22CR003712

Flores, Paul

6 of 6

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/13/2022 **Time: 8:30 AM** **Jury Trial: Long Cause**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Prospective Jurors panel #1 are present and seated in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Prospective Jurors panel #2 are present and seated in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way.

Jurors are ordered to provide information on kiosk outside courtroom and will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called, all parties present.

Prospective Jurors panel #3 are present and seated in courtroom.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are ordered to provide information on the outside kiosk and will be provided with a date to return for further selection.

Jurors are admonished not to discuss or investigate the case in any way.

Prospective Jurors panel #4 are present and seated in courtroom.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are ordered to provide information and will be provided with a date to return for further selection.

Jurors are admonished not to discuss or investigate the case in any way.

Court in recess for the day.

Jury trial remains as set for Tuesday, June 14, 2022 at 08:30 am in Salinas, Department 4.

Defendant to remain in custody.

No bail allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: **Department 4**

Date: 6/14/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Prospective remaining jurors from panel 4 are present.

Prospective jurors are released for hardships.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #5 present in courtroom 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #6 present in courtroom 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called all parties present.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #7 present in courtroom 4.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #8 present in courtroom 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for the day.

Matter remains set for Jury trial long cause on June 15, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: Location: Department 4

Date: 6/15/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Out of the presence of the prospective jurors, the Court and Counsel discuss juror 248 is excused for hardship, juror 378 was ordered back and is now excused for cause by stipulation.

Case called, all parties present.

Prospective juror panel # 9 is present in Courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel # 10 present in courtroom 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called all parties present.

The Court addresses juror # 396. Juror # 396 is released by stipulation for hardship.

The People provide the Court with a courtesy copy of a CD and parties stipulate the Court may review.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #11 present in courtrooms 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel #12 present in courtroom 4.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for the day.

Matter remains set for Jury trial long cause on June 16, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/16/2022 9:37 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' LIST OF WITNESSES THAT MAY BE PROMINENTLY MENTIONED DURING TRIAL UNDER SEAL

Hon. Jennifer J. O'Keefe

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that Defendant Paul Flores, by and through his attorneys Robert M. Sanger, Sarah S. Sanger and Sanger Swysen & Dunkle, hereby request that the Court permit Defendant to file under seal in accordance with California Rules of Court, rules 2.550 and 2.551, and to

protect the Defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, the following document:

1. List of Witnesses that May be Prominently Mentioned During Trial.

This application is made on the grounds that the Court already made a finding as to necessity of a sealing order after granting the protective order on April 15, 2021, and that sealing is necessary to protect the Defendant's right to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution.

This application is based on the attached memorandum of points and authorities, all the papers and records on file in this action and on such further oral and documentary evidence that may be presented at a hearing of this application.

Dated: June 16, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. We are concurrently filing the following documents conditionally under seal:
    1. List of Witnesses that May be Prominently Mentioned During Trial.
3. These filings contain information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial. There is a substantial probability that Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, would be prejudiced if the above-referenced documents are not sealed. Sealing is also necessary to comply with the protective order on April 15, 2021.
4. I am respectfully requesting that the following document be filed under seal to protect Mr. Flores' constitutional rights:
    1. List of Witnesses that May be Prominently Mentioned During Trial.

I declare under penalty of perjury that the foregoing is true and correct and that this was executed on June 16, 2022, in Santa Barbara County, California.

Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. FILING THE LIST OF WITNESSES THAT MAY BE PROMINENTLY MENTIONED DURING TRIAL UNDER SEAL IS NECESSARY TO PREVENT CONFIDENTIAL INFORMATION FROM BEING DIVULGED TO THE PUBLIC

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (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. (California Rule of Court 2.550(d).)

In this case, the List of Witnesses that May be Prominently Mentioned During Trial includes information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial, if made public, would prejudice Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution. Sealing is also necessary to comply with the protective order on April 15, 2021. Therefore, we respectfully submit that it is necessary to file the following documents under seal to protect Mr. Flores' rights to due process, a fair trial and impartial jury and that this overriding interest satisfies the requirements of Rule of Court 2.550(d):

1. List of Witnesses that May be Prominently Mentioned During Trial.

CONCLUSION

For the above-state reasons, the Court should grant this application.

Dated: June 16, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 16, 2022, I served the foregoing document entitled: **EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' LIST OF WITNESSES THAT MAY BE PROMINENTLY MENTIONED DURING TRIAL UNDER SEAL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 16, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

Christopher Peuvrelle
Deputy District Attorney
1035 Palm St, # 4
San Luis Obispo, CA 93408-1000
cpeuvrelle@co.slo.ca.us
Via Email Only

Harold Mesick
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PO Box 23
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Via Email Only

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/16/2022 9:37 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

LIST OF WITNESSES THAT MAY BE PROMINENTLY MENTIONED DURING TRIAL

Date: June 16, 2022
Time: 8:30
Dept.: 4

Hon. Jennifer J. O'Keefe

TO THE CLERK OF THE ABOVE-ENTITLED COURT, DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE AND HAROLD MESICK:

Defendant Paul Flores hereby submits the following list of witnesses that may be prominently mentioned during trial:

1. Denise Aguilar – CSI Technician
2. Felipe Arias

3. Cindy Arrington (Pitois)
4. Karen Atkinson
5. Kathryn Auker
6. Wayne Behrens
7. Toyetta Beukes, RN
8. Kristine Black (Kaster)
9. Trevor Boelter
10. Diane Box (Oriley; Willis)
11. Angela Butler
12. James Camp – SLO DA
13. Margarita Campos
14. Javier Carrillo
15. David Carter, Ph.D.
16. Kathleen Casey (Cooper)
17. Edward Chadwell
18. Barbara Ciesielski
19. Clinton Cole – SLO SO
20. Steven Crawford – SLO SO
21. Robert Cudworth – SLO PD
22. Christopher Davis – SLO SO
23. Timothy Davis
24. Tina Davis (Gualco)
25. Flara Dean
26. Angie Doe
27. Rachael Doe
28. Jennifer Doe
29. Tiare Doe
30. Sarah Doe

31. Christa Doe
32. Katie Doe
33. Ronda Doe
34. Sienna Falk (Kimbell)
35. Sean Farrell
36. Ryan Fell
37. Christopher Fitzpatrick – SLO SO
38. Steven Fleming
39. Susan Flores (Charles)
40. Shawn Freeman – Redondo Beach PD
41. Mario Garcia
42. Justin Goodwin
43. Eric Grasso
44. Mike Green – Redondo Beach PD
45. Diana Guerrero (aka Marlene Guerrero; Diana Marlene Lopez)
46. Victor Guerrero – FBI
47. James Ha, Ph.D.
48. Phil Hanes
49. Bill Hanley – SLO DA
50. Larry Hobson – SLO DA
51. Jennifer Hudson (Perizzolo)
52. Elizabeth Johnson, Ph.D.
53. Kenneth Jones – SLO SO
54. Lawrence Kennedy – Cal Poly PD
55. Dave Kenney – SLO SO
56. Ross Ketcham
57. Jennifer Koch (Matsler)

58. Chris Lambert
59. Gail Laroque (Gobrecht; Roque)
60. Shelby Liddell – SLO SO
61. Jana Lord (Schrock)
62. Deanna Maness (Simpson)
63. Cheryl Manzer (Anderson)
64. Brett McCarthur
65. Jayson McCauliff
66. Mike McConville
67. Carrie McDonnell (Wood)
68. Jennifer Medeiros (Phipps)
69. Kim Merz (Ciancio)
70. Ramona Messina
71. Brent Moon
72. Jeromy Moon
73. Adela Morris (Strauss)
74. Kenzie Morrow
75. Ted Munley
76. Toshio Nakagawa
77. Rick Neufeld – SLO SO
78. Jamilyn Parsley (Holman)
79. Nathan Paul – SLO SO
80. Jennifer Ray (Franks)
81. Brian Robinson
82. Michael Rofail
83. Nathan Rupcich
84. Owen Shea, M.D.
85. Vanessa Shields (Kaster; Maison)

86. Matthew Smart
87. Denise Smart (Gumpper)
88. Stan Smart
89. Faye Springer – Sacramento DA's Office
90. Henry Stewart – SLO SO
91. Lindsey Stewart
92. David Stone, III
93. Steve Tate – SLO SO
94. Matt Terrell – SLO SO
95. Crystal Teschendorf (Calvin)
96. Ermelinda Thomas (Flores)
97. Tara Thomman (Barnett)
98. Matthew Toomey
99. Derrick Tse
100. Marshall Turbeville – Dep. of Forestry
101. Jeanine West – SLO SO
102. Shahn Whitted
103. Eric Wilkins
104. Amy Willeke – FBI
105. Kendra Wilson (Koed; Miller)
106. Dustin Zimmer

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FURTHERMORE, Defendant hereby fully reserves the right to call any further additional witnesses as the evidence at trial may warrant.

Dated: June 16, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 16, 2022, I served the foregoing document entitled: **LIST OF WITNESSES THAT MAY BE PROMINENTLY MENTIONED DURING TRIAL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

X **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

X **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 16, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

Christopher Peuvrelle
Deputy District Attorney
1035 Palm St, # 4
San Luis Obispo, CA 93408-1000
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Via Email Only

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1303 Higuera St.
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Via Email Only

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/16/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called, all parties present.

Prospective juror panel # 13 is present in courtrooms 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are

ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Out of the presence of the jurors, the Court places on the record Juror # 378 was released and Counsel may now contact the prospective juror.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel # 14 present in courtrooms 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for lunch break.

Case called, all parties present.

Prospective Jurors panel #15 present in courtrooms 4 and 1.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess for the day.

Matter remains set for Jury trial long cause on June 17, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
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831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: Location: Department 4

Date: 6/17/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause (ongoing).

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called, all parties present.

Prospective Juror panel # 16 is present in Courtrooms 4 and 5.

District Attorney, Defendant's Counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

JNow at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Court in recess to receive panel.

Case called, all parties present.

Prospective Jurors panel # 17 present in courtrooms 4 and 5.

District Attorney, Defendant's counsel and Defendants are introduced.

The Court thanks the jurors for their service and explains the nature of the case.

Questionnaires are handed out to prospective jurors, explained and are to be filled out in the courtroom.

Jurors are sworn as a group.

Now at a later time, jurors are excused for cause and hardship by stipulation of the parties.

Remaining jurors are admonished to not discuss or investigate the case in any way and are ordered to provide information on outside kiosks.

Jurors will be provided with a date to return for further selection.

Out of the presence of the jurors, the Court notes for the record Juror # 1179 transposed his number on his questionnaire and was released for hardship. Juror's actual number was 1197.

Jury schedule for week of June 20, 2022 is discussed.

Case remains set for Jury trial long cause (ongoing) on June 20, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Paul Ruben Flores,** Defendant	**Out of Court Entries by Clerk** Clerk: **Kristie Hanson** Date: 6/20/2022 Time: 8:01 am
	Case No. 22CR003712

Jury trial is vacated for June 20, 2022 at 08:30 am in Salinas, Department 4.

Jury trial is vacated for June 21, 2022 at 08:30 am in Salinas, Department 4.

Jury trial is vacated for June 22, 2022 at 08:30 am in Salinas, Department 4.

Jury trial is vacated for June 23, 2022 at 08:30 am in Salinas, Department 4.

Jury trial is vacated for June 24, 2022 at 08:30 am in Salinas, Department 4.

Jury trial is reset for June 27, 2022 at 08:30 am in Salinas, Department 4.

Defendant to remain in custody.

No bail allowed.

CC: Monterey County Jail
District Attorney Chris Peuvrelle
Attorney Robert Sanger

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/23/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B [PROPOSED] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The Bench Memorandum Documenting The People's Efforts To Provide Discovery And Obtain Reciprocal Discovery and the Affidavit in support of the Bench Memorandum Documenting The People's Efforts To Provide Discovery And Obtain Reciprocal Discovery are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: **June 4, 2022**

Jennifer O'Keefe

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

MC-510

MEDIA AGENCY *(name)*: NBC News, Datelin e
CHANNEL/FREQUENCY NO.: National — NBC
PERSON SUBMITTING REQUEST *(name)*: Ann Preisman, producer
ADDRESS: 100 Universal CIty Plaza, Universal City, CA 91608
TELEPHONE NO.: 646-573-3796

To keep other people from seeing what you entered on your form, please press the Clear This Form button

Insert name of court and name of judicial district and branch court, if any:
Monterey County Criminal Court

TITLE OF CASE:
People v Paul FLores; People v. Ruben FLores

NAME OF JUDGE:
Hon. Jennifer O'Keefe

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/23/2022
By Deputy: Inofuentes, Maria

CASE NUMBER:
22CR003712 and 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*: NBC News, Dateline

1. a. ☑ No hearing was held.
   b. ☐ Date of hearing: Time: Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ **THE COURT FINDS** *(findings or a statement of decision are optional)*: ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ **denied.**
   b. ☒ **granted** subject to the conditions in rule 1.150, California Rules of Court, **AND** the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
      (i) ☐ shall not apply to allow coverage of proceedings that are continued.
      (ii) ☐ shall apply to allow coverage of proceedings that are continued.
      (8) ☒ Other *(specify)*: See attached order

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☒ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:

7. ☐ Number of pages attached:

Date: **June 8, 2022**

Jennifer O'Keefe

(See reverse for additional information) JUDGE JENNIFER O'KEEFE

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Cal. Rules of Court rule 1.150
www.courtinfo.ca.gov

CASE NAME:	CASE NUMBER:
	22CR003712 and 22CR003713

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

For your protection and privacy, please

Save This Form Print This Form Clear This Form

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Davis Wright Tremaine, LLP, Suite 2400, 865 South Figueroa Street, Los Angeles, California 90017-2566.

On May 31, 2022, I served the following document(s): **ORDER ON MEDIA REQUEST TO PERMIT COVERAGE**

SEE ATTACHED SERVICE LIST

(ELECTRONIC-MAIL SERVICE) – I caused a copy of a portable document (PDF) to be sent from the e-mail address of ellenduncan@dwt.com to the persons at the e-mail addresses specified in the Service List and the transmission was reported as complete and without error.

(FEDERAL EXPRESS) – I instructed Global Network Attorney Service to deposit said documents in a secure envelope at a facility regularly maintained by Federal Express for receipt on the next business day with delivery fees paid or provided for in accordance with ordinary business practices of Federal Express.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on May 31, 2022, at Riverside, California.

Ellen Duncan	*/s/ Ellen Duncan*
Print Name	Signature

SERVICE LIST

Robert Sanger, Esq.
Sanger Swysen & Dunkle,
222 E Carrillo St Ste 300
Santa Barbara, CA 93101-7149
rmsteam@sangerswysen.com

Attorneys for Defendant Paul Flores

Harold V. Mesick, Esq.
Law Office of Harold V. Mesick
1303 Higuera St.
PO Box 23
San Luis Obispo, CA 93406
haroldmesick@gmail.com

Attorneys for Defendant Ruben Flores

Eric Dobroth, Esq.,
Deputy District Attorney
Christopher Peuvrelle, Esq.
Deputy District Attorney
Office of the District Attorney
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edobroth@co.slo.ca.us
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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 10:54 AM
By: Oscar Luna, Deputy

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
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222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
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Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **EX PARTE APPLICATION TO FILE MOTION TO EXCLUDE DNA EVIDENCE UNDER SEAL** Hon. Jennifer J. O'Keefe

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that Defendant Paul Flores, by and through his attorneys Robert M. Sanger, Sarah S. Sanger and Sanger Swysen & Dunkle, hereby request that the Court permit Defendant to file under seal in accordance with California Rules of Court, rules 2.550 and 2.551, and to protect the Defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States

Constitution and article I, sections 7 and 15 of the California Constitution, the following document:

1. Motion to Exclude DNA Evidence.

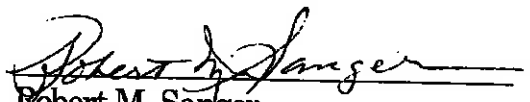
This application is made on the grounds that the Court already made a finding as to necessity of a sealing order after granting the protective order on April 15, 2021, and that sealing is necessary to protect the Defendant's right to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution.

