

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

MAY 12 2005

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

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 1105 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
7 FAX: (805) 568-2398

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

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12
13 THE PEOPLE OF THE STATE OF CALIFORNIA,

14 Plaintiff,

15 v.

16 MICHAEL JOE JACKSON,

17 Defendant.

No. 1133603

MOTION TO COMPEL
DISCOVERY OF REPORTS
FOR DEFENSE WITNESSES
CHRISTIAN ROBINSON
AND DAVID LEGRAND

DATE: May 12, 2005
TIME: 8:30 AM
DEPT.: SM2 (Melville)

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21 **INTRODUCTION**

22 At the end of court proceedings yesterday, attorney for defendant, Robert Sanger
23 notified the People of his intention to call David LeGrand and Christian Robinson on today's
24 date. Deputy District Attorney Gordon Auchincloss informed Mr. Sanger and his investigator,
25 Jesus Castillo, that no reports had been provided for these witnesses. Mr. Castillo indicated
26 that reports existed for Mr. LeGrand but none for Mr. Robinson. Mr. Sanger promised to look
27 into the matter and provide undiscovered reports by e-mail immediately. At 6:02 PM the
28 attached e-mail marked as Exhibit "A" was sent to Mr. Sanger and Ms. Yu. A review of the

1 discovery provided by the defense to the People revealed no reports for Mr. LeGrand or Mr.
2 Robinson. Mr. Castillo's remark that there are no reports for Christian Robinson is belied by
3 the fact that the defense discovered what appears to be investigators notes of just such an
4 interview that occurred on March 25, 2004. These notes are written in a virtually
5 indecipherable scrawl and an example is attached as Exhibit "B". The People now request the
6 court order the defense provide discovery of reports of these two witnesses and delay their
7 testimony to provide the People sufficient time to prepare for cross examination.

8
9 ARGUMENT WITH
10 POINTS AND AUTHORITIES

11 This is now the third time in the first week of the defense case that defendant has
12 violated the provisions of Penal Code Section 1054 et seq. On the very first day of the defense
13 case, five of the first six defense witnesses were not even on the defense witness list of over
14 400 witnesses until two days before they were called. Reports for these witnesses were also
15 undiscovered until that time. Defense witness Brett Barnes testified on the stand that he
16 provided a declaration to the defense that was never disclosed to the People until *after* Barnes
17 had left the stand. The third day of the defense case the defense announced an intention to call
18 Francine Orozco. No report was provided for this witness even though the interview took
19 place over two weeks earlier. Mr. Orozco's testimony was delayed to allow the People time to
20 prepare.

21 "The purpose of Penal Code Section 1054 et seq. is to promote ascertainment of
22 truth by liberal discovery rules that allow parties to obtain information in order to prepare their
23 cases and reduce the chance of surprise at trial. Reciprocal discovery is intended to protect the
24 public interest in a full and truthful disclosure of critical facts, to promote the People's interest
25 in preventing a last minute defense, and to reduce the risk of judgments based on incomplete
26 testimony." (*Woods v. Superior Court* (1994) 25 Cal.App.4th 178.) In complying with these
27 obligations good faith should be exercised and gamesmanship avoided. (*People v. Tillis* (1998)
28 18 Cal.4th 284, 293.)


1 **CONCLUSION**

2 Christian Robinson and David LeGrand are central witnesses in this case who are
3 likely to provide important testimony. The defense has provided a great number of documents
4 concerning Mr. LeGrand, however they have failed to provide reports of how these documents
5 where obtained or any statements made by this witness. Given that Mr. LeGrand was
6 employed as Mr. Jackson's attorney and that the these documents indicate communications
7 between Mr. LeGrand and defendant's former attorneys, Steve Cochran and Mark Geragos, it is
8 difficult to conceive of the possibility that the defense has no statements from this witness.

9 The notes provided on Christian Robinson are virtually indecipherable but do
10 indicate that he discussed facts that were not divulged in any former report or testimony. The
11 People have the right to discovery of complete statements of these witnesses and respectfully
12 request the court compel discovery and delay their testimony to give the People adequate time
13 to prepare.

14
15 DATED: 5/12/05

16 THOMAS W. SNEDDON, JR.
17 District Attorney

18 By: 
19 Gordon Auchincloss,
20 Senior Deputy District Attorney

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3 **PROOF OF SERVICE**

4 STATE OF CALIFORNIA
5)
6 COUNTY OF SANTA BARBARA) SS

7 I am a citizen of the United States and a resident of the County aforesaid; I am over
8 the age of eighteen years and I am not a party to the within-entitled action. My business
9 address is: District Attorney's Office; Courthouse; 1105 Santa Barbara Street, Santa Barbara,
10 California 93101.

11 On May 12, 2005, I served the within PEOPLE'S MOTION TO COMPEL
12 DISCOVERY RE: LEGRAND AND ROBINSON; on Defendant, by THOMAS A.
13 MESEREAU, JR., ROBERT SANGER, and SUSAN YU, by personally providing a copy of
14 this document to counsel in court.

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed at Santa Barbara, California on this 12th day of , May 2005.

17 _____
18 Gordon Auchincloss
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From: Auchincloss, Gordon [mailto:gauchin@co.santa-barbara.ca.us]

Sent: Wednesday, May 11, 2005 6:02 PM

To: Robert Sanger; yususan@sbcglobal.net

Subject: Late discovery

Dear Bob and Susan:

At the end of today's session Bob gave Tom and I your witness list for tomorrow. I mentioned to Bob and Investigator Castillo that we have received no reports for tomorrow's witnesses, Christian Robinson and David Legrand. Mr. Castillo said there were reports on David Legrand and there were no reports on Christian Robinson. Bob promised to e-mail me any undiscovered reports immediately. We have double checked our files and have no reports from you on David Legrand. We have located defense discovery (beginning on MJ033438) which appears to be an investigator's indecipherable scrawl regarding an interview with Christian Robinson on March 23, 2004. We do not have any other report on Christian Robinson.

We also have no reports for Friday's witness Carol McCoy.

It is now 5:57 PM and we want you to know we will not be prepared to cross-examine these witnesses tomorrow and will be asking the court to delay their testimony to another day. Please provide us with any adjustments you intend to make to your witness list as soon as possible.

Sincerely,
Gordon Auchincloss

EXHIBIT "A"

H. Robinson of
3/25/04

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& commercials

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(broadcast-journalism)
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- apparently they
wanted to do an
interview
- MS called
- I got there early

Ex. "B"