

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

Dated & Entered: APRIL 21, 2005	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: JURY TRIAL – FORTY THIRD DAY

1. PLAINTIFF'S MOTION IN LIMINE RE: ADMISSION OF EXPERT TESTIMONY ON "BATTERED WOMEN'S SYNDROME"(Initially heard on January 28, 2005 and ruling was deferred.); 2. PLAINTIFF'S SUPPLEMENTAL MOTION FOR THE ADMISSION OF ADDITIONAL EVIDENCE PURSUANT TO EVIDENCE CODE 1108 AND 1101 (b); 3. PLAINTIFF'S MEMORANDUM RE: ADMISSIBILITY OF CERTAIN TESTIMONY OF SEVERAL OF DEFENDANT'S PROPOSED WITNESSES; 4. PLAINTIFF'S EMERGENCY MOTION TO QUASH DEFENDANT'S SUBPOENA FOR MANUAL RAMIREZ; 5. DEFENDANT'S MOTION TO ADMIT EVIDENCE OF ALLEGED SEXUAL CONDUCT (Initially heard on March 11, 2005. Supplemental Memorandum to be considered.); 6. MR. JACKSON'S REQUEST FOR CLARIFICATION OF THE COURT'S ORDER KNOWN TO PROSECUTION AND UNKNOWN TO DEFENSE; 7. [AMENDED] ACCESS PROPONENTS' MOTION REQUESTING CLARIFICATION OF MEDIA DECORUM ORDER [Off Calendar]; 8. PLAINTIFF'S MEMORANDUM REGARDING ADMISSIBILITY OF EVIDENCE OF CRIMINAL CHARGES PENDING AGAINST WITNESS CHRIS CARTER; 9. PEOPLE'S BRIEF REGARDING EVIDENTIARY FOUNDATIONS FOR DOCUMENT'S FOUND DURING THE SEARCH OF THE HOME OF CO-CONSPIRATOR F. MARC SCHAFFEL; 10. TRIAL BRIEF ON ADMISSIBILITY OF GAVIN ARVIZO'S STATEMENT TO CHRIS CARTER; 11. PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF NOVEMBER 2003 "SURRENDER FLIGHT" ON EVIDENCE CODE 352 AND 5TH AMENDMENT GROUNDS; 12. PLAINTIFF'S MOTION TO PRESENT THE TESTIMONY OF ALEXANDER MONTAGU MANCHESTER PURSUANT TO EVIDENCE CODE 1101

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

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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) P.C.

The Court made orders re: Plaintiff's Motion in Limine re: Admission of Expert Testimony on "Battered Women's Syndrome" Denied; Plaintiff's Supplemental Motion for the Admission of Additional Evidence Pursuant to Evidence Code 1108 and 1101(b) Denied as to the Bedroom Incident, Allowed as to the Bathroom and Hug Incident; Plaintiff's Memorandum re: Admissibility of Certain Testimony of Several of Defendant's Proposed Witnesses – the Court Orders that an Offer of Proof Shall Be Made Prior to Each Witness Being Called; Plaintiff's Emergency Motion to Quash Defendant's Subpoena for Manual Ramirez Denied; Defendant's Motion to Admit Evidence of Alleged Sexual Conduct Shall be Allowed; Defendant's Request for Clarification of the Court's Order Known to Prosecution and Unknown to Defense the Court Orders that Further Submission With Respect to Rijo Shall be Permitted and that the Defense May Not Attack Gavin's Credibility with an E-mail with the Password "Sexy"; Amended Access Proponents' Motion Requesting Clarification of Media Decorum Order is Off Calendar; Plaintiff's Memorandum Regarding Admissibility of Evidence of Criminal Charges Pending Against Witness Chris Carter – the Court orders that as to the Circumstances of the Crimes in Nevada they shall be Precluded, but Not the Fact of His Incarceration or the Existence of Pending Charges; Plaintiff's Motion in Limine to Exclude Evidence of November 2003 "Surrender Flight" on Evidence Code 352 and 5th Amendment Grounds and the Evidence of Cynthia Montgomery Shall be Excluded; Continuance

At 8:35 A.M. in the presence of the Jury with Court, Counsel and Defendant present, trial continued.

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

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

Investigating Officer Steve Robel present for the People.

Examination of Brian Barron as a witness on behalf of the People continued.

Attorneys Sanger and Auchincloss examined the witness.

Stephen Cleaves sworn and examined as a witness on behalf of the People.

Attorneys Sneddon and Sanger examined the witness.

Timothy Sutcliffe sworn and examined as a witness on behalf of the People.

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Attorneys Sneddon and Sanger examined the witness.

