

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

SEP 08 2004

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

**Unsealed
pursuant to
Cellebrix court
order*

12 THE PEOPLE OF THE STATE OF CALIFORNIA,)

13 Plaintiff,)

14 v.)

15 MICHAEL JOE JACKSON,)

16 Defendant.)

No. 1133603

PLAINTIFF'S MEMORANDUM
RE: AN APPROPRIATE LIMIT
TO CROSS-EXAMINATION OF
WITNESS CALLED BY THE
DEFENSE ON A LIMITED
ISSUE RELEVANT TO
SEARCH OF BRADLEY
MILLER'S OFFICE

~~UNDER SEAL~~

DATE: Sept. 16, 2004

TIME: 8:30 a.m.

DEPT: SM 2 (Melville)

21 Defendant has subpoenaed Jane Doe to appear in court and be questioned on
22 whether she knew Investigator Brad Miller was employed by attorney Mark Geragos and
23 whether she conveyed that information to law enforcement prior to November 18, 2003, the
24 date the search warrant of Mr. Miller's office was executed. It is anticipated that Jane Doe will
25 say she did not know who employed Brad Miller, nor did she care. She believed Brad Miller
26 was one of "Michael Jackson's people" along with a half-dozen others who were doing his
27 bidding. That is what she told sheriff's detectives in interviews conducted in July and August,
28 2003 and that is what she believes today.

1 Jane Doe had two lengthy interviews with detectives prior to the execution of the
2 Miller search warrant. The first began on July 6, 2003 and ended on the 7th. The second was
3 on August 13, 2003. Both interviews were video-taped. Transcripts have been prepared of the
4 interviews and are in the possession of the defense attorneys. The combined transcripts are
5 over 200 pages in length. Jane Doe said nothing about Brad Miller working for Mark Geragos.
6 On one occasion she refers to Brad Miller as one of "Michael's people," including him by that
7 reference with Frank Tyson (Casio), Vinnie Amen, Dieter Weisner, and Ronald Konitzer.
8 Once, when asked if she thought Miller worked for Jackson, she answered in the affirmative.
9 There are no other references to Brad Miller or to who might employ him.

10 Is there any evidence Jane Doe knew otherwise? An audio tape of Brad Miller's
11 interview with Jane Doe and family, presumably conducted on February 16, 2003, was seized
12 from Mr. Miller's office. That tape has been transcribed. At the outset of the interview, Miller
13 is heard telling Jane Doe he is a private investigator and works for the law firm of Geragos and
14 Geragos, specifically Mark Geragos, attorney for Michael Jackson. That introduction took
15 about 30 seconds. The interview lasted about 30 minutes. There were no other references to
16 Geragos. The interview concentrated on Michael Jackson and on Jane Doe's relationship with
17 her ex-husband.

18 Is it reasonable to believe that Mr. Miller's 30-second introduction of himself to
19 Jane Doe in which he referenced "Geragos and Geragos" would be so indelibly etched in Jane
20 Doe's memory that five to six months later she would understand Miller to have been employed
21 by Geragos rather than Michael Jackson himself? No; not in light of Miller's other remarks. In
22 the same 30 seconds introduction he also identified Michael Jackson as his ultimate employer,
23 and he devoted the balance of his conversation to the subject of Jackson and of Jane Doe's ex-
24 husband.

25 The question of who employed Brad Miller would have been insignificant to Jane
26 Doe. She would have had no motivation to cause law enforcement to believe it was Jackson
27 rather than Geragos who was identified as Miller's employer. It would have made no
28 difference in her life at all. It is likely she either did not hear him utter the words, or did hear

1 him and, five to six months later, forgot it, or heard him but did not understand the significance
2 of what he was saying. At the time, and even today, she would have had no reason to
3 understand its significance.

4 District Attorney Tom Sneddon, Sergeant Steve Robel, Detective Paul Zelis and
5 others have all testified that prior to the execution of the search warrant they had no knowledge
6 that Bradley Miller was employed by Mark Geragos. All of the interviews they relied upon
7 were audio- or video-taped. There is no question as to what the witnesses said to the
8 investigating officers. None of the statements from any of the witnesses prior to the search
9 gave any information about Brad Miller's employer.

