SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

Dated & Entered:	NOVEMBER 4, 2004	**Time:**	8:35 A.M.	F	
Honorable	RODNEY S. MELVILLE			CC	
Deputy Clerk:	L. FREY	**Dept.**	SM TWO	CA	
Deputy Sheriff	L. AVILA			AC	
Court Reporter:	M. MC NEIL	**Case No.**	1133603	SR	
Plaintiff:	THE PEOPLE OF THE STATE OF CALIFORNIA			ST	
vs.				DOC	X
Defendant(s):	MICHAEL JOE JACKSON				
District Attorney:	THOMAS W. SNEDDON, JR.				
Defense Counsel:	THOMAS A. MESEREAU, JR.				
Probation Officer:		**Interpreter:**			

NATURE OF PROCEEDINGS: MOTION FOR RECUSAL OF SANTA BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE; MOTION TO SEAL IN CAMERA EX PARTE APPLICATION FOR IN CAMERA HEARING ON OCTOBER 14, 2004; MOTION TO SEAL SUPPLEMENTAL BRIEF IN SUPPORT OF MOTIONS TO SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER 5135; MOTION TO SEAL PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO RECONSIDER ORDER DENYING BAIL REDUCTION; MOTION TO SEAL DEFENDANT'S SUPPLEMENTAL PRIVILEGE LOG FOR ITEMS SEIZED PURSUANT TO SW 5135; MOTION TO SEAL PEOPLE'S OPPOSITION AND AG'S OPPOSITION TO DEFENDANT'S MOTION TO RECUSE THE DA'S OFFICE; MOTION TO SEAL PEOPLE'S STATUS REPORT ON PLAINTIFF'S DISCOVERY TO DEFENDANT; MOTION TO SEAL THE REPLY TO MOTION TO QUASH CERTAIN SUBPOENAS

Felony Complaint Filed December 18, 2003 charging the Defendant with Counts 1 thru 7: 288(a) P.C. a Felony, Counts 8 and 9: 222 P.C. a Felony, Enhancements on Counts 1 through 7: 1192.7(c)(6) P.C. and 1203.066(a)(8) P.C.

Indictment filed April 21, 2004 charging the Defendant with Count 1: 182 P.C., a Felony, Counts 2 through 5: 288(a) P.C., Felonies, Count 6: 664/288(a) P.C., a Felony, Counts 7 through 10: 222 P.C., Felonies, Special Allegations on Counts 2 through 5: 1192.7(c)(6) P.C. and 1203.066(a)(8)

The Court made orders re: Motion to Recuse the District Attorney Denied; Motion to Seal In Camera Ex Parte Application Documents for the In Camera Hearing held on October 14, 2004 Denied; Motion to Seal Supplemental Brief in Support of Motion to Suppress Evidence Obtained by Search Warrant No. 5135 Denied; Motion to Seal Plaintiff's Response to Defendant's Motion to Reconsider Order Denying Bail Reduction Granted; Motion to Seal Defendant's Supplemental Privilege Log for Items Seized Pursuant to Search Warrant 5135 Granted; Motions to Seal People's Opposition and the Attorney General's Opposition to Defendant's Motion to Recuse the District Attorney's Office and

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the Reply thereto Granted and Redacted Versions to Remain in File and on the Internet; Motion to Seal People's Status Report on Plaintiff's Discovery to Defendant Granted; Motion to Seal the Reply to Motion to Quash Certain Subpoenas Granted; Motion to Reconsider Bail Set for Nov. 5, 2004 Off Calendar Without Prejudice; District Attorney's Memo re: Further Sanchez Violation to be Heard on November 5, 2004; District Attorney to Prepare List Describing Each Item Seized Pursuant to Search Warrant No. 5135 with Notations; Serving of Subpoenas on Jane Doe, Mr. Doe or the Children

At 8:35 A.M. with Court, Counsel and Research Attorneys Jed Beebe and Tracy Splitgerber present, hearing proceeded.

Counsel present for the People are Thomas W. Sneddon, Jr., Ronald Zonen, Gordon Auchincloss and Gerald M. Franklin

Counsel present for the Defendant are Thomas A. Mesereau, Jr., Robert M. Sanger and Susan Yu

Counsel present for the Attorney General are Steven D. Matthews and Robert M. Snider.

A 977 Waiver is on file and the Defendant's presence is excused for this hearing.

Counsel Mesereau, Zonen and Matthews made their arguments to the Court re: the Defendant's Motion for Recusal of the Santa Barbara County District Attorney's Office.

The Court finds that the legal standard regarding the motion is Penal Code Section 1424; that nothing before charges were filed appears to evidence a disabling conflict, that testimony before the grand jury was considered and rejected on the 995 Motion, and Sheriff Thomas has been found not to be an agent of the District Attorney on summary denial of an OSC re: contempt petition. The Court advised Counsel that there will be controls at trial on inappropriate questions or evidence. The Court further finds that the conduct by the District Attorney has not been excessively zealous and has not threatened the integrity of the trial proceedings.

The Court orders that the motion to recuse the District Attorney shall be denied.

The Court further orders that the Motion to Seal In Camera Ex Parte Application Documents for the In Camera Hearing held on October 14, 2004 shall be denied. Counsel for the Defendant has no objection to the release of the documents from seal.

