

1 COLLINS, MESEREAU, REDDOCK & YU
Thomas A. Mesereau, Jr., State Bar Number 091182
2 Susan C. Yu, State Bar Number 195640
1875 Century Park East, 7th Floor
3 Los Angeles, CA 90067
Tel.: (310) 284-3120, Fax: (310) 284-3133
4

5 SANGER & SWYSEN
Robert M. Sanger, State Bar Number 058214
Stephen K. Dunkle, State Bar Number 227136
6 233 East Carrillo Street, Suite C
Santa Barbara, CA 93101
7 Tel.: (805) 962-4887, Fax: (805) 963-7311

8 Attorneys for Defendant
MICHAEL JOSEPH JACKSON
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

12 REDACTED PURSUANT TO
CRC RULE 2073

13 THE PEOPLE OF THE STATE OF CALIFORNIA,) Case No. 1133603
14)
15 Plaintiffs,) MOTION THAT THE COURT CLARIFY
16 vs.) THAT VINCENT AMEN HAS BEEN
17) GRANTED USE IMMUNITY;
MICHAEL JOSEPH JACKSON,) DECLARATION OF STEPHEN K.
18 Defendant.) DUNKLE
19)
20) Honorable Rodney S. Melville
21) Date: TBD
22) Time: TBD
23) Dept: SM 8
24)
25)
26)
27)
28)

22 TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE DISTRICT
23 ATTORNEY OF THE COUNTY OF SANTA BARBARA, TOM SNEDDON, AND DEPUTY
24 DISTRICT ATTORNEYS GERALD FRANKLIN, RON ZONEN, GORDON AUCHINCLOSS
25 AND MAG NICOLA:

26 Please take notice that the Defendant does hereby move and will further move on a date
27 determined by the Court, at 8:30 a.m., or as soon thereafter as counsel may be heard in
28

MOTION THAT THE COURT CLARIFY THAT VINCENT AMEN HAS BEEN GRANTED USE IMMUNITY

1 Department 8 of the above entitled court. for an order clarifying that Vincent Amen's testimony
2 is subject to use immunity. and for such other and further relief as the Court may deem just and
3 proper. This motion is based on the fact that the District Attorney conferred use immunity upon
4 Mr. Amen.

5 This motion is based on this Notice of Motion, and the Memorandum of Points and
6 Authorities attached hereto, the papers, records and files in this case, the declaration of counsel,
7 and such other matters as may be received by the Court at or after the hearing scheduled on this
8 motion.

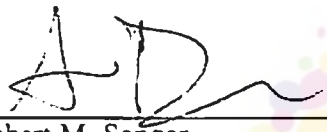
9 Dated: May 9, 2005

10 Respectfully submitted,

11 COLLINS, MESEREAU, REDDOCK & YU
12 Thomas A. Mesereau, Jr.
Susan C. Yu

13 SANGER & SWYSEN
14 Robert M. Sanger
Stephen K. Dunkle

15
16 For By:

17 
18 Robert M. Sanger
Attorneys for Defendant
MICHAEL JOSEPH JACKSON

19
20
21
22
23
24
25
26
27
28
MOTION THAT THE COURT CLARIFY THAT VINCENT AMEN HAS BEEN GRANTED USE IMMUNITY

1 DECLARATION OF STEPHEN K. DUNKLE

2 1. I am an attorney at law duly licensed to practice law in the courts of the State of
3 California, an associate in the law firm of Sanger & Swysen, and co-counsel for Michael
4 Jackson.

5 2. The audiotape of the prosecution's interview with Vincent Amen confirms that the
6 prosecution granted "use immunity" to Mr. Amen.

7 3. There is no indication in the interview or anywhere else in the discovery that: (a) Mr.
8 Amen was not fully cooperative; (b) that Mr. Amen did not tell the truth; or (3) that the
9 District Attorney sought to revoke Mr. Amen's grant of immunity.

10 I declare under the penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct this 9th day of May, 2005, at Santa Maria, California.

