVIZO'S SEXUAL CONDUCT

) HEARING:

) DATE: N/A
) TIME: N/A
) Place: Dept. SM-2

) ~~FILED UNDER SEAL~~
) (Pursuant to Evidence Code Section 782)

1 SUPPLEMENTAL DECLARATION OF SUSAN C. YU

2 I, Susan C. Yu, declare as follows:

3 1. I am an attorney at law duly licensed to practice law in the courts of the State
4 of California, a partner in the law firm of Collins, Mesereau, Reddock & Yu, and co-counsel
5 for Mr. Michael Jackson in this criminal proceeding. I have personal knowledge of the
6 facts set forth herein and, if called and sworn as a witness, I could and would competently
7 testify thereto under oath. I submit this supplemental declaration in support of Mr.
8 Jackson's Motion to Admit Gavin and Star Arvizo's Sexual Conduct ("Motion").

9 2. On March 11, 02005, the Court ruled on the Motion, *in pertinent part*, as
10 follows:

11 Under Evidence Code Section 782, the Court shall review the
12 affidavit submitted in support of the motion to determine if the
13 offer of proof is sufficient to order the hearing. If it is, the Court
14 shall order a hearing out of the presence of the jury, and at the
15 hearing allow the questioning of the witnesses. The affidavit offered
16 in this case -- which, as you know, 782 requires an affidavit. The
17 affidavit which seeks to authenticate the interview reports is from
18 Susan Yu, and the Court finds that affidavit to be inadequate. The
19 only area in the -- what I'm doing here is ruling without prejudice that
20 the affidavit's inadequate, and I will consider a further submission
21 of a sealed affidavit that would clarify the date of the male witness's
22 alleged observation. The other suggested ones that were not by a
23 male - this is how I'm identifying this - that were not observed by a
24 male are not admissible. I'm not allowing them. But the incident that is --
25 that the affidavit shows was -- where the witness was a male, I will
26 consider upon further affidavit. And just to be sure you heard
27 me correctly, that the deficiency is in the date of the male witness's

1 alleged observations. Now, as guidance to the defense, this does
2 not mean to preclude the defense from examination of
3 witness -- of the complaining witness or other -- a percipient
4 witness in that situation of your cross-examination.

5 (March 11, 2005 Trial Transcript, p. 1781, ln. 19 through p. 1782, ln. 21.)

6 2. To comply with the Court's ruling, I, on March 24, 2005 at approximately
7 5:30 p.m., spoke with Simone Jackson and Rijo Jackson (one at a time) by a three-way
8 telephone call with our investigator Scott Ross regarding the date Rijo witnessed Gavin and
9 Star masturbate in a guest unit at Neverland. The call was prearranged by Mr. Ross.

10 3. Rijo is now 12 years old. He did not remember the exact date of the incident,
11 but believed that it was in March 2003 before the Toys R Us trip. Simone is now 16 years
12 old. She, too, did not recall the exact date on which her brother told her about the
13 incident, but was certain that it was before the Toys R Us trip in March 2003. Rijo did not
14 remember the date of the Toys R Us trip. Simone, however, had a better recollection. She
15 stated that the trip took place in the second week of March 2003.

16 4. Attached hereto as Exhibit A is the original declaration of Rijo Jackson. Our
17 investigator Jesus Castillo, who resides in Santa Maria, obtained Rijo's signature in person
18 in Lompoc on March 25, 2005.

19 5. Attached hereto as Exhibit B is the original declaration of Simone Jackson.
20 Our investigator Jesus Castillo obtained Simone's signature in person in Lompoc on March
21 25, 2005. Simone's declaration is being submitted because Simone remembers the date of
22 the incident better than Rijo does. Accordingly, Simone's declaration is necessary to
23 authenticate the date of the incident. Also, until I spoke with Simone yesterday, the
24 defense did not know that Rijo told Simone about the incident almost immediately after he
25 witnessed it. It also appears that Rijo was in a state of shock. Under these circumstances,
26 it appears that Rijo's statement may qualify as a spontaneous-statement exception to the
27 hearsay rule under Evidence Code Section 1240. Accordingly, it is respectfully requested

28

1 that the Court reconsider its March 11, 2005 ruling regarding Simone's testimony (i.e.,
2 female) and permit the defense to admit Simone's testimony.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct and that this declaration was executed on this 25^b day of
5 March 2005, at Santa Maria, California.

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9 SUSAN C. YU

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EXHIBIT A

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1 DECLARATION OF RIJO JACKSON

2 I, Rijo Jackson, declare as follows:

3 1. I have personal knowledge of the facts set forth herein and, if called and
4 sworn as a witness, I could and would competently testify thereto under oath.