This application is based on the attached memorandum of points and authorities, all the papers and records on file in this action and on such further oral and documentary evidence that may be presented at a hearing of this application.

Dated: June 23, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. We are concurrently filing the following document conditionally under seal:
    1. Motion to Exclude DNA Evidence.
3. These filings contain information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial. There is a substantial probability that Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, would be prejudiced if the above-referenced documents are not sealed. Sealing is also necessary to comply with the protective order on April 15, 2021.
4. I am respectfully requesting that the following document be filed under seal to protect Mr. Flores' constitutional rights:
    1. Motion to Exclude DNA Evidence.

I declare under penalty of perjury that the foregoing is true and correct and that this was executed on June 23, 2022, in Santa Barbara County, California.

Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. FILING THE MOTION TO EXCLUDE DNA EVIDENCE UNDER SEAL IS NECESSARY TO PREVENT CONFIDENTIAL INFORMATION FROM BEING DIVULGED TO THE PUBLIC

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (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. (California Rule of Court 2.550(d).)

In this case, the Motion to Exclude DNA Evidence includes information relating to discovery, recently executed search warrants and to evidence that may be excluded at trial, if made public, would prejudice Mr. Flores' rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution. Sealing is also necessary to comply with the protective order on April 15, 2021. Therefore, we respectfully submit that it is necessary to file the following documents under seal to protect Mr. Flores' rights to due process, a fair trial and impartial jury and that this overriding interest satisfies the requirements of Rule of Court 2.550(d):

1. Motion to Exclude DNA Evidence.

///

///

///

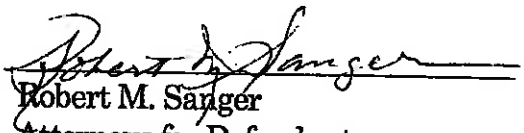
CONCLUSION

For the above-state reasons, the Court should grant this application.

Dated: June 23, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 23, 2022, I served the foregoing document entitled: **EX PARTE APPLICATION TO FILE MOTION TO EXCLUDE DNA EVIDENCE UNDER SEAL** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed June 23, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

SERVICE LIST

Christopher Peuvrelle
Deputy District Attorney
1035 Palm St, # 4
San Luis Obispo, CA 93408-1000
cpeuvrelle@co.slo.ca.us
Via Email Only

Harold Mesick
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PO Box 23
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haroldmesick@gmail.com
Via Email Only

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 10:54 AM
By: Oscar Luna, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

CONDITIONALLY UNDER SEAL

NOTICE OF MOTION AND MOTION TO EXCLUDE DNA EVIDENCE; MEMORANDUM OF POINTS AND AUTHORITIES

[Subject to application to file under seal]

Date: June 30, 2022
Time: 8:30 a.m.
Dept.: 4

Hon. Jennifer J. O'Keefe

///

///

///

TO THE CLERK OF THE COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SAN LUIS OBISPO AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that on June 30, 2022 at 8:30 a.m., or as soon thereafter as the case may be heard in the above-entitled Court, Defendant Paul Flores, will move the Court to proceed to a hearing under Evidence Code sections 402 and 403 and to issue an order to exclude DNA related evidence.

This motion is made to protect Mr. Flores' rights to due process and a fair trial pursuant to the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, article I, §§ 7 and 15 of the California Constitution, relevant statutory and case law.

The motion will be based on this Notice of Motion, the Memorandum of Points and Authorities served and filed herewith, such supplemental memoranda of points and authorities as hereafter may be filed with the Court, the transcript of the preliminary hearing, all pleadings and documents heretofore filed with the Court and such evidence and oral argument as may be presented at the hearing on the motion.

Dated: June 1, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF RELEVANT FACTS

The defense objects to the introduction of any DNA evidence on the part of the prosecution. Based on discovery, there are no relevant or scientifically admissible results.

The prosecution has the burden of establishing the preliminary facts pursuant to Evidence Code sections 402 and 403. The defense reserves the right to respond to any such proffer.

However, at the last minute, the prosecution included a paragraph in a purported statement of facts in their Motion to Admit Relevant Evidence of Other Acts. That statement in its entirety read:

> "Detectives recently resubmitted the mattress cover taken from Flores' dorm room for further DNA testing. SERI took several samples. One was compared to DNA swabs from Denise and Stan Smart. SERI determined that Kristin Smart could not be excluded from the samples taken. Additionally, they cannot include Kristin Smart."

Assuming that paragraph represents a proffer by the proponent of the evidence under sections 402 and 403, the prosecution fails to establish the foundational facts required of forensic evidence under *Daubert, Kuhmo Tire* and *Sargon* or under the criteria set forth in the second and third prongs of *Kelly*. (*Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993) 509 U.S. 579 (Daubert); *Kumho Tire Co. v. Carmichael* (1999) 526 U.S. 137, 152 (*Kumho Tire*); *Sargon Enterprises, Inc. v. University of Southern California (2012) 55 Cal.4th 747, 770-772 (Sargon)*; *People v. Kelly* (1976) 17 Cal.3d 24 (*Kelly*).) On the face of it, the paragraph is nothing but speculation and should be excluded.

Furthermore, upon inspection of the underlying documents, the paragraph itself, conclusionary and speculative as it is, is not even sustained

by a proper scientific analysis. Exhibit A attached hereto is the report of Dr. Elizabeth Johnson, a renowned serology and DNA expert. Her conclusion states "The DNA testing failed to establish an association of either Kristin Smart or Paul Flores with mattress cover 11." (Exhibit A.)

CONCLUSION

Reserving the right to present evidence and argument in response to the prosecution's attempt to carry its burden to establish the foundational facts necessary for admissibility, the defense submits that the DNA related evidence is not admissible under any circumstances as substantive proof and, in this particular case, the prosecution has failed to meet its burden.

Dated: June 23, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

EXHIBIT A

Elizabeth A. Johnson, Ph.D.
Forensic Science Consultations
1534 N. Moorpark Road, No. 364
Thousand Oaks, CA 91360
Phone 805-553-0445

Supplemental Summary Report
State of California v. Paul Flores
J210971

June 18, 2022

This report is a supplemental report to one dated May 30, 2022. My qualifications are summarized in that report as well as in my cv.

Paul Flores is accused of murdering Kristin Smart, who disappeared in May, 1996, while both were students at California Polytechnic State University at San Luis Obispo. I have been retained by attorney Robert Sanger to assist in the case review of this matter regarding forensic biology issues

I have reviewed laboratory reports, notes and data of examinations and testing performed by Serological Research Institute (SERI) on items of physical evidence submitted to them in this case as well as various supporting laboratory documents including laboratory Standard Operating Procedures (SOPs) and validation studies.

This report contains a summary of opinion of Elizabeth A. Johnson, Ph.D. and is limited to the testing of a canvas mattress cover designated as item 11 by SERI. This mattress cover was allegedly collected from the dorm room that had been occupied by Paul Flores. The state intends to introduce evidence to connect Paul Flores and Kristen Smart to this mattress cover through DNA testing. In particular, the state seeks to connect Kristen Smart to a brownish stain designated 11A which tested presumptively positive for blood. The opinions provided in this summary report should not be considered all-inclusive since not every issue can be anticipated prior to cross-examination.

Findings from my review:

The DNA data from sample 11A is not probative and cannot be used to associate either Kristin Smart or Paul Flores with this mattress cover. The stain itself has not been confirmed to be blood and has not been established to be from a human body fluid.

Angela Butler from SERI examined a canvas mattress cover, SERI item 11, and noted the presence of "rust-like stains and gray stains". One small brownish stain, designated 11A, was located and was further tested with presumptive test chemicals for the presence of blood. The

results were positive, however a confirmatory test for blood was not performed and species testing was not performed. Sample 11A appears to be the only sample from the canvas mattress cover that was tested for the possible presence of blood. It was reported as "blood was indicated but not confirmed".

The DNA testing results SERI obtained on the brownish stain 11A was limited in data even with an extended injection time. The sample contained a relatively small amount of DNA, appeared to be degraded and showed signs of extensive allelic dropout. Several loci had no reportable results. It appears to have been originally interpreted as a mixture of two contributors based on allele count, but after uploading the data to a modeling program the number of contributors assigned was three. SERI ran the data for the samples they tested through a probabilistic genotyping program in order to generate a statistical value called a likelihood ratio (LR). This program was asked to interpret the observed mixture in 11A, assuming three contributors, and compare the reference profile of Paul Flores or Kristen Smart individually, not together, to determine if either could be a possible contributor to the observed DNA mixture.

The statistical program returned a LR value slightly above 1.0 for each comparison. An LR between 0.01 and 2 falls in the "uninformative" range according to SERI's protocols. Even SERI's report dated May 10, 2022 states that the LR for this sample does not provide sufficient support to either include or exclude Paul Flores or Kristen Smart as a contributor to this sample.

Additional considerations:

Ms. Butler portioned the canvas into grids for the purpose of swabbing each section that she designated 11B-11I. The location of stain 11A is shown to be within area 11D but is very close to section 11B.

SERI obtained interpretable results for samples 11C, D, F, I, G and H. Each of these samples consisted of DNA mixtures from three or four contributors. Both Paul Flores and Kristen Smart were excluded as a possible contributor to these DNA mixtures. SERI obtained results for areas 11B and 11E, but the mixture results were not given a statistical interpretation due to the number of DNA contributors exceeding the laboratory's interpretation limit of four contributors.

The majority of alleles that were detected in stain 11A were also detected in the swabbings from areas 11B and 11D, the two areas closest to the brownish stain 11A. Therefore, the DNA results reported for stain 11A cannot reliably be associated with the stain as opposed to the background DNA in nearby areas.

The results from stain 11A were the most limited of any of the samples tested from the canvas mattress cover. The less data the statistical program has available to consider the less probative the statistic usually is. It is possible that due to limited data, the LR returned for this sample was "uninformative" as opposed to "excluding" Paul Flores and Kristen Smart as was the result for all of the other interpreted samples from this item.

The statistical program must be told the number of contributors to a mixed sample, and that cannot always be reliably determined. The number designated will have an effect on the final LR generated for a sample.

The statistical program that SERI used also gives an estimate of the contributor proportions in a mixture. The program estimated that if Kristen Smart were a contributor to 11A, she would be present as the lowest order contributor. The program made the same finding if Paul Flores were a contributor to 11A. Still, the program found no support for the inclusion or exclusion of either, and the results are uninformative with respect to either being a DNA contributor to stain 11A.

The program makes assumptions about undetected alleles otherwise known as allelic dropout. In stain 11A a total of 14 autosomal loci returned reportable data. Alleles that Kristen Smart has were completely missing at 6 loci and partially missing at an additional 4 loci. *If* the DNA of Kristen Smart were present in stain 11A it would be at such a low level that it experienced extensive allelic dropout, and the DNA of unknown individuals is present in greater abundance. Alleles that Paul Flores has were completely missing at 5 loci and partially missing at an additional 5 loci. *If* the DNA of Paul Flores were present in stain 11A it would be at such a low level that it experienced extensive allelic dropout, and the DNA of unknown individuals is present in greater abundance.

Conclusion:

The DNA testing failed to establish an association of either Kristen Smart or Paul Flores with mattress cover 11.

Stain 11A was not confirmed to contain blood, and it was not tested for the presence of human blood. DNA results for sample 11A are uninformative. Considering the vast majority of alleles that are detected in the visibly stained area 11A are also present in the adjacent unstained areas 11D and 11B, the DNA that was detected in stain 11A cannot be assumed to be associated with blood or any bodily fluid that may be causing the visible stain.

Elizabeth A. Johnson, Ph.D.

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On June 23, 2022, I served the foregoing document entitled: **NOTICE OF MOTION AND MOTION TO EXCLUDE DNA EVIDENCE; MEMORANDUM OF POINTS AND AUTHORITIES** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

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Executed June 23, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County.

In this regard, I have submitted a copy of the People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress to be heard on July 7, 2022. In accordance with Section 6255 of the California Government Code, I am requesting that this court order that the

People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress be sealed until further order of this Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 23, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

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County of Monterey
On 6/23/2022 1:58 PM
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Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On June 23, 2022, I served the foregoing document(s) described as:

PEOPLE'S REPLY TO SUPPLEMENTAL BRIEF ON MOTION TO TRAVERSE, QUASH AND SUPPRESS & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS

(*People v. Paul Ruben Flores & Ruben Ricardo Flores,* Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
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[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 23, 2022, at San Luis Obispo, California.

Sandee Lopez

Sandee Lopez, Legal Clerk

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On 6/23/2022 1:58 PM
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants	CASE NOS. 22CR003712 & 22CR003713 PEOPLE'S REPLY TO SUPPLEMENTAL BRIEF ON MOTION TO TRAVERSE, QUASH AND SUPPRESS Date: July 7, 2022 Time: 8:30 Dept. 4

I.

INTRODUCTION

The Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress ("Supplemental Briefing") by Defendant Paul Ruben Flores fails to address—much less acknowledge—the significant legal barrier he must overcome to invalidate the search warrants in this matter. Instead, his attacks on the affidavits consist of generalized complaints about the investigation as a whole, similar to what might be expected to be argued at trial. Of greatest significance, his arguments do not even begin to address the strict test established by *Franks v. Delaware* (1978) 438 U.S. 154, that must be satisfied to invalidate a search warrant.

As noted below, before a hearing will be ordered, the defendant must make a "substantial showing" that affidavits contain statements (or make material omissions) that are

deliberately false or were made with reckless disregard for the truth. Further, a hearing is not required if the affidavit is re-evaluated with the misstatements excised (or the omitted material information is included) and probable cause is still found to exist for the warrant. The defendant bears the burden of proof.

a. Synopsis of legal frameworks for challenging a warrant

The reason courts have placed such a heavy burden on someone challenging a warrant is axiomatic—courts want to encourage law enforcement to seek review by a judicial officer before conducting a search. Consequently, when a warrant has been obtained, reviewing courts pay great deference to the judge that reviewed and approved the warrant. *People v. Aho* (1985) 166 C.A. 3d 984, 990. The duty of the reviewing court is to save the warrant if it can do so in good conscience. *People v, Hochanadel* (2009) 176 C.A. 4th 997, 1015. And, because a search conducted pursuant to a search warrant is presumed lawful, the burden of establishing the invalidity of the warrant resists upon the defendant. *Theodor v. Superior Court* (1972) 8 Cal 3d. 77, 101.

Case law has established a procedure for evaluating an attack on a warrant which must be followed. In this matter, the defense has claimed both that *false information* was included in affidavits and that material information was *omitted* from the affidavit, though most of the challenges allege material omissions. As discussed below, the legal framework for addressing false information and material omissions is different.