The Court further orders that the Motion to Seal Supplemental Brief in Support of Motion to Suppress Evidence Obtained by Search Warrant Number 5135 shall be denied; that the unredacted version shall be placed in the Court's file and on the internet today.

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The Court further orders that the Motion to Seal Plaintiff's Response to Defendant's Motion to Reconsider Order Denying Bail Reduction shall be granted. The Plaintiff's Response was filed under conditional seal on October 28, 2004 and the proposed redacted version was released the same day. The Court's findings and order shall follow.

The Court further orders that the Motion to Seal Defendant's Supplemental Privilege Log for Items Seized Pursuant to Search Warrant 5135 shall be granted. The Defendant's Supplemental Privilege Log was filed on October 25, 2004 and no redacted version was prepared or released. The Court's findings and order shall follow.

The Court further orders that the Motions to Seal People's Opposition and the Attorney General's Opposition to Defendant's Motion to Recuse the District Attorney's Office and the Reply Thereto shall be granted and the redacted versions shall remain in the public file and on the internet. The District Attorney's opposition was filed under conditional seal on October 20, 2004 and its proposed redaction was released that same day. The Attorney General's Opposition was filed on October 28, 2004 under conditional seal and its proposed redacted version was released on October 29, 2004. The Defendant's Reply was filed on November 1, 2004 and its redacted version was released on November 2, 2004. The Court's findings and order shall follow.

The Court further orders that the Motion to Seal People's Status Report on Plaintiff's Discovery to Defendant shall be granted. The motion was placed conditionally under seal on August 17, 2004 and the redacted version was released on August 17, 2004. The People were directed to file the motion to seal on that same date. No motion was filed. At the September 16, 2004 hearing, the Court again directed the District Attorney to file the motion. The District Attorney filed its motion on October 18, 2004. The Court's findings and order shall follow.

The Court further orders that the Motion to Seal the Reply to Motion to Quash Certain Subpoenas shall be granted. At the August 23, 2004 hearing, the Court indicated that the motion to seal this document was granted. This was in error as no motion to seal had been filed. The District Attorney filed its motion to seal on October 18, 2004. The Court's findings and order shall follow.

Upon stipulation of Counsel for the Defendant, the Court further orders that the Motion to Reconsider Bail set for November 5, 2004 shall be off calendar without prejudice.

The Court further orders that the District Attorney's memorandum re: further Sanchez violation shall be heard on November 5, 2004.

The Court further orders that the District Attorney shall prepare a list describing each item seized pursuant to Search Warrant #5135 identifying which items were seized pursuant to authorization in the warrant and which

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items are asserted to have been in plain view; that the District Attorney shall focus on the 21 items to which no privilege has been asserted. Attorney Sanger shall let the Court know by tomorrow as to which items they are claiming the Attorney-Client privilege.

The Court advised Counsel that redaction of the exhibits admitted at the 1538.5 P.C. hearing is being completed.

The Court asked that Attorneys Sanger and Franklin contact Attorney Boutrous re: a standing order shortening time on motions to seal oppositions and replies to calendared motions from ten days to five days and two days responding so that the motions to seal those oppositions and replies can be heard the same day as the motion itself. If any party requests additional time to oppose a particular motion to seal, that request will be heard the same day as the motion to seal.

Upon stipulation of Attorneys Mesereau and Sneddon, the Court orders that if Attorney Mesereau issues trial subpoenas for Jane Doe, Mr. Doe or the children, Attorney Mesereau shall provide the subpoena to the District Attorney. The District Attorney will serve the subpoena and provide a proof of service to the Court.

At 10:35 A.M. Court in recess subject to call of Counsel re: the search warrant list.

At 11:15 A.M. with Court and Counsel present, hearing continued.

Attorney Sneddon advised the Court that Counsel will need to meet with the officers and remove the privileged documents from the files containing the seized documents.

Attorney Sanger advised the Court that Counsel shall meet tomorrow morning at 8:00 A.M. to go over the information needed for the Search Warrant motion.

At 11:30 A.M. the Court ordered a recess until November 5, 2004 at 8:00 A.M.

CLERK OF THE SUPERIOR COURT

BY Lorna Frey
LORNA FREY, DEPUTY CLERK

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PROOF OF SERVICE

1013A(1)(3), 1013(c) CCP

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

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 NOVEMBER 22, 20 04, I served a copy of the attached MINUTE ORDER, DATED 11/4/04 addressed as follows:

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

THOMAS W. SNEDDON, JR.
DISTRICT ATTORNEY'S OFFICE
1112 SANTA BARBARA STREET
SANTA BARBARA, CA 93101

X FAX

By faxing true copies thereof to the receiving fax numbers of: (310) 861-1007 (Thomas Mesereau, Jr.); (805) 568-2398 (Thomas Sneddon) . 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 the person having charge thereof or by hand delivery to the above mentioned parties.

____ EXPRESS MAIL

By depositing such envelope in a post office, mailbox, sub-post 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 22ND day of NOVEMBER , 20 04 , at Santa Maria, California.

Carrie L Wagner

CARRIE L. WAGNER