10 It is expected that defense attorneys will attempt to engage in intensive cross
11 examination of Jane Doe, covering all aspects of her life over the last ten years or beyond, in an
12 effort to show that she is lying about both issues; that in fact she knew of the Geragos/Miller
13 connection and that she conveyed that information to law enforcement. Defense attorneys
14 should not be allowed to aggressively cross-examine a witness on entirely collateral matters
15 under any circumstance. Defense counsel in this case should not be allowed to cross-examine
16 Jane Doe concerning other instances of behavior the defense contends reflects dishonesty
17 unless that behavior is relevant to the issue and only until they can make a good faith showing
18 that Jane Doe is being deceptive on the two issues at bench.

19 The court, observing that the issue of what Jane Doe knew and what she told the
20 investigators about who hired Bradley Miller could be resolved by her answer to two questions,
21 has already stated its willingness to resolve this issue with a declaration. The defense was
22 quick to state (with a glance at the press corps in the audience) that Jane Doe has lied under
23 oath numerous times in the past and her personal attendance, for the express purpose of
24 impeaching her anticipated testimony on this not terribly critical issue, was required for that
25 reason.

26 The defense revealed its motivation too quickly. They intend to use the
27 Geragos/Miller relationship as a pretext to go after Jane Doe in a very public way. Presumably
28 the defense expects to ask Jane Doe about, e.g., her deposition testimony in her civil action

1 against J.C. Penney et al. But "a party may not cross-examine a witness upon collateral matters
2 for the purpose of eliciting something to be contradicted. [Citations.]" (*People v. Lavergne*
3 (1971) 4 Cal.3d 735, 744. And see *People v. Carpenter* (1999) 21 Cal.4th 1016,1052: "Courts
4 may 'prevent criminal trials from degenerating into nitpicking wars of attrition over collateral
5 credibility issues.' [Citations to, inter alia, *Lavergne*.]"

6 The Court aptly identified the issue as "did she tell anybody in law enforcement, and
7 that's a simple question." (Uncertified RT 8/20/04 179:6-8.) It recognized that the defense
8 "would like to have her testify, but it doesn't seem to me that after she says yea or nay, that
9 there's much else to ask her[.] [A]s much as you would like to ask her everything else, that's
10 really the only issue here." (*Id.*, 179:14-18.)

11 A good faith showing means more than Jane Doe knew of the relationship at one
12 time. It means she was consciously aware of the Geragos/Miller relationship at the time of the
13 interviews with detectives and intentionally withheld the information. That she may have
14 forgotten 30 seconds of apparently meaningless information told her five months earlier should
15 not be grounds for protracted cross examination that promises to be gratuitously nasty.

16 Dated: September 7, 2004.

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18 THOMAS W. SNEDDON, JR.
District Attorney

19 By: R J Zonen
20 Ronald J. Zonen, Senior Deputy
21 Attorneys for Plaintiff
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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; 1105 Santa Barbara Street, Santa Barbara, California 93101.

On September 7, 2004, I served the within PEOPLE'S MEMORANDUM RE: AN APPROPRIATE LIMIT TO CROSS-EXAMINATION OF WITNESS CALLED BY THE DEFENSE ON A LIMITED ISSUE RELEVANT TO THE SEARCH OF BRADLEY MILLER'S OFFICE on Defendant, by THOMAS A. MESEREAU, JR., STEVE COCHRAN, and ROBERT SANGER, by personally delivering a true copy thereof to Mr. Sanger's office and by faxing a true copy to Mssrs. Mesereau and Cochran at the facsimile number shown with the address of each on the attached Service List. A true copy will be delivered to each counsel in open court on September 8, 2004.

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

Executed at Santa Barbara, California on this 7th day of September, 2004.

Gerald McC. Franklin
Gerald McC. Franklin



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