As to attacks involving allegations of *false information*, a defendant is not entitled to an evidentiary hearing until he or she has first made a "substantial showing" that (1) the affidavit contains statements that are "deliberately false or were made in reckless disregard of the truth," and (2) after the false statements are excised, the affidavits remaining contents are insufficient to support a finding of probable cause. *People v. Miles* (2020) 9 Cal. 5th 513, 576. Innocent or negligent misrepresentations will not support a motion to traverse. *Id.*

As to attacks alleging an *omission* of material fact, the defendant bears the burden of showing an "intentional or reckless omission of material information that, when added to the affidavit, renders it insufficient to support a finding of probable cause. *Id.* In either setting, the

defendant must make his showing by a preponderance of the evidence, and the affidavit it presumed valid. *Id.*

Omissions and misstatements are distinct in important ways. *People v. Kurland* (1980) 28 C.3rd 376, 384. "Every falsehood makes an affidavit inaccurate, but not all omissions do so. An affidavit need not disclose every imaginable fact however irrelevant. It need only furnish the magistrate with information, favorable and adverse, sufficient to permit a reasonable, common sense determination whether circumstances which justify a search are probably present. (citation)" *Id.* Further, facts are "material" and therefore must be disclosed "if their omission would make the affidavit *substantially misleading.*" *Id.* at 385.

As to omitted facts, it is important to underscore that the defense must show "that the affiant deliberately or recklessly omitted material facts that negate probable cause when added to the affidavit." *People v. Eubanks* (2011) 53 Cal.4th 110, 136.

Finally, general and unsubstantiated allegations are insufficient to trigger a *Franks* hearing. Rather, a defendant attacking the validity of a warrant by questioning the contents of the affidavit must provide specific details demonstrating how the misinformation, or omissions, have so thoroughly undermined the affidavit that probable cause did not exist for issuing the warrant. This is an high burden requiring extraordinary proof and a compelling argument. A challenger's attack:

> [M]ust be more than conclusory and must be supported by more than a mere desire to cross-examine. There must be allegations of deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof. They should point out specifically the portion of the warrant affidavit that is claimed to be false; and they should be accompanied by a statement of supporting reasons. Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained. Allegations of negligence or innocent mistake are insufficient.

Franks, at p. 171; see also *People v. Sandoval* (2015) 62 Cal.4th 394, 409.

b. Summary of allegations by defendant

As mentioned above, defendant's Supplemental Brief does not address the test set forth in *Franks*, but makes general and unsubstantiated attacks about the investigation and state of the evidence.

The defendant's Supplemental Brief narrows-down the scope of his attack by asserting that only the following warrant (and their affidavits) are in issue: Warrant #13637 (found at Exhibit S to the Defendant's Motion), Warrant 13651 (Exhibit T), Warrant 13663 (Exhibit U), Warrant 13697 (Exhibit V), Warrant 13827 (Exhibit X), Warrant 13843 (Exhibit Y), Warrant 14676 (Exhibit CC), Warrant 14679 (Exhibit EE), Warrant 14704 (Exhibit FF), Warrant 14709 (Exhibit GG), Warrant 14799 (Exhibit HH) and Warrant 14828 (Exhibit II) (see Supplemental Brief, page 8, line 8 to page 9, line 12).[1]

He further offers to "streamline[] the argument" by stating that the "main concern" is that the affidavits are "based on speculation that Kristin Smart had been killed and a hunch that Paul Flores would have been responsible if she had been killed." Further, he contends the affidavits speculate that "there could have been a rape or attempted rape and, again, offer a hunch that Paul Flores would have been responsible if there had been a rape. Finally, he contends that most of the affidavits assert that Paul Flores was the only suspect and that law enforcement failed to inform the reviewing judges that there were other suspects who were being "actively investigated." [See Supplemental Briefing, page 9, line 21 to page 22, line 3].

Although the defendant raises these areas of concern, he fails to provide the proof necessary to meet the requirements of *Franks* in order to require a hearing. This brief will address the areas raised by the defendant in his Supplemental Brief in the order raised.

II.

RESPONSE TO ALLEGATIONS

a. Claims of "Third-Party culpability

In his Supplemental Brief the defendant asserts his position that the defendant was not the "only suspect" and raises new allegations not contained in his initial motion. The People already responded to many of these allegations in its Opposition and now responds to the newly added claims.

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[1] The People do not agree with the defendant's assessment of which warrants led to evidence that will be introduced at trial. [See Supplemental Brief, page 8:1 to page 9:19]. As one example, the defendant contends there is "nothing of evidentiary value. . . " that came from the wiretaps. To the contrary, the People may seek to introduce information from the wiretaps.

1. Ted Munley

Defendant's Supplemental Brief alleges that, in sum, Ted Munley went to Kristin Smart's room and had sex with Kristin Smart's roommate Jana Schrock while she was asleep—or, as the defense puts it "unconscious"—and therefore, "Munley raped her." [Supplemental Brief, 11:6-14]. This accusation is based on speculation which, even if true (and it is not), is not material information that should have been included in the affidavits.

Taking the statements of Munley and Kristin Smart's roommate as a whole, Schrock was at Cal Poly visiting her friend Crystal Calvin, Kristin Smart's roommate. Calvin slept in another dorm room with her boyfriend, Dustin Zimmer, and Schrock went to sleep alone in Calvin's room. She was awakened by Munley knocking on her window and wanting to come in. Because Munley was Zimmer's roommate and Crystal was in his room, this was an "awkward" situation for him. Schrock allowed Munley to sleep on the floor. She suspected he wanted to "hook up," but she was not interested. When she awakened the following morning he was in her bed. She was not aware of him getting into her bed because she had been sleeping heavily.

In one statement Munley said he "hooked up" with Schrock "a little bit" and went to sleep. It is this statement by Munley that appears to be the entire basis for the allegation by the defendant that Munley "raped" Schrock. This allegation is leveled despite Schrock never reporting sexual assault or even alluding to it occurring.

As noted in People's Opposition, Munley was interviewed by the Sheriff's Office on three separate occasions and by the FBI and was given a polygraph test, which he passed. The claim by the defense that other persons, such as Munley, were not investigated is wholly inaccurate.

In sum, the defendant manufactures an allegation—a slanderous one—that Munley raped Kristin Smart's roommate. But even if accepted as true, it has no bearing on the disappearance of Kristin Smart or the fact that she did not return to her room that night. Rather, if the defense is claiming that Munley was responsible for Smart's disappearance, his statements create an alibi for him.

The defense has the burden of proving the truth of his allegation about Munley. But even if this unsupported allegation is accepted as true, the defense has failed to show how this would amount to a "material" fact that would render the affidavit "insufficient to support a finding of probable cause." *People v. Scott* (2011) 52 C.4th 452, 484. As stated in the People's Opposition, the significance of the information provided by Munley and Kristin Smart's roommate is that Kristin Smart did not return to her room the night of May 24, 1996.

Further, the defense must prove the alleged fact was intentionally or recklessly omitted by law enforcement. But again, the information known by law enforcement at the time the affidavits were written simply does not support an allegation of rape and the defense has provided no evidence to the contrary. Again, the defense bears the burden of proof and has failed to meet his burden.

Copies of investigative reports pertaining to Munley and Schrock are attached hereto as Exhibit 1 for the Court's review.

2. Shahn Whitted

The defendant's Supplemental pleadings adds little his original allegation concerning Whitted. Again, defendant's pleadings fail to note that the events involving Whitted occurred in February 1996 and that Kristin Smart and he had subsequently worked out their differences and "made up." The defendant has failed to show how a dispute with a former boyfriend months earlier constitutes a "material fact" that, if included in the affidavits, could render those affidavits insufficient to support a finding of probable cause. Moreover, the defense as failed to demonstrate that omitting this information was intentional by law enforcement. The materiality of the "fact" is essential to a determination of whether the omission of a fact was "intentional" or reckless. "An affidavit need not disclose every imaginable fact however irrelevant." *People v. Sandoval* (2015) 62 Cal. 4th 394, 409-410. That Kristin Smart and a former boyfriend had a falling out that was later resolved takes nothing away from the probable cause set forth in the affidavits.

Copies of investigative reports pertaining to Munley and Schrock are attached hereto as Exhibit 2 for the Court's review.

3. Sean Farrell and speculation that Kristin Smart had been pregnant

The defendant's Supplemental pleadings adds little to his original allegation concerning Sean Farrell. Further, he does not respond to the arguments contained in the People's Opposition, nor does address the factors required by *Franks.* First, defendant speculates that Kristin Smart was pregnant, ostensibly at the time of her death. But conflicting information has been provided on this subject. Kristin Smart told Margarita Campos that she had travelled to Santa Barbara where she obtained and took a "morning after" pill, though Campos did not believe this story. It is not known when Kristin Smart is purported to have made this statement. Kristin Smart told Sean Farrell that she had been pregnant by him, but he no longer needed to worry about it, which he interpreted to mean she had an abortion. They had met and gone out during some portion of the last quarter of school, which ran from March to June, and he had last seen Kristin Smart five days prior to when she was last seen. On May 3, 1996—three weeks prior to her death—Kristin Smart purportedly made a statement to Peter Odorico that she was pregnant. The chronology for the statements to Campos, Farrell and Odorico is not known. If the statement to Odorico was first in time (ie., she was pregnant at that time), then the statement to Farrell (that she had an abortion) would make sense, assuming she had an abortion after speaking with Odorico.

As this discussion illustrates, the issue of whether Kristin Smart had ever been pregnant and, importantly, whether she was pregnant at the time of her death is based on conjecture. But, even if she was pregnant at the time of her death, the defendant has failed to demonstrate how this would have been a material fact such that its omission rendered the affidavits "substantially misleading." The uncertainty surrounding the issue of her pregnancy cuts against any claim that this was material information. "An affidavit need not disclose every imaginable fact however irrelevant." *People v. Sandoval* (2015) 62 Cal. 4th 394, 409-410.

Finally, the defense has failed to demonstrate that law enforcement intentionally or recklessly left this information out of the affidavits. But again, this would assume that the fact of pregnancy and the timing of the pregnancy had been established and that pregnancy was a material fact, none of which has been demonstrated by the defense.

4. "Yanish"

Defendant's supplemental brief does not respond to the People's Opposition, nor does it demonstrate how allegations relating to "Yanish" constitute material facts that should have been included in the affidavits and that by failing to include this information the affidavits were "substantially misleading." Nor does defense demonstrate that such an omission was intentional or reckless.

Instead, the defense provides new information, namely that Kristin Smart had been reported to a resident advisor at the school for stalking Yanish. Rather than support the argument that Yanish was somehow responsible for Kristin Smart's disappearance and death, this new information weakens that argument. Again, the defense has failed to satisfy the requirements under *Franks* to justify an evidentiary hearing on this matter.

5. Scott Peterson

The defendant's Supplemental Brief reiterates many of the same arguments made in Defendant's Original Motion. As set forth in the People's Opposition, investigators conducted a thorough investigation and eliminated Scott Peterson out as a suspect. The defense offers no justification for including information about a person who has been ruled out as a suspect. Such information is simply immaterial. Defense has failed to satisfy the requirements of *Franks*.

Finally, in his Supplemental Brief the defendant adds a new allegation—that "Scott Peterson was reported to have been at the party . . .." The defense offers no source for this new allegation. To the contrary, investigators interviewed persons at the party and none of those interviewed recalled seeing Scott Peterson or Laci Peterson at the party. The defense has not offered a sworn affidavit, much less a police report or witness statement, to support this new claim. Support for a defense motion must be reliable and substantial: "Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained." *Franks* at 171.

Copies of investigative reports pertaining to Scott and Laci Peterson attached hereto as Exhibit 3 for the Court's review.

6. Trent Buckle

In defendant's Supplemental Brief he claims that law enforcement should have included information about Trent Buckle. Investigators learned of Buckle as the result of a Crime Stopper's tip received on November 19, 1998. Similar to other possible persons of interest in this matter, detectives conducted an investigation and were unable to draw a connection between Kristin Smart and Buckle. Again, defense has not attempted to address the elements required under *Franks* to justify a hearing.

Copies of investigative reports pertaining to Trent Buckle are attached hereto as Exhibit 4 for the Court's review.

7. "Other reasons for Kristin Smart's disappearance . . ."

A. Hawaii

The defendant's Supplemental Brief and his original motion both discuss Kristin Smart's trip to Hawaii. In doing so, the defense fails to explain how this trip, which appears to have occurred Christmas 1995—six months prior to her May 24, 1996, disappearance—constitutes a "material fact" which should have been included in the affidavits. According to Kristin Smart's mother, while in Hawaii, Kristin was supposed to fly from Oahu to Kauai to visit friends, but instead flew to the island of Hawaii to visit her friend Alyssa. There was some sort of disagreement or situation that developed, leading to Kristin having to hitchhike from one side of the island to the other. Kristin's mother described this as involving Kristin missing for "one day only." While in Hawaii, Kristin Smart might be gone from the night, but would return in the mornings.

The defendant has made no attempt to demonstrate how events that occurred months earlier (if indeed it occurred Christmas 1995) has any relationship to her disappearance on May 24, 1996, or why this event belongs in the affidavits. "The Courts of Appeal seem consistently to have held that an affiant's duty of disclosure extends only to 'material' or 'relevant' adverse facts. At the same time, they have applied the materiality requirement to reach only those omissions which significantly distorted the probable cause analysis." *People v. Kurland* (1980) 28 Cal.3d 376, 384-385. The defendant has made no such showing.

Copies of investigative reports pertaining to Hawaii are attached hereto as Exhibit 5 for the Court's review.

B. "Getting into a car with some guy . . ."

The defense next contends that "several people have said that Kristin Smart was likely to have gotten in a car with some guy and left." The defense has not provided declarations or any substantial evidence that on May 25, 1996, she was seen "getting into a car with some guy" and leaving. To the contrary, witnesses (including the defendant) have her leaving the party, intoxicated, walking toward her dorm in the company of the defendant. The defense has mischaracterized the fact that she had no vehicle, no driver's license, and was left to riding her bike or getting rides from friends or from others. In this respect, she was no different from many other students attending Cal Poly. On those occasions where she got a ride from someone, she would always return to her dorm.

C. Letter by parents and other "issues"

The defense next asserts that at times Kristin had been dishonest with people, and that her mother had written her a letter, evidently on May 5, 1996, which reprimanded her for some of the poor choices she had made, provided her with her options for the upcoming year, and encouraged her to do better in her schooling. The defense offers no explanation for why this letter or any of these other details raised constituted material facts that belonged in the affidavits. The defense also includes an allegation that Kristin Smart's parents knew she "was having an affair with an older man while she was in high school." [Supplemental Brief page 14:9-10]. The defense provides absolutely no support for this claim—and investigators are unaware of this information being in the case file—nor does the defense offer any explanation how such information, even if true, would have any bearing on the investigation much less constitute material evidence that should be included in the affidavits.

A copy of the letter to Kristin Smart from her mother is attached hereto as Exhibit 6 for the court's review.

b. Claims of misstatements and omissions regarding Paul Flores' statements

The next attacks the portions of the affidavits which contain statements by the

defendant, specifically the following exchange, taken from affidavit to Warrant 13651 [See Exhibit T to Defendant's Motion to Traverse]:

> Your affiant reviewed a small portion of the interview in which Investigator Hobson was talking with Paul Flores. Investigator Hobson stated, "Paul, there is no doubt in our mind that you know what happened to Roxy (nickname for Kristin Smart)." Paul Flores averted his attention from Investigator Hobson, looked down, and nodded his head up and down in the affirmative motion. While doing this, it appeared that Paul Flores mouthed the word "yea." Your affiant believes this was an admission from Paul Flores that he was withholding intimate knowledge about the disappearance of Kristin Smart. Your affiant has spoken to Detective Cole and Detective Smith who have both reached the same conclusion.