12
13 

14 Stephen K. Dunkle

15
16
17
18
19
20
21
22
23
24
25
26
27
28
MOTION THAT THE COURT CLARIFY THAT VINCENT AMEN HAS BEEN GRANTED USE IMMUNITY

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 ARGUMENT

3 I.

4 THE COURT SHOULD CLARIFY THAT VINCENT AMEN IS COVERED BY HIS
5 "USE IMMUNITY" DEAL WITH THE DISTRICT ATTORNEY

6 The prosecution and law enforcement interviewed unindicted alleged co-conspirator
7 Vincent Amen on December 29, 2004. Prior to this interview, District Attorney Sneddon agreed
8 to confer "use immunity" upon Mr. Amen pursuant to Penal Code Section 1324. The
9 prosecution has a statutory right to grant use immunity. (*In re Williams* (1994) 7 Cal. 4th 572,
10 609.) The agreement was that Mr. Amen be granted "'use immunity' in exchange for his truthful
11 statements and testimony concerning his involvement in this investigation." A true and correct
12 copy of the police report indicating that immunity was conferred is attached as Exhibit A.

13 Mr. Amen submitted to a detailed interview with law enforcement and the prosecutors, in
14 the presence of his attorney. The interview lasted several hours. Much of what Mr. Amen told
15 the government contradicted the statements of the Arvizo family and defeated circumstantial
16 evidence inferences which the prosecution has made. As a whole, Mr. Amen's statements were
17 exculpatory. The District Attorney did not call Mr. Amen as a witness.

18 The defense intends to call Mr. Amen as a witness and expects that this Court will honor
19 Mr. Amen's deal with the government. The Court should clarify that as long as Mr. Amen lives
20 up to his end of the deal and testifies truthfully his testimony is protected by the use immunity
21 already granted by the government.

22
23 ///

24
25 ///

26
27 ///

28 MOTION THAT THE COURT CLARIFY THAT VINCENT AMEN HAS BEEN GRANTED USE IMMUNITY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.

CONCLUSION

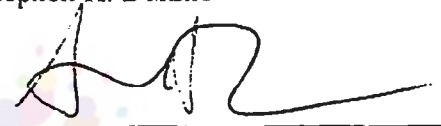
Therefore, based on the reasons set forth above, the court should clarify that Mr. Amen's testimony is subject to use immunity, and for such other and further relief as the Court may deem just and proper.

Dated: May 9, 2005

COLLINS, MESEREAU, REDDOCK & YU
Thomas A. Mesereau, Jr.
Susan C. Yu

SANGER & SWYSEN
Robert M. Sanger
Stephen K. Dunkle

For ~~By~~



Robert M. Sanger
Attorneys for Defendant
MICHAEL JOSEPH JACKSON

MOTION THAT THE COURT CLARIFY THAT VINCENT AMEN HAS BEEN GRANTED USE IMMUNITY

<input type="checkbox"/> RECLASSIFICATION	SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY	2. CASE NUMBER 03-5670
1. CLASSIFICATION 98(a) PC Lewd Acts Against a d Under 14 Years of Age	<input checked="" type="checkbox"/> FOLLOW-UP <input type="checkbox"/> CLEARANCE <input checked="" type="checkbox"/> COMPLAINT	

3. DAY / DATE RPT / TIME Friday, 06-13-03, 1520 hrs	4. FOLLOW UP TO: <input checked="" type="checkbox"/> OFFENSE <input checked="" type="checkbox"/> ARREST <input type="checkbox"/> INCIDENT	5. DAY/DATE THIS RPT/TIME Wednesday, 12-30-04, 0930 hrs
--	--	--

6. VIC/BUS (LAST, FIRST, M) ***CONFIDENTIAL***	SEX *	RAC	AGE/D.O.B. ***	RESIDENCE ADDRESS ***
7. BUSINESS ADDRESS OR SCHOOL ***		BLS PHONE ***		WORK HOURS
				HOME PHONE ***

