

**FILED**  
SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA

NOV 19 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  
SANTA MARIA DIVISION**

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

v.  
MICHAEL JOE JACKSON,

Defendant.

No. 1133603.

~~PROPOSED~~  
ORDER DIRECTING THAT  
PLAINTIFF'S REQUEST THAT  
COURT MODIFY ITS *TEAL*  
ORDER, ETC. BE MAINTAINED  
UNDER CONDITIONAL SEAL  
PENDING FURTHER ORDER OF  
COURT

It appearing from the Declaration of Gerald McC. Franklin and from the Plaintiff's Request That Court Modify Its *Teal* Order, Etc., that information that hitherto has been sealed is set forth in the Response, disclosure of which may prejudice the right of the parties to a fair trial and the privacy of individuals alleged to be victims in the Indictment, the Court orders as follows:

1. Plaintiff's Request That Court Modify Its *Teal* Order, Etc is conditionally sealed;
2. The motion to maintain that Request under conditional seal until further order of court shall be heard on November 29, 2004, at 8:30 a.m.

10:00

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DATED: November 19, 2004

*Rodney S Melville*  
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RODNEY S. MELVILLE  
Judge of the Superior Court



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 19, 20 04, I served a copy of the attached ORDER DIRECTING THAT PLAINTIFF'S REQUEST THAT COURT MODIFY ITS TEAL ORDER, ETC. BE MAINTAINED UNDER CONDITIONAL SEAL PENDING FURTHER ORDER OF COURT addressed as follows:

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

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

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 19<sup>TH</sup> day of NOVEMBER, 20 04, at Santa Maria, California.

  
CARRIE L. WAGNER





MEMORANDUM OF POINTS AND AUTHORITIES

The procedure for sealing records under California Rules of Court, rule 243.1 et seq. applies only to records that are deemed public. (*Id.*, rule 243.1(a)(2).) Motions and responsive pleadings in criminal cases are, ordinarily, "public" records of the court.

Rule 243.1(d) provides that

The court may order that a record be filed under seal only if it expressly finds facts that establish:

- (1) There exists an overriding interest that overcomes the right of public access to the record;
- (2) The overriding interest supports sealing the record;
- (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
- (4) The proposed sealing is narrowly tailored; and
- (5) No less restrictive means exist to achieve the overriding interest.

Rule 243.1(e) provides, in pertinent part:

(1) An order sealing the record must (i) specifically set forth the facts findings that support the findings and (ii) direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each documents or page must be included in the public file.

Rule 243.2(b) provides, in pertinent part, that "Pending the determination of the motion [of a party to file a record under seal], the lodged record will be conditionally under seal."

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