The defense notes (correctly) that this portion of the defendant's statement was determined to have been taken in violation of *Miranda*. However, the defendant then claims "an unlawful statement cannot be used in a search warrant affidavit." This is incorrect. Rather, this subject was addressed by the 9th Circuit Court of Appeals in *United States v. Patterson* (1987) 812 F.2d 1188. *Patterson* involved a statement taken in violation of Miranda that was later used in an affidavit for a search warrant. The Court ruled that a statement taken in violation of Miranda can properly be used as probable cause in support of a search warrant so long as the statement was voluntary. *Id.* at 1193-1194. The defense does not claim the defendant's statement was coerced or involuntary, nor is there evidence to support such a claim. Consequently, the statements were properly considered by the magistrate(s) in making their determination of probable cause.

The remaining arguments in this section of the defendant's Supplemental Brief take issue with how the affiant interpreted the defendant's body language. The affidavits state that the defendant "averted his attention," that he "looked down, and nodded his head up and down in the affirmative motion" and that he mouthed the word "yea." In sum, the affidavit describes the defendant's actions in such a way that a reviewing judge could draw her or his own conclusions about what was intended and could decide how much weight, if any, to place on these observations. It is important to note that the affidavit includes the defendant's claims of innocence, that he said "I believe she took off with someone else" and that he took her to her dorm, he went to his, and that she was never in his room. Notably, this statement was not

omitted.

The defendant next claims that there were "statements of several people that they thought that Kristin Smart got in a car with someone." [Supplemental Brief page 15:1-2]. This issue has already been addressed. Again, the defendant does not provide any evidence to support this claim, but merely seems to be misconstruing the general proposition that, as a freshman without a vehicle, Kristin Smart was like other students in her position who would get rides from others.

c. "Additional grounds to Traverse and to Quash"

1. Dr. Kusumoto and his opinion as to age of bruising

The Defendant contends that Dr. Kusumoto could not offer a "valid opinion" as to the age of the bruise to the defendant's eye and that it could not have been inflicted by hitting a steering wheel. The defense has failed to demonstrate why Dr. Kusumoto, ostensibly a SART medical examiner based on the content of the affidavits, would not be qualified to render these opinions, nor has the defense provided an affidavit to this effect.

In any event, if the defendant is attempting to attack the affidavit he must prove an intentional or reckless misrepresentation (or an intentional or reckless omission of a material fact). Even if the defendant's assumption is accepted that Dr. Kusumoto was not qualified to render these opinions, there is no evidence that the affiant was aware that he was not qualified. Rather, from the face of the affidavit it is clear that the affiant went to someone who would presumably be qualified to render an opinion on an injury and the healing process of a bruise—a medical professional who is a SART examiner—and, further, what types of objects might be, or would not be, expected to cause such an injury. The defense has offered no evidence that the affiants were not be justified in relying on such an expert or that the affiant intentionally or recklessly misrepresented information. Lacking such evidence, the defendant has failed to satisfy the requirements to justify a *Franks* hearing.

Copies of investigative reports pertaining to Dr. Kusumoto are attached hereto as Exhibit 7 for the Court's review.

//

2. Alerts by cadaver dogs

Similar to the previous argument, the defense has offered no support for the proposition that cadaver dog behavior is not proper evidence. To the contrary, this evidence is generally accepted as reliable and was proper material to be included in the affidavits. Again, the defense has failed to address the requirements of *Franks,* to wit, demonstrating an intentional misrepresentation of a material fact that renders the affidavit void of probable cause.

3. Reference to settlement discussions

Some affidavits refer to discussions that occurred between the District Attorney's Office and attorney De le Motte who was representing Paul Flores. In sum, De le Motte suggested that the defendant could lead law enforcement to Kristin Smart's body in exchange for a plea to involuntary manslaughter. The defense contends that these were made during settlement discussions and that should not have been included in the affidavits, citing Evidence Code section 1153. This section states, in full:

> Evidence of a plea of guilty, later withdrawn, or of an offer to plead guilty to the crime charged or to any other crime, made by the defendant in a criminal action is inadmissible in any action or in any proceeding of any nature, including proceedings before agencies, commissions, boards, and tribunals. (emphasis added)

The defendant has offered no support for the proposition that the contents of an affidavit amount to an "action" or "proceeding." Rather, Evidence Code section 300 establishes that the Evidence Code is applicable to courts (Supreme Court, courts of appeal, and superior courts) and "actions" before a referee, court commission or "similar officer," but not grand jury proceedings.

There is nothing in Evidence Code section 300 or 1153 that would suggest that the Evidence Code has any application to the contents of affidavits, nor has the defense cited any such authority.

4. "Inuendo and speculation presented as fact"

The defense next takes issue with "[i]nuendo and speculation presented as fact," such as the statement of David Stone in affidavits that he was positive Paul Flores was involved in Kristin Smart's disappearance and that Ruben Flores helped to dispose of her body. However,

that statement was included in context, including the fact that Stone lived with Ruben Flores for 10 years at 710 White Court. [See Exhibit CC to Defendant's Motion to Traverse, affidavit for warrant 14676, bates 17912-17913]. The affidavit devotes about one page (single-spaced) to Stone, consisting of conversations he overheard, interactions he witnessed and information he had about the crawlspace and an old Volkswagen that was inexplicably kept in Ruben's garage, among other matters. In sum, the totality of his statement would have offered enough context for a judge to decide how much weight—if any—to place on Stone's opinion.

Likewise, the defense takes issue with a statement by witness Mark Brown in which he referred to Ruben's house as the "murder house", but that he did so "without any further explanation." Brown lived in a room at the Flores' property at the same time Ruben, Paul and Susan Flores lived there and was there after Kristin Smart went missing. In the same affidavit Mark Brown refers to Paul Flores as "you know the kid that supposedly killed that girl." He also relates that Ruben Flores would not allow him or his girlfriend to go near avocado trees in the back yard, which he found "weird." In sum, his reference to the home of Ruben Flores as the "murder house" would be understood by a reviewing magistrate as Brown's short-hand reference to the Ruben Flores' house and the fact that it was under a cloud of suspicion. [See Exhibit BB, affidavit for warrant 14619, bates 17805]

Likewise, the defense takes issue with the statement of Angie Carrizel, a former girlfriend of Paul Flores. She relates that Paul Flores came home very intoxicated and kept telling her he "had to tell her something," but "could not" tell her. He then passed out due to his level of intoxication. She also described a threatening encounter with Flores and an occasion where he punched her in the arm. After she and Flores broke up she learned about the Kristin Smart investigation and said "she believed Paul Flores wanted to tell her about his involvement in the Kristin Smart investigation." [Exhibit EE, affidavit for warrant 14679, page 17999]

Again a judge reviewing this portion of the affidavit would not be misled into believing that she had done anything but offer her interpretation of what Flores meant based on her history with him. The judge was provided enough context to consider her statement and give it the weight, if any, it deserved.

Similar allegations of "speculation and inuendo" are found at pages 18 and 19 of Defendant's Supplemental Brief. For instance, the defense references a description offered by Jennifer Hudson in Affidavit for Warrant 13637 that Paul Flores had "dead eyes." [Exhibit 3, warrant 13637, bates 29416]. What the defense does not include was that this description of the defendant having "dead eyes" was prefaced by her statement that she was "very aware of body language" and her description of his eyes was followed by her statement that it was "unnerving and creepy." Again, the defense fails to provide the full context.

In offering these various accusations that the affidavits contain "speculative" matter, the defense fails to demonstrate how the statements that have been identified demonstrate the elements required by *Franks* to justify a hearing.

5. "Training and experience" language in the affidavits

The defense next takes issue with affiants' use of the words "based on my training and experience." This language was at time used to preface matters that, arguably, were matters of common sense such as "based on my training and experience I know a car cover could be used to wrap and conceal a body." [Supplemental Brief, page 16:15-16]. Or, "[B]ased upon my training and experience, I know that if a sexual act did occur the top portion of the mattress would be the most logical place for that act to occur, not the corner of the mattress where the dogs alerted." [Supplemental Brief, page 16:23-26].

The defense does not make a clear argument as to why use of the words "based on my training and experience" is legally objectionable and could provide a basis for invalidating the warrant pursuant to *Franks*. Rather, reviewing judges are routinely asked to decide which facts require actual expertise from the affiant and which are a matter of common experience and to disregard unnecessary language. Further, even if the words "based on my training and experience" were to be deemed surplusage, the remedy under *Franks* is to remove the offending language and ask whether probable cause still exists. *People v. Sandoval* (2015) 62 Cal.4th 394, 409. But even this remedy is not employed until the defense has first established that the offending language was "deliberately false" or were made with a reckless disregard for the truth, which the defense has failed to allege, must less demonstrate.

6. Claims of contradicting facts

The defense next argues that there are contradictions in the affidavits, stating that these "heighten[] the lack of actual substance. [Supplemental Brief, page 18:5-6]. However, the defense does not offer a legal argument as to how these alleged contradictions provide a basis for invalidating the warrants. For example, the defense alleges that the author of the first affidavit, Steven Crawford, theorizes that the bruise could have come from a struggle with Kristin Smart and that it could have come from Ruben Flores striking the defendant. [See Exhibit A, affidavit for warrant 5032, bates pages 27645 and 27662]. Importantly, the Crawford is careful to provide the following disclaimer after suggesting that the bruise came from an altercation with Kristin Smart: "NOTE: This is one explanation for the eye injury. A second explanation will be given later on in this affidavit." [Exhibit A, page 27645]. Thus, the affidavit offers two possible scenarios for the injury and both are discussed. The fact that two alternative explanations are offered underscores the efforts by law enforcement to be thorough and provide material information to the reviewing judge.

Similarly, the defense points to affidavit to Warrant 13463 [Exhibit J] which references two cars that Paul Flores has access to, the Ford Ranger and his sister's car. The affidavit theorizes that the Ford Ranger could have been involved in transporting the body of Kristin Smart [Exhibit J, bates 29128] and that he could have used his sister's car [Exhibit J, bates 29132]. Again, both theories are found in the same affidavit, allowing the judge to give the weight it deserved, if any.

Finally, the defense references the affidavits permitting the searches at 710 White Court, 529 E. Branch Street, and 10940 Ciervo and makes the statement "Of course, each time, no evidence was located." [Supplemental Brief, page 18:22-26]. This is patently incorrect—soil samples were located 710 White Court.

III.

CONCLUSION

The defendant attacks the affidavits in this case but has failed to satisfy the requirements set forth in *Franks*. The defendant has not provided affidavits, declarations, or

other reliable evidence, but rather counts on bare allegations, argument and speculation. Most of his allegations are centered on information that he argues should have been included in the affidavits, but was not. He has failed to demonstrate that the alleged omissions were material, much less that they were left out intentionally or as the result of recklessness on the part of the affiants.

Further, he has failed to demonstrate that if any of these alleged material omissions had been included in the affidavits that they would have undermined the affidavits to extent of eliminating probable cause.

The defendant bears the burden of proof, but has failed to meet that burden. Consequently, his request for a hearing should be denied.

Date: June 23, 2022

Respectfully submitted,

Dan Dow
District Attorney

By:

Christopher G. Peuvrelle
Deputy District Attorney

EXHIBIT 1

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-26-96
REPORT PURPOSE: Interview with Jana Schrock

DETAILS

7-25-96/0820 HOURS:

I spoke with Jana Schrock on the telephone. I told Schrock that I understood she had stayed in Kristin's room the night she disappeared and she said "yes". Schrock told me that she was visiting her friend, Crystal Calvin. She said she had just gotten back from college and Cal Poly's school year had not yet ended.

Schrock told me that she was out with Crystal on Friday night, 5-24-96. She said she got home between 12:00 and 1:00 o'clock in the morning on 5-25-96. I asked Schrock if she knew Kristin Smart and she told me that she briefly met Kristin before they went out that evening. I asked her if Kristin was in the room, when she came home, and she said "no".

Schrock told me that she had been drinking and fell asleep when she got to the room. She said around 3:00 A.M. she woke up to someone yelling her name. She said a subject by the name of Ted, who was one of Crystal's friends, was outside.

I asked Schrock if she would have known if Kristin came into the room that night. Schrock told me that, if Kristin turned the light on, she probably would have known it. She said that, if Kristin did not turn the light on, she probably would not have known that she came in the room.

I asked Schrock about the subject name Ted, who came to the room. She told me that she met Ted on a previous visit. She said that, when he came to the room, he wanted her to let him in, so he came in the room. She said she had to go to the side door of the dormitory, to let him in. Schrock told me that she is not fond of Ted. She described Ted as being an "angry, defensive, negative person". I asked Schrock if she knew where Crystal Calvin was at that time. She told me that Crystal had gone to Dustin's room with Dustin. She explained that Dustin and Ted were roommates. Schrock said Ted asked her if she knew where Crystal was. Schrock said she knew that Ted knew where Crystal was, because he had just come from the room where Crystal and Dustin were staying. Schrock said she went outside with Ted and smoked a cigarette. She said they were outside for about ten minutes. Schrock said Ted wanted to stay there, since Crystal was at his room, so she allowed him to come in and he slept on the floor.

I asked Schrock if she or Ted saw anyone else outside, while they were standing on the porch smoking, and she said "no". I asked her if she saw anyone else inside the dorm and she said "no".

I asked Schrock if she knew what time Ted left, to go back to his room. Schrock told me that Ted left the next morning, when Crystal came home, which was around 9:00 or 10:00 A.M. Schrock told me that when she woke up she found Ted in bed next to her. She said she had been sleeping so heavily that she didn't even know he got into bed with her. Schrock said she is positive that Ted was still in the room when she woke up, because Crystal came into the room and was surprised to find Ted in bed with her. Schrock said Ted then got up and left the room.

I asked Schrock if she had any information as to where Kristin may have gone and she said "no".

Schrock had no further information.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
cpg/7-29-96/smart.053

SAN LUIS OBISPO COUNTY SHERIFF

1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960810965	704
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLDA6061 - CAMP, JAMES	10/26/2021

INCIDENT

LOCATION					DATE	TIME
, CA					10/26/2021	08:50
PREMISE NAME						
STATION	BEAT	RESP AREA		JURISDICTION		
ST24				SLSO		

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 1

INC SUPP 4

☐ INC SUPP 3

INC SUPP 6

RESTRICTED

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	09/01/2021	AA	04/08/2021	SLSO0882 - NELSON, JUSTIN	10/26/2021

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER 960610965	SUP NO 704

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL				
1046	E	53						
SERIAL NUMBER		QUANTITY	COLOR	COLOR	JAN	REF NO	EVIDENCE	
							N	
DESCRIPTION						CUSTODY STATUS		
DISC WITH JANA SCHROCK INTERVIEW - 10/19/2021						CUSTODY		
COMMENT								

NARRATIVE

REPORT DATE: 10-25-2021

REPORT PURPOSE: Document interview with Jana Schrock

On 10-19-2021 at approximately 1435 hours, DDA C. Peuvrelle and I met with Jana Schrock for purposes of a follow up interview. The interview was audio recorded. This supplemental report will serve as a synopsis of the full interview. For complete details, refer to the full audio which was transferred to a disc and booked into property as evidence (see RMS# 1046).
Schrock indicated that she' d been previously contacted by the defense team while she was out of state. We discussed the potential of Schrock potentially being needed for future court proceedings. It was discussed with Schrock that the only expectation that Schrock tell the truth and be specific and accurate. Generally, the current court status was discussed.

Schrock was provided a report dated July 26, 1996, authored by Detective Stewart. She reviewed the report. She indicated that report as being accurate.

Schrock was provided a report dated May 28, 2014, authored by Detective Kenny. She reviewed the report. She described the report as being accurate in so far as she thought whatever was documented in the earlier report would' ve been accurately described.