3. R/P <input type="checkbox"/> WIT <input checked="" type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input type="checkbox"/>	CM	SEX	RAC	AGE/D.O.B.	RESIDENT ADDRESS	TELEPHONE
LAST, FIRST, MIDDLE) CIRCLE INVOLVEMENT						
Amen, Vincent	Y	M	W		[REDACTED]	BUS [REDACTED] RES [REDACTED]
R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input checked="" type="checkbox"/>	CM	SEX	RAC	AGE/D.O.B.		BUS [REDACTED] RES [REDACTED]
Fahy, John Jay	Y	M	W	ADULT	[REDACTED]	BUS [REDACTED] RES [REDACTED]
R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input checked="" type="checkbox"/>	CM	SEX	RAC	AGE/D.O.B.		BUS 805-568-2300 RES [REDACTED]
Auchincloss, Gordon	Y	M	W	ADULT	SBDA	BUS [REDACTED] RES [REDACTED]
R/P <input type="checkbox"/> WIT <input type="checkbox"/> CO-VIC <input type="checkbox"/> PARENT <input type="checkbox"/> OTHER <input checked="" type="checkbox"/>	CM	SEX	RAC	AGE/D.O.B.		BUS 805-568-2300 RES [REDACTED]
Sneddon, Thomas	Y	M	W	ADULT	SBDA	BUS [REDACTED] RES [REDACTED]

1. SUSPECT NAME (LAST, FIRST, MIDDLE) JACKSON, Michael	CM	SEX M	RAC R	AGE/D.O.B. [REDACTED]	HGT 511	WGT 120	HAIR BLK	EYE BRO	BOOKING #
ADDRESS Severland Ranch, [REDACTED] Santa Ynez, CA. 93441		PHONE		MUSTACHE <input type="checkbox"/>	HAT <input type="checkbox"/>	CLOTHING DESCRIPTION			
				BEARD <input type="checkbox"/>	MASK <input type="checkbox"/>				
				GLASSES <input type="checkbox"/>	TT/SCAR <input type="checkbox"/>				

2. SUSPECT NAME (LAST, FIRST, MIDDLE)	CM	SEX	RAC	AGE/D.O.B.	HGT	WGT	HAIR	EYE	BOOKING #
ADDRESS		PHONE		MUSTACHE <input type="checkbox"/>	HAT <input type="checkbox"/>	CLOTHING DESCRIPTION			
				BEARD <input type="checkbox"/>	MASK <input type="checkbox"/>				
				GLASSES <input type="checkbox"/>	TT/SCAR <input type="checkbox"/>				

0. SUSP VEH LICENSE	ST	YR	MAKE	MODEL	COLOR	LOCATION/PERSON	<input type="checkbox"/> STORED, RELEASED <input type="checkbox"/> IMPOUNDED
---------------------	----	----	------	-------	-------	-----------------	---

1. COMPLAINT FILED	12. REVIEWING DA
<input checked="" type="checkbox"/> YES <input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> NO <input checked="" type="checkbox"/> FELONY	Sneddon

13. <input type="checkbox"/> CITATION ISSUE <input type="checkbox"/> WARRANT ISSUED	14. <input checked="" type="checkbox"/> CLEARED
<input type="checkbox"/> D.A. NOTICE <input type="checkbox"/> IN CUSTODY	<input type="checkbox"/> CLOSED
<input type="checkbox"/> REF. TO PROBATION <input checked="" type="checkbox"/> OUT ON BAIL	<input type="checkbox"/> INACTIVE

5. ATTACHMENTS: <input checked="" type="checkbox"/> SH-451	<input type="checkbox"/> CHP 160	<input type="checkbox"/> OTHER	6. PROPERTY TAG # 122980	PAGE 1 OF _____ PAGES
--	----------------------------------	--------------------------------	--------------------------	-----------------------

6. RELATED CASE NUMBERS	VICTIM OR BUSINESS	DATE REPORTED	CRIME TYPE	CASE STATUS

7. REPORTING DEPUTY BODY # Lt. J. Klapakis 0544	18. DATE/TIME RPT WRITTEN 12-30-04/1100	19. EST. TOTAL VALUE	21. TOTAL HOURS WKD 16.0	RECORDS USE ONLY RECEIVED 2423 DATE 1/18/05
8. ASSISTING DEPUTY BODY # Sgt. S. Robel 0515	20. SUPERVISOR APPROVING BODY # Lt. J. Klapakis 0544	22. TYPED BY/DATE		BCS RMS

This report is furnished for the exclusive use of the agency to which it is loaned and is not to be duplicated, copied or furnished to any other agency, except as provided by law, without the express permission of the Santa Barbara Sheriff's Department Records Bureau and is to be returned to that Department upon demand.

