

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JUN 08 2004

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 JOE JACKSON,

Defendant.

Case No.: 1133603

FINDINGS AND ORDER RE: SEALING OF
PORTIONS OF INDICTMENT

The Court has reviewed the Grand Jury Indictment with a concern for whether release of the complete indictment might affect the ability of the court to assemble an unbiased jury. It has been a consistent concern of the Court that, in the extraordinary, high-publicity environment of this proceeding, the integrity of the jury pool is threatened if extensive disclosure of evidence that may or may not be admissible at trial takes place before the jury is selected. See the Findings adopted by the Court on January 23, 2004 in connection with its Protective Order.

The indictment includes a charge of conspiracy and that charge contains a detailed description of the acts alleged to be in support of the conspiracy. This amounts to a summary of the testimony given before the grand jury. Permitting this summary to be

1 publicly circulated before a determination is made on the transcript would severely limit the
2 effectiveness of any order made with regard to sealing the transcript. California Penal Code
3 § 938.1(b) provides that the transcript of the proceedings before the Grand Jury remains
4 closed to the public until 10 days after its delivery to the defense. The statute further
5 provides that the Court on its own motion or on motion of a party may seal the transcript
6 potentially until the trial has been completed. The Court has made an order placing the
7 transcript conditionally under seal until a determination can be made as to whether all or
8 portions of the transcript may be publicly released. Pending the determination of whether
9 the transcript of the Grand Jury should be sealed, it is important that the "overt acts"
10 section of the conspiracy charge be conditionally sealed. For the same reasons, the names
11 of alleged co-conspirators, none of whom have to date been indicted, have been redacted,
12 as have the names of the witnesses appearing before the Grand Jury.
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15 At the same time, the Court desires that public access be maximized within the
16 limitations of the concern for an unbiased jury pool and a fair trial. All of the charges and
17 sentencing considerations, the findings of the Grand Jury, and all other portions of the
18 indictment, beyond those indicated and the signature of the foreperson, have been made
19 available, remain unsealed, and are posted on the Court's internet media site.
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21 Proponents of media access, as well as the parties themselves, have been diligent
22 and helpful to the Court in balancing the concerns for public access and a fair trial. The
23 Court will entertain the filing of additional comments and authorities regarding the
24 conditional sealing of the Grand Jury transcript and will take up the issues regarding sealing
25 of all or portions of the Grand Jury transcript at the next hearing, scheduled for June 25,
26 2004.
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1 California Rule of Court 243.1 permits court records to be sealed upon findings that
2 "(1) There exists an overriding interest that overcomes the right of public access to the
3 record; (2) The overriding interest supports sealing the record; (3) A substantial
4 probability exists that the overriding interest will be prejudiced if the record is not sealed;
5 (4) The proposed sealing is narrowly tailored; and (5) No less restrictive means exist to
6 achieve the overriding interest."

7
8 The Court has previously (January 23, 2004 and February 27, 2004) made findings
9 with respect to search warrant affidavits, warrants and returns in this case. The Court
10 concluded that substantial portions of those materials should remain under seal because of
11 their confidential character. The same considerations that convinced the Court that the
12 earlier materials should be placed under seal apply as well to the identified portions of the
13 Indictment and the Court readopts the findings earlier made in those respects. The same
14 concern for the integrity of the jury pool continues to weigh against public disclosure of this
15 material at the present time.

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18 DATED: JUN 08 2004

19 
20 RODNEY S. MELVILLE
21 Judge of the Superior Court

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

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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 JUNE 9, 20 04, I served a copy of the attached FINDINGS AND ORDER RE: SEALING OF PORTIONS OF INDICTMENT addressed as follows:

THOMAS W. SNEDDON, DISTRICT ATTORNEY
DISTRICT ATTORNEY'S OFFICE
1105 SANTA BARBARA STREET
SANTA BARBARA, CA 93101

THOMAS A. MESEREAU, JR.
COLLINS, MESEREAU, REDDOCK & YU, LLP
1875 CENTURY PARK EAST, 7TH FLOOR
LOS ANGELES, CA 90067

FAX

By faxing true copies thereof to the receiving fax numbers of: 805-568-2398 (DISTRICT ATTORNEY); 818-906-2364 (THOMAS A. MESEREAU, JR.). Said transmission was reported complete and without error. Pursuant to California Rules of Court 2005(i), 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 their clerk therein or the person having charge thereof.

EXPRESS MAIL

By depositing such envelope in a post office, mailbox, subpost 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 9TH day of JUNE, 20 04, at Santa Maria, California.

Carrie L. Wagner
CARRIE L. WAGNER

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