5 2. I am 12 years old. My birth date is [REDACTED] ²⁵

6 3. My sister Simone and I were at Neverland in 2003. I think it was March 2003
7 that I saw Gavin and Star touching themselves. I am not sure exactly when, but I do know
8 that it was before the Toys R Us trip. My sister Simone remembers the dates better than
9 me. We were at Neverland together in March 2003. My sister says we went to Toys R Us
10 in the second week of March 2003.

11 4. It was before the Toys R Us trip in March 2003 that I saw Gavin and Star
12 touching themselves. They grabbed their private parts and moved up and down while
13 watching naked ladies on T.V. I was shocked and grossed out. I was staying with them in
14 the same room. I ran out and told my sister Simone what I saw. My sister was in another
15 room with Davellin. I was shocked. I thought Gavin and Star were good boys. My sister
16 Simone told me not to go back to the room and sleep with them. She told me to sleep in
17 Michael's room. She told me to tell Michael what happened. I went to Michael's room and
18 slept there, but I did not tell Michael what happened.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct and that this declaration was executed on this 25 day of
21 March 2005, at Lompoc, California.

22
23 Rijo Jackson
24 Rijo Jackson

1 DECLARATION OF SIMONE JACKSON

2 I, Simone Jackson, declare as follows:

3 1. I have personal knowledge of the facts set forth herein and, if called and
4 sworn as a witness, I could and would competently testify thereto under oath.

5 2. I am 16 years old. My brother, Rijo Jackson, is 12 years old.

6 3. My brother Rijo and I were at Neverland for about three days in the first week
7 of March in 2003. We were also there the following week for about two days when
8 Michael Jackson took me, my brother Rijo, Levone Jackson, Elija Jackson, Gavin, Star,
9 Davellin and other kids to Toys R Us. I cannot remember the exact date we went to Toy R
10 Us, but I am pretty sure that it was the second week of March 2003.

11 4. It was in the first week of March 2003 and before the Toys R Us trip that my
12 brother Rijo told me about the masturbation incident. I was sharing one of the guest units
13 with Davellin Arvizo. This guest unit had two beds. My brother Rijo spent one night with
14 Star and Gavin in another guest unit. Rijo was supposed to spend more nights with Star
15 and Gavin, but he did not because of the incident.

16 5. I remember the night when Rijo came to my guest unit to tell me what he had
17 seen. Rijo told me that Gavin and Star grabbed their private parts and moved up and down
18 while watching naked women on T.V. Rijo was shocked and grossed out. I told Rijo not to
19 go back to the room where Gavin and Star were staying. I told him to stay in Michael's
20 room and tell Michael what happened. I later found out that Rijo never told Michael about
21 the incident.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct and that this declaration was executed on this 15 day of
24 March 2005, at Santa Maria, California.

25
26 
27 Simone Jackson
28

1 PROOF OF SERVICE

2 I, the undersigned, declare:

3 I am a citizen of the United States of America, am over the age of eighteen (18)
4 years, and not a party to the within action. I am employed at 1875 Century Park East, 7th
5 Floor, Los Angeles, CA 90067. On March 25, 2005, I served the following document:

6 **SUPPLEMENTAL DECLARATION OF SUSAN YU RE DATE THE MALE WITNESS
7 OBSERVED GAVIN ARVIZO AND STAR ARVIZO'S SEXUAL CONDUCT**

8 on the interested parties addressed as follows:

9 Thomas Sneddon, Esq., District Attorney
10 Gerald Franklin, Esq.
11 Ronald Zonen, Esq.
12 Gordon Auchincloss, Esq.
13 District Attorney's Office
14 1105 Santa Barbara Street
15 Santa Barbara, CA 93108
16 FAX: (805) 568-2398

17 BY MAIL: I placed each envelope, containing the foregoing document, with postage
18 fully prepaid, in the United States mail at Los Angeles, California. I am readily familiar
19 with the business practice for collection and processing of mail in this office; that in the
20 ordinary course of business said document would be deposited with the US Postal Service
21 in Los Angeles on that same day.

22 BY FACSIMILE: I served a copy of the within document on the above-interested
23 parties, by way of a facsimile, at the facsimile numbers listed above.

24 BY PERSONAL DELIVERY: I personally served the within document on the above
25 interested parties.

26 (State) I declare under penalty of perjury under the laws of the State of California
27 that the foregoing is true and correct.

28 (Federal) I declare that I am employed in the office of a member of the bar of this
court at whose direction the service was made.

Executed on March 25, 2005, at Los Angeles, California.

22 
23 _____
24 Susan C. Yu