I told Schrock what we wanted to focus on was her observations regarding Kristin Smart. We confirmed Schrock was friends with Crystal Calvin. She said that she remembered her observations of Kristin Smart very well. She referred to the second report where the messy pile of clothes was described as being " heaped" on Kristin Smarts bed. She said that the pile of clothes made it impossible that anyone could sleep on the bed without the pile being disturbed. Schrock specifically recalled a cute shirt being on the pile. Over the course of the weekend, Schrock recalled never seeing Kristin Smart again after initially meeting her and added that she thought that Kristin Smart never came back to her room. She added that even the " cute" shirt, was never disturbed and was in the same place she left it. Schrock said even upon her return trip home after the weekend, she called Crystal Calvin and told her she needed to call someone after it was discussed that Kristin Smart never returned. She said she mentioned Kristin Smart not returning multiple times to Crystal Calvin as being " super strange" . She said although Crystal Calvin said that Kristin Smart would at times disappear the situation was odd as nothing had been disturbed or changed with respect to Kristin Smarts belongings in her dorm room.

With respect to meeting Kristin Smart, Schrock said she met Kristin Smart upon her arrival in San Luis Obispo, but she never saw her again and nothing changed regarding Kristin Smarts items over the course of the weekend. Schrock said she was there (at Cal Poly) the entire weekend.

We discussed her being woken up by banging on the window. She said that Ted banged on the window to the room she was in, which woke her up. She said that no one else aside from Ted banged on the window and when asked if anyone else came to the room, she said " absolutely not" . Schrock thought the window may have been open to the room. She could not recall if there were blinds, but she thought the windows were open. She couldn' t specifically recall what window coverings there were. She confirmed she was woken up by Ted. She said she was not " passed out" . Regarding the statement about the lights being turned on she said if someone snuck in, she may not have noticed. She said she thought the door had been closed and the dorm room was near a building entrance.

Schrock referred again to the pile of Kristin Smarts belongings on her bed and its state of never being disturbed. Schrock said the clothes and items would have been moved by its owner, but Kristin Smarts items were so " not touched" that it was detectable to her, and she mentioned it several times to Crystal Calvin. Schrock said there was never a conversation about or from Kristin Smart about leaving town.

Schrock said when she met Kristin Smart, she could not recall any conversation that was remarkable in nature. She said she was in town visiting her friend (Calvin). She added Kristin Smart and Crystal Calvin had not been roommates for long. She said the trip to San Luis Obispo was the one and only trip she made to visit Crystal Calvin at Cal Poly. Schrock added that when she was contacted by the defense she was surprised, and she said that she would prefer to be on the District Attorney' s side. Schrock discussed how she thought that the defense may have been trying to establish doubt and pin something on Ted. We continued with some small talk and eventually, the interview was discontinued.

CLOSING STATEMENT:

Case status cleared by adult arrest.

DA Investigator JT Camp #6061

JTC/sw 10/26/2021

RESTRICTED

SAN LUIS OBISPO
COUNTY SHERIFF
1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

INCIDENT REPORT	
CASE NUMBER 960610965	SUPPLEMENT NUMBER 232
CASE TYPE HOMICIDE (MISSING)	CAD EVENT NUMBER
REPORTING OFFICER SLSO0587 - KENNY, DAVE	REPORT DATE 05/28/2014

NARRATIVE

Report Purpose: To document additional interview with Jana Schrock.

In reviewing the case files, I felt that Jana Schrock should be re-interviewed regarding the night (05-24-96) that she slept in Crystal Calvin's bed within Calvin and Kristin Smart's dorm room. Detective Stewart interviewed her previously on 07-25-96.

On 10-05-05 at 1350 hours, I left a message for Jana Schrock at a telephone number I had located for her through an investigative database. I never received a call back.

On 06-13-06 at 1514 hours, I responded to the listed address in Venice Beach per DMV for Jana Schrock. There was no response at the door so I contacted the property manager (Flinkman Realty). I was informed that Schrock did reside at that address. I left a message for Schrock on the gate entry phone for her to call me. I received a call back and scheduled to meet with her.

On 06-14-06 at approximately 1430 hours, I met with Jana Schrock at a Starbuck's in Pasadena. I activated my digital recorder to capture the interview and later learned that the recorder did not function correctly. The following is a summary of that interview:

During the Memorial Day weekend of 1996, she went to Cal Poly to visit with her high school (Ventura) friend, Crystal Calvin. She actually arrived on Thursday (05-23-96) and went with Calvin to her boyfriend's (Dustin Zimmer) dorm room to drink beer. On 05-24-96 (Friday) she and Calvin went to a party off campus. The party was not the Crandall party that Kristin Smart went to. The party she attended was in a townhouse and she believed that it was a group of sorority members doing a "RUSH" (recruitment). Schrock went back with Calvin to her room (Muir #122) and unlocked the door. Calvin left Schrock there to sleep in Calvin's bed while Calvin went to sleep at Zimmer's room. Kristin Smart was not in the room at any time while Schrock was there.

During the early morning hours, at approximately 0200 to 0300 hours, she heard the sound of someone "banging" on the window and then the door. Ted Munley, Zimmer's roommate whom she had met previously, was yelling for her to let him in. Schrock told him "no." Munley was "agitated" and "pissed off" that she would not let him in. Munley irritated her with the way he acted towards her. She felt that he wanted to "hook up" (sexual relations) with her and she wasn't interested. Schrock went to sleep and left the next morning.

I questioned Schrock about whether she went outside with Munley or if he came into Calvin's room while Schrock was there. Schrock did not remember going outside or Munley coming into the room. I told her that she had told Detective Stewart previously that he had. She told me that if she had told that to Detective Stewart previously then it was "correct." She just didn't remember now.

Later, when they learned that Smart had not returned to the room, Calvin mentioned that she was not "shocked" because it was "typical of Kristin (Smart)." Calvin and Smart didn't get along very well. Smart's side of the dorm room was "very messy." Schrock has not heard from Calvin in approximately six years. The last she had heard, Calvin was living in Calabasas, CA with her mother. Schrock has not had contact with anyone from Cal Poly.

I asked Schrock when she had met Munley. She told me that she had previously visited Calvin and met him then; however, she did not remember the specifics. She could not provide any further details. I left her with my business card to contact me if she remembered anything else.

CLOSING STATEMENT

Case status: Active, investigation continuing.

/S/ Detective D. Kenny, #0587
DK/nr/05-28-14

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-22-96
REPORT PURPOSE: Interview Ted Munley

DETAILS

7-9-96/1635 HOURS:

I received a return phone call from Ted Munley. I asked Munley if he was friends with Jennifer Phipps and he said "yes". He told me that he last saw her on the 5th of July and she told him that I had talked to her.

I asked Munley if he knew Kristin Smart. He said he saw Kristin at the party on Crandall Way. He said she was "hanging on three or four guys, kissing and flirting with them". Munley said Kristin was wearing short black shorts and possibly a light blue shirt.

I asked Munley what time he left the party and he said between 0100 and 0115 hours. He said he walked back to the dorms and got there around 0130 hours. Munley told me that, when he left, Kristin was still at the party. He said he walked home with three other people. He named them as:

- Justin from Sierra Madre Hall
- Carrie, a female
- R.J., another male

Munley said that, when he arrived at his dorm, he went to his room and "hung out" for awhile. He said he lived in Fremont Hall. Munley said he then went to Jennifer's room and knocked a couple times at her window.

I asked Munley if, while he was out and about, he saw Kristin or anyone else who looked like her and he said "no". Munley said that, after he knocked on Jennifer's window he went around to the other side of Muir Hall and woke Jana up. Munley said Jana was staying in the room where Kristin and Crystal lived. He said, once Jana was up, they went outside and smoked a cigarette outside the dorm. Munley said that, during that time, they didn't see anyone else. Munley said they sat there for about ten minutes and then he went home. Munley said he had no idea what time it was when he got home.

I asked Munley if he had any idea what happened to Kristin. Munley said he thinks she got in a car with some strange guy. I asked Munley if he thought there were people still driving on campus at that time. He told me that there are always some people out and about on campus.

Munley had no further information at that time.

CLOSING STATEMENT

Case status active.

Supplemental Report/#9606-10965
Kristin Smart

/s/ H. Stewart, Detective #0335
cpg/7-22-96/smart.029

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 9-24-96
REPORT PURPOSE: Additional Interview with Ted Munley

DETAILS

8-13-96/1645 HOURS:

I spoke with Ted Munley on the telephone. I told Mr. Munley that, during our last conversation, he had stated that after talking with Jana outside of Muir Hall he returned to his own dormitory. I asked Mr. Munley why Jana and Crystal Calvin would tell me that he had spent the night in the room with Jana. Mr. Munley told me that he had consumed a lot of alcohol that night. He said he remembered having a cigarette with Jana, but that was about all he could remember. Mr. Munley told me that he didn't know what time he left and said he believed it was in the early morning. I asked Mr. Munley if he remembered talking with anyone else, prior to his departure from Crystal's room. He said he remembered talking with Crystal and Jana, before he left. Mr. Munley said it could have been as late as 9:00 or 10:00 o'clock in the morning. Mr. Munley had no further information.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
cpg/9-25-96/hmnt.079

SAN LUIS OBISPO COUNTY SHERIFF

1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	234
CASE TYPE	CAD EVENT NUMBER
HOMICIDE (MISSING)	
REPORTING OFFICER	REPORT DATE
SLSO0587 - KENNY, DAVE	05/29/2014

INCIDENT

LOCATION					
, CA					
PREMISE NAME				DATE	TIME
TED MUNLEY				05/29/2014	14:22
STATION	BEAT	RESP AREA		JURISDICTION	
ST24				SLSO	

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 1

INC SUPP 4

☐ INC SUPP 3

INC SUPP 6

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	04/20/2021	AA	04/08/2021	SLSO0430 - HASTIE, RON	05/31/2014

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	SUP NO
		060610065	234

OTHERS

ENTRY NO	INVOLVEMENT	NAME, LAST, FIRST, MIDDLE
116	OT	MUNLEY, TED PATRICK

HOME ADDRESS	MAILING ADDRESS
7878 TIGER AVE KING BEACH CA 96143	

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION
NORTHSHORE HEATING	BOX 293 TAHOE VISTA CA 96148	CONSTRUCTION

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
	(916) 396-5464		(530) 546-4710

DOB	AGE	SEX	RACE	JUV	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
04/27/1977	37	M	W	N		511	200	BRO	HAZ				

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID1	ID2
A826577							

COMMENT

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
480	E	63		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
	1				480	N

DESCRIPTION	CUSTODY STATUS
DVD, INTERVIEW WITH TED MUNLEY	CUSTODY

COMMENT

NARRATIVE

\\I2160 Report Purpose: To document additional interview with Ted Munley.

After reviewing voluminous investigative reports, I found that a witness, Ted Munley, had possible discrepancies in his activities the night that Kristin Smart disappeared. Munley was initially interviewed by Detective Stewart in July of 1996, again in September of 1996, and then by FBI Special Agent Mark Wilson in March of 1999 where a student questionnaire was completed. There were other witnesses (Crystal Calvin, Jennifer Phipps, and Jana Schrock) that were interviewed and they provided details as to Munley' s actions after the Crandall party.

I began conducting a background investigation in an attempt to learn as much about Munley as possible. I attempted to locate the three students (Justin from Sierra Madre Hall, Carrie, and another male named R.J.) who Munley reported that he walked back with from the party. In going through the case file, I located numerous females with the name Carrie. Some students during their interview mentioned that they believed Carrie McDonald or Carrie McDowell were present. I was unable to locate a Carrie McDonald or Carrie McDowell within the case file or as a student at Cal Poly. I did locate Carrie McDonnell and Carrie Hughell in the Laserfiche master case file and believed that one of them might be the Carrie that Ted Munley mentioned in his statement. I interviewed Carrie Hughell (a.k.a. Carrie Eulan) and she did not attend the party. I interviewed Carrie McDonnell and she did attend the party and may have walked back with Munley. I interviewed RJ (Ryan Jay Wenger) and he attended the party and may have walked back with Munley but didn' t remember the name. I interviewed Munley' s Fremont dorm roommate, Dustin Zimmer, who was also Crystal Calvin' s boyfriend at the time. I located Justin James and Justin Flagg that resided in Sierra Madre dorm; however, they did not attend the party.

On 04-28-06, Chief District Attorney Investigator Hanley and I attempted to locate Ted Munley at two addresses in Sacramento. We determined that the addresses were no longer valid. I located a possible telephone number for him.

On 04-28-06 at 1825 hours, I telephoned Ted Munley to set up an interview. I left a message. I received a message back from him that he works Monday through Friday and has a dentist

appointment the following Tuesday.

I met with Placer County Sheriff' s Detective Dave Hunt in Tahoe City. I had him check for contacts with Ted Munley and his father, James Munley. He provided me with printouts that showed a few minor contacts. I checked several addresses in Tahoe City to attempt to locate Munley and was informed that he had moved. Munley has minor criminal history related to DUI' s only.

On 12-29-06 at 1420 hours, I left a message for Munley to contact me. At 1424 hours, he called me back. He explained that he had no problem meeting with us and is working all over the Lake Tahoe with his father. He told me that he would meet with us next week.

On 01-03-07 at 1544 hours, I telephoned Munley and he agreed to meet. He did not know specifically what his schedule was and agreed to help if he can. He asked what this was regarding. I told him it would be to go over information that he had provided previously regarding this case. He told me to contact him next week when we were in the area.

On 01-10-07 at 1710 hours, I telephoned Munley and left a message for him to call me. He called me back and agreed to meet with us the following day.

On 01-11-07 at 1230 hours, Chief D.A. Investigator Hanley and I met with Ted Munley in Squaw Valley, California. The interview was digitally-recorded and later transferred to a DVD (RMS #480). I explained to Munley that we were reviewing the Kristin Smart investigation and wanted to make sure that we spoke with several of the individuals that were involved. Munley asked if he was considered a suspect and I downplayed it and went into the interview. The following is a summary of the interview (refer to the DVD for specific information):

He had been interviewed numerous times by several agencies regarding this investigation. Approximately two years ago, he was at work in Sacramento when two FBI agents came to his work. They escorted him to their office and he was given a polygraph. He was even asked if he killed Kristin Smart. He was told that he passed the polygraph.

He knew Kristin Smart because his roommate, Dustin Zimmer, dated Crystal Calvin, who was Kristin Smart' s roommate. Munley had a friend, Jennifer Phipps, who he went to high school with and she lived across from Kristin Smart. He passed Smart in the halls and did not have any classes with her. He didn' t hang out with the same group of people as Smart.

Munley had gone to a couple of different parties. He believes that he saw Kristin Smart at a party, possibly a fraternity house that was close to a nursery or daycare facility (there is one located on Crandall Way and Campus Way). He stated that he doesn' t remember seeing her, but that he thinks that he did.

Munley had been " walking around" with his friends, Jennifer (Phipps), Corinna (believed to be Jones), Cameron (unknown further), Dustin Zimmer, and Crystal Calvin). He thought that they all went to the party; however, they all may have split up into smaller groups so they may not have attended the same party. Zimmer and Calvin were " hot and heavy" in a " freshman romance" so they

may have disappeared to be together. He thought that he might have been at the party between 2100 and 2300 hours.

I asked Munley if he remembered any activities going on at the party. He told us that he was " having a good timechatting." I asked Munley if he saw anyone fighting at the party and he said that he did not. I asked Munley if he recalled seeing a pool table at the party and he said that he didn' t think there was " but couldn' t be positive about that." He said that there was a " makeshift bar in the corner" and that he didn' t play pool.

