

FILED
SUPERIOR COURT-STOCKTON

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8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

9 STOCKTON BRANCH

10	The People of the State of California,)	No. SF112495(A)
11)	
11	Plaintiff,)	MOTION TO SEAL
12)	GRAND JURY TRANSCRIPT
12	v.)	
13	MELISSA HUCKABY)	
14)	DATE: 08/17/09
14)	TIME: 1:00 pm
15	Defendant(s).)	DEPT: 35

16 To protect both the People's and defendant Melissa Huckaby's
17 right to a fair and impartial trial, the People request the court
18 seal the court reporter's transcript of the grand jury hearing until
19 the defendant's trial has been completed in accordance with
20 California Penal Code section 938.1.

21 Sealing of the transcript will: 1) protect identities of minor
22 victims and witnesses and their families; 2) protect potential
23 jurors from hearing about certain statements that, while admissible
24 at the grand jury hearing, would be inadmissible at trial if offered
25 BY the declarant per California Evidence Code section 1220;
26 3) protect potential jurors from hearing only one side of the
27 toxicological, DNA, cordage comparison, handwriting analysis,
28 pharmacological and autopsy evidence.

1 Unless the transcript remains sealed, defense will no doubt
2 argue that neither voir dire nor jury instructions can reverse the
3 potentially damaging and prejudicial effect of likely extensive pre-
4 trial exposure to only one interpretation of such evidence and
5 hence, venue must move.

6 Also, prospective jurors who read newspapers or internet
7 accounts of the facts adduced before the grand jury are likely to
8 remember these reports because of their unique subject matter and
9 may even develop a preconception concerning defendant's guilt or
10 innocence.

11 In addition, in an effort to produce potentially exculpatory
12 evidence, the People introduced arguably embarrassing information
13 about some individuals and their backgrounds - which evidence may or
14 may not be admissible at trial. Sealing the transcript will protect
15 privacy interests of those persons.

16 Redacting or partially sealing the transcripts would render
17 them nearly unintelligible as the benign information is inextricably
18 intertwined with the prejudicial or inadmissible information.

19 Conclusion: To help the court select a fair jury locally, the
20 transcript should be sealed. It is worth noting P.C. 938.1(b) does
21 not prevent the release of transcripts for all time; it merely
22 delays public access to testimony until defendant's trial has been
23 completed.

24 Dated: 08/12/2009

25 Respectfully submitted,

26 James P. Willett
27 District Attorney

28 *Thomas Festa*

Thomas J. Testa
Deputy District Attorney

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