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FILED  
SUPERIOR COURT-STOCKTON  
2010 MAR 26 AM 8:41  
LISA JUNQUEIRO, CLERK  
*Melissa Huckaby*  
DEPUTY

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7 Attorneys for Plaintiff

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,	)	SUPPLEMENTAL RESPONSE
12		)	TO DEFENDANT'S 1538.5
12	v.	)	MOTION TO SUPPRESS
13		)	FILED 10/15/09
14		)	
14	MELISSA HUCKABY	)	
15		)	DATE: 04/12/10
16		)	TIME: 8:30 am
16	Defendant(s).	)	DEPT: 14

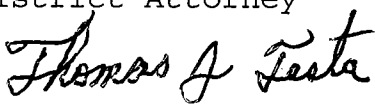
17 During that portion of the hearing set for April 12, 2010 that  
18 relates to Miranda issues, the People will ask the court to consider  
19 these cases and principles:

- 20 1. If any officers violated defendant's Miranda rights, any such
- 21 violation would not necessarily taint the admissibility of any
- 22 physical evidence derived from those statements. "The fruit of
- 23 the poisonous tree doctrine does not apply to physical evidence
- 24 seized as a result of a non-coercive Miranda violation *U.S. v.*
- 25 *Patane* (2004) 542 US 630, 637-638, 645; *People v. Davis* (2005)
- 26 36 Cal.4th 510, 552; *People v. Whitfield* (1996) 46 Cal.App.4th
- 27 947, 957." *People v. Davis* (2009) 46 Cal.4th 539, 598.

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- 1 2. If police obtain information from a suspect in violation of  
2 Miranda and then obtain a search warrant based on that  
3 information, the evidence they seize during the execution of  
4 that warrant is not inadmissible under the "fruit of the  
5 poisonous tree" concept. *People v. Brewer* (2000) 81  
6 Cal.App.4th 442, at 454-455 citing *U.S. v. Patterson* (9<sup>th</sup> Cir.  
7 1987) 812 F2d 1188, 1193.
- 8 3. In determining whether a statement is coercive the court should  
9 look at all the circumstances surrounding the case including  
10 the defendant's background, experience, and conduct. *People v.*  
11 *Davis* (2009) 46 Cal.4th 539, 596. This includes defendant's  
12 prior experience with the criminal justice system, the tone of  
13 the questions and whether defendant was confused or misled by  
14 detectives. (*supra* at p. 599)

15 Dated: 03/25/2010

16  
17 Respectfully submitted,  
18 James P. Willett  
19 District Attorney  
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21 Thomas J. Testa  
22 Deputy District Attorney  
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