I asked Munley if he knew what time that he left the party and he said, " I have no idea." I asked him who he left the party with and he said, " I think I left by myself." I asked him what he did when he returned from the party. Munley said that he went to his dorm room and Zimmer and Calvin were there. It was an " awkward situation" so he went down and knocked on Jennifer Phipps' window at Muir dorm. Phipps did not answer so he knocked on Calvin' s window. Calvin' s girlfriend (Jana Schrock) who was visiting opened the door, closest to Calvin' s room, to let him in. Munley " hooked up (meaning sexual relations) with her (Schrock) a little bit and went to sleep" in Calvin' s bed with Schrock. He didn' t hear any fighting or screaming. Munley didn' t see or hear Kristin Smart come into the room while he was there.

The next morning, Munley went back to his dorm. I asked him if anything was unusual at his dorm when he got back. Munley said that there wasn' t anything that he saw and that Zimmer and Calvin were there. Munley said, " The next day they thought it was weird that she (Smart) didn' t show up." He was talking with Zimmer and Calvin about Smart not coming back. None of Smart' s stuff was gone and she " didn' t pack anything up." Munley said that they all decided that they should notify the campus police.

Chief D.A. Investigator Hanley asked him if he noticed any activity around the campus when Munley was between Muir and Fremont dorms. Munley said that it was " pretty dead" and " pretty quiet." Munley didn' t recall seeing or hearing any vehicle traffic on the roadway between the two dorms. He did not see anything peculiar or unusual.

Munley did not know Paul Flores. I asked him if he ever heard what happened to Kristin Smart. Munley said that he had heard a story about Paul Flores pouring new concrete in his home during the weekend that Smart disappeared.

I asked Munley for clarification about whether he saw Smart at the Crandall party or not. He said that he said that he wanted to say " yes" but he can' t recall or " be certain." I asked Munley if there was any reason he would tell anyone that he didn' t see Smart at the party when he had said that he had earlier. Munley replied something similar or close to " no." I explained that between his interviews in 1996 and 1999 there was a discrepancy in whether he saw Smart or not. Munley said, " I can' t rememberbut I think I did."

Munley was going to attempt to locate the business card that he had for the FBI agents who he dealt with a few years ago. He said if he located the information, he would contact me. Munley was provided with a business card

Chief D.A. Investigator Hanley and I did not know that Munley had been interviewed by the FBI previously and took a polygraph. I contacted the FBI office in Santa Maria to determine if Munley had been interviewed and took a polygraph as Munley indicated. I was told that Munley had been interviewed in May of 2002. The results of the polygraph indicated no deception and he was not considered as a viable suspect.

The DVD (RMS #480) was entered into evidence at the Sheriff' s Property Office detective locker.

CLOSING STATEMENT

Case status: Active, investigation continuing.

/S/ Detective D. Kenny, #0587
DK/nr/05-29-14

REDACTED

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 01/29/2002

To: Sacramento

From: Los Angeles
Santa Maria Resident Agency
Contact: SA Amy M. Willeke or SA Michael R. Plunkett, (805) 934-2444

Approved By: Boelter Ralph S
Miller Edward J Jr

Drafted By: Willeke Amy M:bkl

Case ID #: 7A-LA-198539-GJ (Pending) - 11

Title: UNSUB(S);
KRISTIN DENISE SMART - VICTIM
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
(CAL POLY)
SAN LUIS OBISPO, CALIFORNIA
KIDNAPING - HOMICIDE

Synopsis: To set lead at Kings Valley, California, to locate and if possible polygraph Ted Patrick Munley.

Enclosure(s): Enclosed for Sacramento are the following:

1. One copy of Detective Stewart's interviews of Munley written on 07/22/1996 (interview conducted on 07/09/1996) and 09/24/1996 (interview conducted on 08/13/1996).

2. One copy of Detective Stewart's interview of Jennifer Phipps on 06/28/1996, in which she advised Munley was outside her dorm room window at 0300 hours on 05/26/1996.

3. One copy of Munley's Department of Motor Vehicles and California Criminal History printouts (Munley has one misdemeanor arrest).

Details: Paul Flores is the main suspect in the disappearance of Kristin Smart. Flores has a history of sexually battering females with whom he works or comes into

042 BKL 01.02

7A-LA-198539-GJ-11

contact with at parties or bars. Flores and his family have been uncooperative with investigators since the initial interviews in this investigation.

For Sacramento's information, Kristin Denise Smart, a 6'0" 140 pound white female, who had brown hair at the time of her disappearance, left a party at 135 Crandall Way, San Luis Obispo, California, the night of 05/25-26/1996, with Paul Flores and Cheryl Anderson. Anderson walked to the Cal Poly dorm area with Flores and Smart and turned off to go to her dorm (Sierra Madre Hall), about 100 yards from where Flores and Smart would turn off to walk to their respective dorms. Flores lived in Santa Lucia Hall. Smart lived in Muir Hall. Flores reported he and Smart parted at a "Y" in the sidewalks where one branch of the sidewalk led to his dorm and the opposite branch led to Smart's dorm. Inasmuch as Smart was intoxicated enough to have needed assistance to that point, it is possible Smart was vulnerable to anyone else who would have taken advantage of her, if Flores was truthful and actually left her at that point. Smart was also dressed inappropriately for the chilly temperatures that night in that she was clad in black board shorts and a grey crop top T-shirt.

Despite Flores being the main suspect, an FBI behavioral analyst and case agent noted that Ted Patrick Munley, who lived in Fremont Hall (#209 or 329), which is right behind Muir Hall (where Smart, Crystal Calvin, and Jennifer Phipps lived), knocked on Phipps' dorm window at approximately 0300 hours. Munley is also supposed to have slept in Smart's bed in her dorm room (Muir #120) while Jana (Last Name Unknown) (a friend of Phipps) was the only occupant. Phipps was the person who actually reported Smart missing several days later.

Munley also attended the Crandall Way party, as did Flores and Smart. Munley told Detective Stewart in the 07/09/1996 interview that he (Munley) left the party at 0100 or 0115 hours. After hanging out awhile at his dorm, Munley went to Muir Hall and knocked on Phipps' window and then knocked on the window of Calvin/Smart's room, where Jana was staying. (Calvin spent the night in another room). Munley thought he had a cigarette and talked to Jana and Calvin and then went back to his own dorm. Munley did not recall sleeping in Smart/Calvin's room due to excessive alcohol consumption. Munley may have left Smart/Calvin's room as late as 9:00 or 10:00 A.M. on 05/26/1996.

Therefore, it is requested that Munley be reinterviewed and, if he is amenable, polygraphed to verify the veracity of his statements to Detective Stewart. Munley was outside Smart's dorm shortly after she supposedly returned to that area with Flores and he also could have had contact with her at or near Muir Hall.

Case agent believes polygraphing Munley is the next logical step in this investigation. Munley is not being singled out for polygraph as previous ECs to San Francisco Division have requested polygraphs of other individuals who were also connected to this investigation at the time of Smart's disappearance. Additional requests for polygraphs of other former Cal Poly students are expected.

Some sample questions for Munley may be: Did you see Smart after you left the 135 Crandall Way party? Did you spend the night of 05/25-26/1996 in Muir Hall instead of Fremont Hall? Were you trying to mislead investigators by advising that you returned to Fremont Hall after talking to Jana at Muir Hall?

To: Sacramento From: Los Angeles
Re: 7A-LA-198539-GJ, 01/29/2002

LEAD(s):

Set Lead 1:

SACRAMENTO

KINGS VALLEY, CALIFORNIA

Locate Ted Patrick Munley, white male, born 04/27/1977, Social Security Number 548-99-4492, of 7878 Tiger Avenue, Kings Beach, California (P. O. Box 293, Tahoe Vista, California 96148), and if possible persuade him to take a polygraph in captioned case.

♦♦

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-22-96
REPORT PURPOSE: Interview Ted Munley

DETAILS

7-9-96/1635 HOURS:

I received a return phone call from Ted Munley. I asked Munley if he was friends with Jennifer Phipps and he said "yes". He told me that he last saw her on the 5th of July and she told him that I had talked to her.

I asked Munley if he knew Kristin Smart. He said he saw Kristin at the party on Crandall Way. He said she was "hanging on three or four guys, kissing and flirting with them". Munley said Kristin was wearing short black shorts and possibly a light blue shirt.

I asked Munley what time he left the party and he said between 0100 and 0115 hours. He said he walked back to the dorms and got there around 0130 hours. Munley told me that, when he left, Kristin was still at the party. He said he walked home with three other people. He named them as:

- Justin from Sierra Madre Hall
- Carrie, a female
- R.J., another male

Munley said that, when he arrived at his dorm, he went to his room and "hung out" for awhile. He said he lived in Fremont Hall. Munley said he then went to Jennifer's room and knocked a couple times at her window.

I asked Munley if, while he was out and about, he saw Kristin or anyone else who looked like her and he said "no". Munley said that, after he knocked on Jennifer's window he went around to the other side of Muir Hall and woke Jana up. Munley said Jana was staying in the room where Kristin and Crystal lived. He said, once Jana was up, they went outside and smoked a cigarette outside the dorm. Munley said that, during that time, they didn't see anyone else. Munley said they sat there for about ten minutes and then he went home. Munley said he had no idea what time it was when he got home.

I asked Munley if he had any idea what happened to Kristin. Munley said he thinks she got in a car with some strange guy. I asked Munley if he thought there were people still driving

on campus at that time. He told me that there are always some people out and about on campus.

Munley had no further information at that time.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335

cpg/7-22-96/smrt.029

Stewart-079

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 9-24-96
REPORT PURPOSE: Additional Interview with Ted Munley

DETAILS

8-13-96/1645 HOURS:

I spoke with Ted Munley on the telephone. I told Mr. Munley that, during our last conversation, he had stated that after talking with Jana outside of Muir Hall he returned to his own dormitory. I asked Mr. Munley why Jana and Crystal Calvin would tell me that he had spent the night in the room with Jana. Mr. Munley told me that he had consumed a lot of alcohol that night. He said he remembered having a cigarette with Jana, but that was about all he could remember. Mr. Munley told me that he didn't know what time he left and said he believed it was in the early morning. I asked Mr. Munley if he remembered talking with anyone else, prior to his departure from Crystal's room. He said he remembered talking with Crystal and Jana, before he left. Mr. Munley said it could have been as late as 9:00 or 10:00 o'clock in the morning. Mr. Munley had no further information.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
opg/9-25-96/stwrt.079

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-12-96
REPORT PURPOSE: Interview with Jennifer Phipps

DETAILS

6-28-96/1840 HOURS:

I telephoned Jennifer Phipps at (916) 583-6256 and asked her about Kristin Smart. Phipps told me the last time she saw Kristin Smart was on Wednesday, 5-22-96 or Thursday, 5-23-96. Phipps said her mother was down from Tahoe for the weekend and she was not around the dorm much.

I asked Phipps if she could tell me what caused her to file the missing person report on Kristin Smart. Phipps told me that she was at her dorm on Saturday afternoon, 5-25-96, and was talking with people in the dorm. Phipps said no one had seen Kristin and she started thinking that was "weird". Monday she spoke to the CSD and the campus police department was called.

I asked Phipps if she was around the dormitory on Friday night, 5-24-96. Phipps told me that her best friend, Crystal Calvin, is Kristin's roommate. She said that Crystal had a friend named Jana visiting her from Ventura. Phipps said they had all be out drinking that night. She said Crystal stayed with a boyfriend and she and Jana returned to the dorm. Phipps said she put Jana to bed around 12:00 midnight. She said Jana slept in Crystal's bed and Kristin was not in the room. Phipps said she returned to her room and went to bed.

Phipps told me that around 0300 hours on 5-25-96, her friend, Ted Munley was outside her window trying to get her awake. She provided me with Ted's phone number (916) 546-0257. Phipps told me that she ignored Munley, because she had to get up early. I asked Phipps if she knew whether Munley had seen anyone outside her dormitory that morning and she said she didn't know.

I asked Phipps if Kristin had any boyfriends. She told me that she has been with a boy named Sean. She said Kristin was telling a story that she was pregnant and was going to handle it herself. Phipps said Kristin told someone that she took the morning after pill, about a week after she became pregnant. Phipps told me that she didn't believe this is true, as she didn't think the morning after pill would work that way.

I asked Phipps if she had any further information that may help us. Phipps told me that the most important thing she could think of was that Kristin's hair was not blonde. Phipps said Kristin's hair was a dark brown color.

7-1-96/1825 HOURS:

I recontacted Jennifer Phipps by telephone. I asked her if she could confirm the phone number that she gave me for Ted Munley. I also asked Phipps if she could tell me how she knew what Kristin Smart was wearing the night she disappeared. Phipps said everyone told her what Kristin was wearing. Phipps said she is not afraid to get involved in things, so the other students in the dorm just let her file the police report. Phipps told me that she was concerned about Kristin, because she thought it was strange that she hadn't returned to the dorm.

I asked Phipps if she knew what dormitory Ted Munley lived in. ~~She told me that Ted lived in Fremont Hall.~~ She had no further information at that time.

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
cpg/7-15-96/smart.009

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/04/2002

To: ~~Los Angeles~~
Sacramento

Attn: Santa Maria RA
SA Amy M. Willeke
SA Jeff Rinek
SA Harry Sweeney (info only)

From: Sacramento
South Lake Tahoe RA
Contact: SA Chris Campion

Approved By: Riley Charles M CR/MR

Drafted By: Campion Christopher: cc

Case ID #: 7A-LA-198539-GJ-13 (Pending)

Title: UNSUB(S);
KRISTIN DENISE SMART - VICTIM;
KIDNAPPING

Synopsis: Advise of status of investigation set forth in serial 11, lead 1.

Details: Investigation into referenced lead was delayed by writer's TDY to Salt Lake City Olympics.

Investigation to date has not located Ted Patrick Munley in Kings Beach, California. Address provided, 7878 Tiger Avenue, Kings Beach, and Post Office Box 293, Tahoe Vista, come back to James and Debra Munley, both with dates of birth in 1951, probably Munley's parents. A published telephone number for Jim Munley is (530) 546-5676. No vehicles registered to Ted Munley were located in California DMV. Periodic spot checks reveal vehicles registered to his parents. Sacramento will hold contact with Munley's parents in abeyance until advised by Los Angeles.

Munley had one local contact with Placer County Sheriff's Department in 1994 as a victim of a theft. A detective for that department knows the Munley family and commented that they are not known to be involved in criminal activity. Ted Munley was recalled to be an avid golfer and may have worked at golf courses in the past.

A Choicepoint search revealed recent credit reporting for Ted P. Munley, SSAN 548-99-4492, at the following addresses and months/years: 100 Main Ave., Sacramento, CA 95838 (2/02); 1515 Mill St.#2, San Luis Obispo, CA 93401 (2/02); 200

UPLOADED

RMW
4-16-02

Bicentennial Cir. Apt 239, Sacramento, CA 95826 (11/01); and Fremont Hl, San Luis Obispo, CA 93410 (6/01). A telephone number of (805) 543-7635 was also noted. This number is disconnected at this time.

This matter was discussed with Sacramento NCAVC coordinator SA Jeff Rinek on 3/27/2002. He is familiar with captioned case and agreed to conduct investigation at the Sacramento addresses. Sacramento polygrapher SA Harry Sweeney has also been apprised of the possible polygraph. South Lake Tahoe RA will continue investigation to locate and obtain background information on Munley.

Investigation continuing.

To: Los Angeles From: Sacramento
Re: 7A-LA-198539-GJ, 04/04/2002

LEAD(s):

Set Lead 1:

LOS ANGELES

AT SAN LUIS OBISPO, CALIFORNIA

Attempt to locate Ted Munley at 1515 Mill St.#2, San Luis Obispo, CA 93401 and/or through Cal Poly.