Copy for: () Detectives () Juvenile () District Attorney
() Patrol () Investigator

SHERIFF'S DEPARTMENT
 Santa Barbara County
CONTINUATION SHEET

Case Number

03-5670

(A) LIST CONTINUATION. (B) DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION. (C) NARRATIVE. (D) DISPOSITION.

(A) #8 Con't

Vincent Amen is an unindicted co-conspirator in this investigation
 John Fahy is Vincent Amen's attorney
 Tom Sneddon and Gordon Auchincloss are with the SB DA's office

(B) EVIDENCE:

See SH-451 – all item(s) booked into SB SO property

- Item #230 – One (1) CD-R containing files of a recorded interview with Amen and his attorney.

(C) On the above date/time we met with Amen and his attorney (Fahy) for the purpose of conducting a voluntary interview with Amen to discuss his involvement in this investigation. This interview was set up through a discussion Fahy initiated with Sneddon.

Prior to beginning the interview, the participants met in Mr. Sneddon's office to discuss the terms of the interview. Amen and Fahy were advised that the SD DA's office was offering Amen "use immunity" in exchange for his truthful statements and testimony concerning his involvement in this investigation. Amen was admonished that the "use immunity" did not cover any untruthfulness on his part and so it was important for him to be completely truthful with the interviewers. Amen and Fahy agreed to these conditions.

For details regarding the recorded interview with Amen – refer to Sgt Robel's follow up report.

- (D)
- REPORT TAKEN, REQUEST DETECTIVES CONDUCT FOLLOW-UP
 - REPORT TAKEN, FOLLOW-UP TO BE HANDLED BY PATROL
 - REPORT TAKEN, CASE SUSPENDED PENDING LEADS
 - CASE CLEARED BY ARREST (ADULT/JUV)
 - CASE SUBMITTED TO DA FOR COMPLAINT/REVIEW
 - CASE SUBMITTED TO JUVENILE PROBATION
 - DOCUMENTATION ONLY, VICTIM REQUEST NO PROSECUTION
 - DOCUMENTATION ONLY, INCIDENT REPORT
 - COURTESY REPORT, FORWARD TO (AGENCY)
 - FOLLOW-UP REPORT TAKEN, FORWARD TO DA
 - FOLLOW-UP REPORT TAKEN, INVESTIGATION CONTINUING
 - NO CRIME OCCURRED, CASE UNFOUNDED

ADDITIONAL COMMENTS:

024950

PAGE 4	SHERIFF'S DEPARTMENT Santa Barbara County CONTINUATION SHEET	Case Number 03-5670
(A) LIST CONTINUATION. (B) DESCRIBE: PHYSICAL EVIDENCE, LOCATION FOUND & DISPOSITION. (C) NARRATIVE. (D) DISPOSITION.		



024951

1. OFFENSE CLASSIFICATION 288 PC		SHERIFF'S DEPARTMENT SANTA BARBARA COUNTY PROPERTY FORM			2. CASE NUMBER 03-5670		2a. attach to report No
-------------------------------------	--	--	--	--	---------------------------	--	----------------------------

PAGE #Prop-1 OF Prop-1							
------------------------	--	--	--	--	--	--	--

4. VICTIM/COMPLAINANT Confidential		5. REPORTING OFFICER & BODY # Lt. J. Klapakis 054		6. DATE/TIME OF REPORT 12-29-04 / 0930 hrs			7. CONT. TO: TYPE OF RPT FORM Offense/ Arrest	
---------------------------------------	--	--	--	---	--	--	--	--

8. PRPTY TYPE CODE: R-RECOVERED, S-STOLEN, F-FOUND, L-LOST, E-EVIDENCE, O-UNDER OBSERVATION							
---	--	--	--	--	--	--	--

9. ITEM #	10. ITEM	11. SERIAL NUMBER	12. BRAND NAME	13. DESCRIBE PROPERTY	14. PRPTY TYPE CODE	15. VALUE	16. EVIDENCE TAG NO.
230	CD-R		TDK	One (1) CD-R disk containing files of a recorded interview with Vincent Amen	E		122980

035670

EXCEPTIONAL DISTRIBUTION IS AUTHORIZED

TO: _____ ENTERED _____ TT USE _____ EVIDENCE SEIZED BY SEARCH WARRANT

BY: _____ INDEXED _____ YES _____ NO _____