Timothy Rooney sworn and examined as a witness on behalf of the People.

Attorneys Sneddon and Sanger examined the witness.

Steven Moclcr sworn and examined as a witness on behalf of the People.

Attorneys Sneddon and Sanger examined the witness.

Jeff Klapakis recalled for further examination as a witness on behalf of the People.

Attorney Auchincloss examined the witness.

At 12:20 P.M. the Court admonished the Jury and ordered a recess until April 25, 2005 at 8:30 A.M.

Defendant released on bail previously posted.

At 12:25 P.M. in the absence of the Jury and the Defendant with Court and Counsel present, trial continued.

A 977 Waiver is on file and the Defendant's presence is waived for the hearing on the motions.

Attorneys Auchincloss and Sanger addressed the Court re: Plaintiff's Motion in Limine re: Admission of Expert Testimony on "Battered Women's Syndrome." The Court finds that the evidence is valuable in domestic violence cases, but shall not be allowed in this case; that under 352 E. C. the prejudicial effect far outweighs the probative value; that the Jury might be confused by the testimony; that under 352 E. C. the testimony would prolong the trial. The Court orders that the motion shall be denied.

Attorneys Sneddon and Sanger addressed the Court re: Plaintiff's Supplemental Motion for the Admission of Additional Evidence Pursuant to Evidence Code 1108 and 1101(b). The Court shall allow testimony re: the bathroom incident (swim trunks incident) and the hug incident under 1101 E.C.; that the Court denies the balance of the motion.

Attorneys Sanger and Sneddon addressed the Court re: the Plaintiff's Memorandum re: Admissibility of Certain Testimony of Several of Defendant's Proposed Witnesses. The Court orders as to each witness Counsel for the Defendant shall advise the Court of their offer of proof re: negative testimony witnesses, either verbally or in writing, prior to each witness being called. The District Attorney may also address their offer of proof.

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Attorneys Zonen and Sanger addressed the Court re: Plaintiff's Emergency Motion to Quash Defendant's Subpoena for Manuel Ramirez. The Court orders that the motion to quash shall be denied. The Court asked Counsel for the Defendant to accommodate the witness.

Attorneys Yu and Auchincloss addressed the Court re: Defendant's Motion to Admit Evidence of Alleged Sexual Conduct. The Court finds that the evidence offered by the male described in the affidavit is relevant and admissible and shall be allowed.

Attorney Yu addressed the Court re: Mr. Jackson's Request for Clarification of the Court's Order Known to Prosecution and Unknown to Defense. The Court provided the 3-11-05 minute order to Counsel. The Court orders that the Defense may not attack Gavin's credibility with an e-mail with the password "sexy" on it.

The Amended Access Proponents' Motion Requesting Clarification of Media Decorum Order is off calendar subject to being reset upon the proper notice.

Attorneys Sneddon, Sanger and Chris Carter's Attorney Jeff Segal addressed the Court re: Plaintiff's Memorandum Regarding Admissibility of Evidence of Criminal Charges pending Against Witness Chris Carter. The Court shall allow the testimony of Chris Carter. The Court orders that the Defense shall be precluded from inquiry into the circumstances of the crimes in Nevada with which Mr. Carter is charged, but not the fact of his incarceration or the existence of pending charges. Counsel shall try to reach a stipulation on how the Jury is to be advised of the incarceration and pending charges and advise the Court of said stipulation on April 25, 2005.

Attorneys Nicola and Sanger addressed the Court re: Plaintiff's Motion in Limine to Exclude Evidence of November 2003 "Surrender Flight" on Evidence Code 352 and 5th Amendment Grounds.

Cynthia Montgomery sworn and examined as a witness on her own behalf.

The Court orders that the testimony of Cynthia Montgomery shall be entirely excluded.

At 2:40 P.M. Court in recess until April 25, 2005 at 8:30 A.M.

CLERK OF THE SUPERIOR COURT

BY 
LORNA FREY, DEPUTY CLERK

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 May 3, 2005, 2005, I served a copy of the attached MINUTE ORDER 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

FAX

By faxing true copies thereof to the receiving fax numbers of: (805) 456-0699 (Thomas Mesereau, Jr.); (805) 568-2398 (Thomas Sneddon). Said transmission was reported complete and without error. Pursuant to California Rules of Court 2005(1), 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.

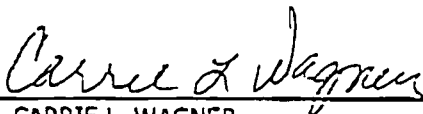
PERSONAL SERVICE

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 3RD day of MAY, 2005, at Santa Maria, California.



CARRIE L. WAGNER