Set Lead 2:

SACRAMENTO

AT SACRAMENTO, CALIFORNIA

SA Rinek will attempt to locate, interview, and polygraph Ted Munley at 100 Main Ave., Sacramento, CA 95838 and 200 Bicentennial Cir. Apt 239, Sacramento, CA 95826, as set out in referenced EC.

♦♦

(Rev. 08-28-2000)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE **Date:** 07/12/2002

To: [redacted] **Attn:** [redacted]

From: Sacramento
Squad 8
Contact: SA Jeffrey L. Rinek (916) 977-2265

Approved By: Fong George Q

Drafted By: Rinek Jeffrey L:jlr (193jlro1.ec)

Case ID #: 7A-LA-198539-GJ-14 (Pending)

Title: Unsub(s);
Kristin Denise Smart - Victim
Kidnaping

Synopsis: Leads at Sacramento are completed.

Reference: 7A-LA-198539-GJ Serial 932

Details: Ted Patrick Munley, DOB 4/27/1977, was contacted and polygraphed as delineated in the referenced communication. Based on the results of the polygraph and contact, Munley does not appear to be a viable suspect in this matter. Munley said he would contact the Sacramento Office of the FBI if he learns of any information concerning this matter.

Sacramento is considering this lead to be complete.

UPLOADED

GMW 7-22-02

To: Los Angeles From: Sacramento
Re: 7A-LA-198539-GJ, 07/12/2002

LEAD(s):

Set Lead 1: (Adm)

LOS ANGELES

AT SANTA MARIA, CA

Read and Clear.

♦♦

FD-402 (Rev. 1-28-99)

POLYGRAPH REPORT

FOR FBIHQ USE ONLY

REVIEWED BY: _____ DATE: _____

RESULTS:

SERIES I _____ SERIES II _____ SERIES III _____ SERIES IV _____ SERIES V _____

Date of Report	Date of Examination	Case ID #
05/20/2002	05/07/2002	7A-LA-198539 - 34

Field Office/Agency Requesting Examination
Los Angeles

Authorizing Official
ADIC, Los Angeles

Date Authorized
01/29/2002

Examinee's Name (Last, First, Middle)
Munley, Ted Patrick

Case Title:
UNSUB(s);
KRISTIN DENISE SMART - VICTIM;
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
SAN LUIS OBISPO, CA
KIDNAPING - HOMICIDE

Case Synopsis/Examiner's Conclusion:

On the night of May 25/26, 1996, captioned victim attended an off campus party near Cal Poly State University in San Luis Obispo, California. Smart walked from the party location with Paul Flores and Cheryl Anderson, both students at the University. Anderson walked to the Cal Poly dorm area with Flores and Smart and turned off to go to her dorm, where she observed Flores and Smart walk off in the direction of their respective dorms. Flores later reported that he and Smart parted at a "Y" in the sidewalks leading to their respective separate dorms. Flores has been developed as a main suspect in this case, and is not currently cooperative with the investigation.

A9-1

During the course of the investigation Ted Patrick Munley was developed as a potential suspect in this matter. Munley, a white male, date of birth - March 27, 1977, Social Security number 548-99-4492, lived in the dormitory right behind Smart's dorm. Munley was at the party in question on the night Smart disappeared. According to information developed by police detectives, and by Munley's own admissions, he left the party and ultimately arrived at Smart's dorm room, where he contacted Jana (last name unknown), a friend of Crystal Calvin, Smart's room mate in the dorm. Munley may have stayed with Jana in Smart's room, as late as 9:00 a.m. or 10:00 a.m. on May 26, 1996. Munley has denied seeing Smart after he left the party, and has denied any involvement in her disappearance.

168hjs03.498

Examiner's Name Harry J. Sweeney

UPLOADED

On May 7, 2002, Munley agreed to undergo a polygraph examination to verify his denial to the FBI concerning participation in the disappearance of Smart. Prior to the examination, Munley was provided with an FD-395 "Advice of Rights" form, as well as an FD-328 "Consent to Interview with Polygraph" form. Munley read both forms, acknowledged an understanding of them, signing both, agreeing to further examination. During the course of the pre-test interview, Munley continued to deny any knowledge of, or involvement in the disappearance of victim Smart. Munley was subsequently afforded a polygraph examination consisting of the following relevant questions:

Series I

A. Did you cause the disappearance of Kristin Smart? (Answer-No)

B. Can you take me to where Kristin Smart is now? (Answer-No)

It is the opinion of the examiner that the recorded responses to the above relevant questions in Series I are not indicative of deception (NDI).

SAN LUIS OBISPO COUNTY SHERIFF

1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	783
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLDA6061 - CAMP, JAMES	03/15/2022

INCIDENT

LOCATION				DATE	TIME
, CA				03/15/2022	08:00
PREMISE NAME					
TED MUNLEY INT					
STATION	BEAT	RESP AREA		JURISDICTION	
ST24				SLSO	

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 1

INC SUPP 4

☐ INC SUPP 3

INC SUPP 6

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	11/08/2021	AA	04/08/2021	SLSO1138 - MENGHRAJANI, D	03/15/2022

03/22/2022
150:055777

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	SUP NO
		960610065	783

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL						
1116	E	53								
	SERIAL NUMBER		QUANTITY	COLOR	COLOR	CAN	REF NO		EVIDENCE	
									N	
	DESCRIPTION							CUSTODY STATUS		
	DISC WITH TED MUNLEY INTERVIEW ON IT - 03 08 2022							CUSTODY		
	COMMENT									

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL						
1117	E	53								
	SERIAL NUMBER		QUANTITY	COLOR	COLOR	CAN	REF NO		EVIDENCE	
									N	
	DESCRIPTION							CUSTODY STATUS		
	DISC AND HARD COPIES OF MUNLEY PRELIM SUBPOENA							CUSTODY		
	COMMENT									

NARRATIVE

REPORT DATE: 3/14/2022

REPORT PURPOSE: Document Interview with Ted Munley

On 3/8/2022 at approximately 1500 hours DDA C. Peuvrelie and I met with Ted Munley for purposes of a follow up interview. Munley' s fiancée accompanied him to the interview. The interview was recorded, and the following will serve as a synopsis of the complete interview. For full details of the interview refer to the audio recording of the contact which was saved and placed on a disc which was booked as evidence at the Sheriff' s Detective Division (See RMS #1116).

We discussed upcoming court proceedings. One of the things Munley mentioned was how he was subpoenaed by the defense team and was admonished in the subpoena that he was not to disclose the subpoena information (from preliminary hearing) to DDA C. Peuvrelie. Munley later provided me a copy of the subpoena electronically (See attached). We discussed that our blanket admonition was that witnesses were free to talk to whomever they chose to, or not talk to anyone if that was their choice. We discussed how our interest was the truth. We indicated we would be documenting this contact. We further discussed Munley' s role as a witness and the likelihood that he would be called as a witness.

Munley said he recalled being contacted by the FBI, taking a polygraph and meeting in Lake Tahoe with detectives. He indicated he would like to read the reports which documented his interviews.

Munley was provided the following reports/paperwork to review:

1. Detective Henry Stewart report - July 9, 1996.
Munley said he did not recall Carrie, RJ, or Justin. He said he probably knew them but did not know them now. He had nothing new to add. He said he did not recall the details of the Crandall property, did not specifically recall being at the Crandall party that weekend, and did not know who was there. He described the report as accurate.
2. Detective Dave Kenny report - May 29, 2014.
DDA Peuvrelie, scrolled to January 3, 2007, on the report entry at Munley' s statement. Munley recalled meeting at 7-11 in Squaw Valley. He said this particular report is the closest to his recollection of what took place. He indicated that he came back to his room, was unable to get in although he wanted to go to sleep. He went to see " Jenn" because he knew she would let him in. He said he was aggravated because he wanted to go to bed. He further stated that the detectives he

03/22/2022
150:055778

spoke with were surprised that he' d been contacted and polygraphed by the FBI.

3. FBI questionnaire from March 1999. Munley described the content as accurate.

As we continued speaking with Munley, he indicated that he' d sought legal counsel because of the way that he was characterized by the defense (in the preliminary hearing in context). He indicated he' d been advised to plead the fifth to defense questions. He went on to say that " Sanger" cast him in a poor light and compared him to Scott Peterson. He said he was painted as angry and upset as well as a viable suspect. He said he did not like the way that " Sanger" painted a picture of him.

Munley said that the defenses inspector was aggressive and off putting. He said is seemed as though the inspector working for the defense was trying to get a response from him. Munley described how he was not supposed to disclose his receipt of a subpoena to DDA Peuvrelle (in addition to Ruben and Paul Flores).

Munley was provided subpoena information and told he would be placed on call.

Eventually, the interview was terminated.

In addition to the disc which contained the interview, I booked copies of the preliminary hearing subpoena and an electronic copy of the documents as evidence (See RMS #1117).

CLOSING STATEMENT:

Case status cleared by Adult Arrest.

DA Investigator JT Camp #6061

JTC/sm 03/15/2022

RESTRICTED

Date: 3/14/2022

Purpose; Document interview with Ted Munley

On 3/8/2022 at approximately 1500 hours DDA C. Peuvrelle and I met with Ted Munley purposes of a follow up interview. Munley's fiancée accompanied him to the interview. The interview was recorded, and the following will serve as a synopsis of the complete interview. For full details of the interview refer to the audio recording of the contact which was saved and placed on a disc which was booked as evidence at the Sheriff's Detective Division (See RMS # 1116).

We discussed upcoming court proceedings. One of the things Munley mentioned was how he was subpoenaed by the defense team and was admonished in the subpoena that he was not to disclose the subpoena information (from preliminary hearing) to DDA C. Peuvrelle. Munley later provided me a copy of the subpoena electronically (See attached). We discussed that our blanket admonition was that witnesses were free to talk to whomever they chose to, or not talk to anyone if that was their choice. We discussed how our interest was the truth. We indicated we would be documenting this contact. We further discussed Munley's role as a witness and the likelihood that he would be called as a witness.

Munley said he recalled being contacted by the FBI, taking a polygraph and meeting in Lake Tahoe with detectives. He indicated he would like to read the reports which documented his interviews.

Munley was provided the following reports/paperwork to review:

1. Detective Henry Stewart report – July 9, 1996.
   Munley said he did not recall Carrie, RJ, or Justin. He said he probably knew them but did not know them now. He had nothing new to add. He said he did not recall the details of the Crandall property, did not specifically recall being at the Crandall party that

In addition to the disc which contained the interview, I booked copies of the preliminary hearing subpoena and an electronic copy of the documents as evidence (See RMS #1117).

Closing Statement: Adult Arrests. Copy to DDA C. Peuvrelle, SLODA.

03/22/2022
150:055781

EXHIBIT 2

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 7-22-96
REPORT PURPOSE: Interview with Shahn Whitted

DETAILS

7-11-96/1355 HOURS:

I spoke with Shahn Whitted on the telephone at (909) 695-1937

I asked Whitted if he knew Kristin Smart. He told me that he met Kristin the first week she arrived in San Luis Obispo. He said his roommate, Mike May, was friends with the head of Kristin's "WOW" (Week of Welcome) group.

Whitted said he was asked to go with them to the drive-in. He said Kristin was living at Stenner Glen apartments at that time.

I asked Whitted if he knew Trista Rinde. He said Kristin and Trista were good friends and hung out with them often for the first few months. Whitted said that on March 12, 1996 he had a party at his house and Kristin was there. He said it was his birthday. Whitted said he saw Kristin many times after that. He said they "kind of dated on and off". Whitted said Kristin called him after the party and said she had met his neighbor, Tabio. Whitted identified his neighbor as Tabio Darkangelo and said he lived at 2801 Johnson, San Luis Obispo.

Whitted said he bumped into Kristin at different parties and would also occasionally give her rides. He said the last time he saw Kristin was a couple of days before she disappeared.

I asked Whitted if he ever lit a pair of Kristin's shoes on fire and he said "yes". Whitted told me that Kristin was telling Trista lies about him. He said she had left some old "trashed" shoes at his house. Whitted said he burned them on her front porch and left a note. Whitted said he and Kristin made up after that. He believes that occurred around the later part of February, 1996.

I asked Whitted if he knew Paul Flores and he said "no".

I asked Whitted if he ever had sex with Kristin Smart and he said "no". I asked him if he had any idea where she might be and Whitted said he had no idea at all. Whitted added that she would get rides from people all the time.

I asked Whitted if he could tell me what color hair Kristin had the last time he saw her. Whitted said her hair was a darker "burgundy kind of brown" in the light, otherwise it was brown in color. Whitted said Kristin usually had a small backpack with her that she carried her makeup in.

Whitted also told me that Kristin was working at the bookstore on campus. He said she started stalking some guy she met at the store and later got in trouble for waking him up in his room. Whitted said we could probably find a report on that incident.

Whitted had no further information at that time

CLOSING STATEMENT

Case status active.

/s/ H. Stewart, Detective #0335
Typ 7-22-96 smart (1)

EXHIBIT 3

SAN LUIS OBISPO COUNTY SHERIFF'S DEPARTMENT
SUPPLEMENTAL REPORT
CASE # 9606-10965

DATE WRITTEN: 02/24/03
REPORT PURPOSE: INVESTIGATION SCOTT PETERSON

DETAIL

ON 12-24-02, LACI PETERSON DISAPPEARED FROM HER MODESTO HOME, WHERE SHE LIVED WITH HER HUSBAND SCOTT PETERSON. CIRCUMSTANCES SUGGEST THAT SCOTT IS INVOLVED IN THE DISAPPEARANCE. THIS CASE IS BEING INVESTIGATED BY MODESTO POLICE DEPARTMENT UNDER CASE # 02142591. SCOTT PETERSON WAS ATTENDING CAL POLY AT THE TIME SMART DISAPPEARED. AN INVESTIGATION WAS CONDUCTED TO DETERMINE IF SCOTT PETERSON WAS INVOLVED IN SMART'S DISAPPEARANCE.

INVESTIGATION

ON 1-21-03, AT APPROXIMATELY 0903 HOURS, I SPOKE TO DETECTIVE KENNEDY (CAL POLY POLICE DEPARTMENT). HE PROVIDED ME WITH IDENTIFYING INFORMATION ABOUT SCOTT AND LACI. (MAIDEN NAME: ROCHA). HE TOI D ME THAT SCOTT TRANSFERRED TO CAL POLY ON 1-3-94, FROM CUESTA COLLEGE. SCOTT STARTED WITH A MAJOR IN NUTRITION AND THEN CHANGED TO AG BUSINESS. SCOTT GRADUATED ON 6-13-98. LACI STARTED AT CAL POLY IN 1993. HER MAJOR WAS ORNAMENTAL HORTICULTURAL. SHE GRADUATED ON 12-13-97. ADDRESS RECORDS SHOWED THAT AS OF 5-22-96, SCOTT HAD AN ADDRESS OF RT 2 BOX 414 D SAN LUIS OBISPO 93401. LACI HAD THIS ADDRESS AS OF 5-31-96. THIS WAS THE LAST MAINTAINED ADDRESS. THEIR PHONE NUMBER WAS 543-7340.

HE HAD RECEIVED INFORMATION FROM A RETIRED CO-WORKER, BOB WILSON, THAT SCOTT WORKED AT ABBA'S IN MORRO BAY AND AT THE SEA PINES GOLF COURSE IN LOS OSOS.

I REQUESTED THE FOLLOWING RECORDS:
1-CLASS RECORDS FOR SCOTT AND LACI.
2-ID CARD SHOW USE AT DINING FACILITIES AND USE AT CAMPUS LOCATION FOR LACI AND SCOTT.
3-VEHICLE PERMIT INFORMATION FOR SCOTT AND LACI.
4-DORMITORY RESIDENCE INFORMATION.
5-ENROLLMENT APPLICATIONS.

ON 1-21-03, AT APPROXIMATELY 0918 HOURS, I CONTACTED SUPVR. AGENT ED MILLER (FBI/SANTA MARIA) AND REQUESTED THAT HE CHECK THE SMART

DATABASE FOR CONTACTS WITH LACI ROCHA/PETERSON AND SCOTT PETERSON. HE TOLD ME THAT THE DATABASE HAD BEEN CHECKED AND THERE WERE NO CONTACTS.

ON 1-21-03, AT APPROXIMATELY 0930 HOURS, I MADE DMV AND CLETS INQUIRIES ON LACI ROCHA/PETERSON AND SCOTT PETERSON. SEE THE ATTACHED INQUIRIES.

I OBTAINED SCOTT PETERSON'S DMV PHOTO FROM CAL PHOTO, THROUGH JOHN MEANS. MEANS PREPARED A PHOTO LINEUP, WITH SCOTT IN POSITION 3, FOR ME. SEE THE ATTACHED LINEUP.

ON 1-21-03, AT APPROXIMATELY 0935 HOURS, I CHECKED LACI ROCHA/PETERSON AND SCOTT PETERSON IN LS. THERE WERE NO CONTACTS. I CHECKED THE PHONE NUMBER OF 543-7340 IN LS AND THERE WERE NO CONTACTS.

ON 1-21-03, AT APPROXIMATELY 1013 HOURS, I SPOKE TO JENNIFER MC MASTER AT HE SAN LUIS OBISPO POST OFFICE (549-8352). SHE CHECKED THE RECORDS FOR RT 2 BOX 414 D AND THEY SHOWED THAT THIS ADDRESS WAS ON MAIL POUCH LANE/HWY 1 SAN LUIS OBISPO.

ON 1-21-03, AT APPROXIMATELY 1027 HOURS, I SPOKE TO DETECTIVE KENNEDY ON THE PHONE. HE TOLD ME THAT SCOTT AND LACI DID NOT LIVE IN THE DORMITORIES ON CAMPUS.

THE RECORDS SHOWING THE ID CARD USED HAD BEEN PURGED.

HE TOLD ME THAT THE ENROLLMENT APPLICATIONS FOR SCOTT AND LACI COULD NOT BE RELEASED, BECAUSE OF PRIVACY ISSUES. HE TOLD ME THAT WHEN SCOTT ENROLLED, HE GAVE AN ADDRESS OF 260 SHASTA MORRO BAY AND LACI GAVE AN ADDRESS OF 1017 MARKLEE WY., MODESTO.

ON 1-21-03, AT APPROXIMATELY 1035 HOURS, I SPOKE TO DOJ PROFILER, SHARON HAGEN. SHE TOLD ME THAT SHE WAS ASSIGNED TO THE MODESTO CASE. WE DID NOT DISCUSS THE MODESTO CASE. I ASKED TO PROVIDE MODESTO INVESTIGATORS WITH INFORMATION ABOUT OUR CASE, IF NECESSARY.

ON 1-21-03, AT APPROXIMATELY 1050 HOURS, I SPOKE TO CHIEF SYSAK (CUESTA POLICE DEPARTMENT) AND REQUESTED SCOTT PETERSON CLASS SCHEDULES AND APPLICATION.

ON 1-21-03, AT APPROXIMATELY 1055 HOURS, I SPOKE TO DETECTIVE STEWART ON THE PHONE. HE TOLD ME THAT HE DID NOT RECALL THE NAMES OF LACI ROCHA/PETERSON OR SCOTT PETERSON'S AS BEING PART OF THE SMART INVESTIGATION. HE SAID THAT IF THEY ATTENDED THE COLLEGE AT THE TIME

THAT SMART DISAPPEARED, THEY WOULD HAVE BEEN SENT AN E-MAIL OR LETTER, SENT BY HE COLLEGE, REQUESTING INFORMATION ABOUT SMART. HE DID NOT KNOW IF THEY REPLIED TO EITHER ONE.

I CONTACTED DMV AND REQUESTED CERTIFIED HISTORICAL SOUNDEX'S ON LACI ROCHA/PETERSON AND SCOTT PETERSON. (NOTE ON 1-22-03, I RECEIVED THESE SOUNDEX'S. SEE THE ATTACHED COPIES.)

ON 1-21-03, AT APPROXIMATELY 1308 HOURS, I SPOKE TO CONNIE MARSTILLER (NCIC) AND REQUESTED AN NCIC OFF LINE ON SCOTT PETERSON FROM MAY 1, 1996 TO MAY 31, 1996. (NOTE: ON 1-23-03, I RECEIVED THE NCIC INQUIRY. THERE WERE NO CONTACTS ON SCOTT LEE PETERSON DURING THE REFERENCED TIME FRAME. SEE THE ATTACHED INQUIRY RESULTS.)

ON 1-21-03, AT APPROXIMATELY 1353 HOURS, I SPOKE TO DETECTIVE MURPHY (SLOPD). SHE CHECKED LACI ROCHA/PETERSON AND SCOTT PETERSON FOR CONTACTS. THE RECORDS SHOWED THAT LACI WAS CONTACTED FOR A TRAFFIC CITATION. SCOTT WAS CONTACTED, AS THE OWNER OF THE SHACK , ON AN ALARM CALL AND THEN AS A COMPLAINANT ON AN ALCOHOL OFFENSE. SHE ALSO CHECKED THE KREBS CASE RAPID START SYSTEM FOR CONTACTS, THERE WERE NONE.

ON 1-21-03, AT APPROXIMATELY 1400 HOURS, I SPOKE TO CHIEF SYSAK ON THE PHONE. HE TOLD ME THAT SCOTT PETERSON ENROLLED AT CUESTA IN DECEMBER, 1991. HE COMPLETED 40 UNITS, IN BUSINESS CLASSES, AND TRANSFERRED TO CAL POLY IN JUNE, 1993. SCOTT'S SOCIAL SECURITY NUMBER WAS 560-81-2192. THE APPLICATION SHOWED AN ADDRESS OF 260 SHASTA MORRO BAY.

HE TOLD ME THAT THERE WERE NO CLASS ROOSTERS OR PARKING PERMIT INFORMATION AVAILABLE. HE WILL ATTEMPT TO CONTACT THE INSTRUCTORS TO OBTAIN SCOTT'S CLASSMATES.

HE CHECKED SCOTT IN THE LAW ENFORCEMENT CONTACT FILES AND THERE WERE NO CONTACTS.

ON 1-21-02, AT APPROXIMATELY 1408 HOURS, I SPOKE TO PAT (DISPATCH/MORO BAY POLICE DEPARTMENT) AND REQUESTED THAT SHE CHECK FOR CONTACTS ON LACI ROCHA/PETERSON AND SCOTT PETERSON. THERE WERE NO CONTACTS. SHE ALSO CHECKED FOR CONTACTS AT 260 SHASTA AND THERE WERE NONE.

ON 1-22-03, AT APPROXIMATELY 1422 HOURS, I SPOKE TO DETECTIVE GROGAN (MODESTO POLICE DEPARTMENT/PHONE (209) 572-9500), WE DISCUSSED THE

SMART CASE AND MY NEED TO INTERVIEW SCOTT PETERSON ABOUT HIS POSSIBLE INVOLVEMENT IN SMART'S DISAPPEARANCE. HE REQUESTED THAT I WAIT TO CONTACT SCOTT TO PREVENT ISSUES WITH HIS CASE.

ON 1-23-03, AT APPROXIMATELY 0800 HOURS, I SPOKE TO CONNIE ODA (DOJ/SHOP) AND REQUESTED BACKGROUND INFORMATION ON PETERSON. SEE THE ATTACHED RESULTS.

ON 1-23-03, AT APPROXIMATELY 0822 HOURS, I SPOKE TO DETECTIVE KENNEDY ON THE PHONE. HE TOLD ME THAT SCOTT PETERSON NEVER WORKED FOR THE CAL POLY FOUNDATION (PIZZA CART THEFT). HE DID SAY THAT LACI WORKED FOR THE FOUNDATION AT THE PLANT SHOP FROM 1996 TO 1997.

ON 1-23-03, AT APPROXIMATELY 1052 HOURS, I SPOKE TO CHERYL ANDERSON ON THE PHONE. SHE WAS AT THE PARTY WITH SMART AND WALKED WITH FLORES AND SMART TO PERIMETER AND GRAND. I E- MAILED HER SCOTT AND LACI PICTURES FROM THEIR DMV SOUNDEX'S. LACI'S PICTURE WAS TAKEN ON 5-3-94 AND SCOTT'S PICTURE WAS TAKEN ON 11-2-95. THESE WERE THE ONLY PICTURES I COULD FIND THAT WERE TAKEN CLOSE IN TIME TO THE DATE SMART DISAPPEARED.

SHE TOLD ME THAT SHE LOOKED AT THE PICTURES AND SHE WAS NOT FAMILIAR WITH EITHER OF THE PEOPLE IN THE PICTURES. SHE HAD NEVER SEEN THESE PEOPLE BEFORE. SHE DID NOT KNOW A LACI ROCHA/PETERSON OR SCOTT PETERSON. SHE DID NOT RECALL THEM IN ANY OF HER CLASSES. SHE HAD A MAJOR OF SPEECH COMMUNICATIONS. SHE COULD NOT RECALL IF HE EVER HEARD THEIR NAMES AROUND THE TIME OF SMART'S DISAPPEARANCE.

SHE TOLD ME THAT SHE DID NOT RECALL EITHER OF THEM BEING AT THE PARTY, EITHER ALONE OR TOGETHER, ON CRANDALL. WHEN LEAVING THE PARTY AND WALKING ON CAMPUS, SHE DID NOT SEE THE MALE IN THE PICTURE. SHE DID NOT RECALL SEEING THE MALE IN THE PICTURE ANY WHERE SHE HAD BEEN ON THE NIGHT SMART DISAPPEARED.

SHE TOLD ME THAT SHE HAD BEEN TO A PARTY(S) ON JEFFERY IN SAN LUIS OBISPO (ONE OF SCOTT'S RESIDENCE ADDRESSES). SHE DID NOT KNOW WHO THE RESIDENT WAS. SHE HAD NEVER BEEN TO A HOUSE ON HWY 1 OR TO A HOUSE ON SHASTA IN MORRO BAY. SHE SAID SHE WAS FAMILIAR WITH A BUSINESS ON FOOTHILL CALLED THE SHACK. SHE HAD NEVER BEEN TO THIS BUSINESS. SHE NEVER WENT TO THE PLANT SHOP ON CAMPUS.

ON 1-27-03, AT APPROXIMATELY 1215 HOURS, I SPOKE TO DETECTIVE KENNEDY. HE GAVE ME SCOTT'S, LACI'S, KRISTIN SMART AND PAUL FLORES CLASS SCHEDULES. I REVIEWED THE SCHEDULES AND FOUND NO COMMON CLASSES. SEE THE ATTACHED SCHEDULES.

ON 1-27-03, AT APPROXIMATELY 1310 HOURS, I SPOKE TO STAN SMART, THE VICTIM'S FATHER ON THE PHONE. HE TOLD ME HE NEVER HEARD KRISTIN TALK ABOUT A SCOTT PETERSON OR LACI. SHE MADE HAVE MENTIONED THE NAME SCOTT, BUT HE HAD NO OTHER INFORMATION ABOUT THIS.

ON 1-30-03, AT APPROXIMATELY 0952 HOURS, I SPOKE TO TIM DAVIS ON THE PHONE. HE WAS AT THE PARTY WITH KRISTIN. HE TOLD ME HE HAS SEEN THE PICTURES OF SCOT AND LACI PETERSON ON THE NEWS. HE TOLD ME THAT NEITHER OF THEM WERE AT THE PARTY ON CRANDALL. HE DOES NOT KNOW EITHER ONE OF THEM. NEITHER ONE OF THEM WERE IN HIS CLASSES.

ON 1-30-03, AT APPROXIMATELY 1350 HOURS, I SPOKE TO DETECTIVE KENNEDY. HE TOLD ME THAT PARKING PERMIT INFORMATION WAS NO LONGER AVAILABLE FOR SCOTT AND LACI.

ON 1-31-03, AT APPROXIMATELY 0803 HOURS, I SPOKE TO JENNIFER PHIPPS ON THE PHONE. SHE WAS THE REPORTING PARTY ON THE CALL AND WAS A FRIEND OF KRISTINS WHO HAD A DORM ROOM ACROSS FROM KRISTEN. I E- MAILED HER SCOTT AND LACI PICTURES FROM THEIR DMV SOUNDEX'S. LACI'S PICTURE WAS TAKEN ON 5-3-94 AND SCOTT'S PICTURE WAS TAKEN ON 11-2-95. THESE WERE THE ONLY PICTURES I COULD FIND THAT WERE TAKEN CLOSE IN TIME TO THE DATE SMART DISAPPEARED.

SHE LOOKED AT THE PICTURES. SHE DID NOT KNOW SCOTT OR LACI. SHE SAID SHE MAY HAVE SEEN LACI ON CAMPUS AND HAD NO FURTHER INFORMATION ABOUT THAT. KRISTIN NEVER MENTIONED SCOTT OR LACI'S NAME. SHE DID NOT RECALL SCOTT OR LACI BEING IN ANY OF HER CLASSES. SHE DID NOT RECALL SEEING SCOTT OR LACI AROUND HER AND KRISTIN'S DORMITORY. KRISTIN DID NOT HAVE A MALE FRIEND THAT WAS SIMILAR IN APPEARANCE TO SCOTT. SHE DID NOT RECALL KRISTEN MENTIONING SCOTT OR LACI'S NAME. SHE NEVER SAW KRISTEN WITH SCOTT. ON THE NIGHT THAT KRISTIN DISAPPEARED, SHE DID NOT SEE ANYONE MATCHING SCOTT'S DESCRIPTION AROUND THE DORMITORY.

ON 2-11-03, AT APPROXIMATELY 0735 HOURS, I SPOKE TO CRYSTAL CALVIN. SHE WAS KRISTIN'S ROOM MATE. I E- MAILED HER SCOTT AND LACI PICTURES FROM THEIR DMV SOUNDEX'S. LACI'S PICTURE WAS TAKEN ON 5-3-94 AND SCOTT'S PICTURE WAS TAKEN ON 11-2-95. THESE WERE THE ONLY PICTURES I COULD FIND THAT WERE TAKEN CLOSE IN TIME TO THE DATE SMART DISAPPEARED.

SHE TOLD ME THAT SHE LOOKED AT THE PICTURES. SHE DID NOT KNOW EITHER THE MALE OR FEMALE. SHE HAD NEVER SEEN THEM IN KRISTEN'S DORM ROOM. KRISTEN NEVER TALKED ABOUT A SCOTT OR LACI. SHE NEVER SAW KRISTEN WITH EITHER THE MALE OF FEMALE IN THE PICTURES. SHE DID NOT RECALL SEEING THEM IN ANY OF HER CLASSES.

CLOSING STATEMENT

CASE STATUS INACTIVE. AT THIS TIME, THERE IS NO INFORMATION TO LINK SCOTT PETERSON TO THE VICTIM. I DID NOT TALK TO PETERSON, BECAUSE OF THE ON GOING HOMICIDE INVESTIGATION, INVOLVING LACI PETERSON, WITH SCOTT AS A SUSPECT. WHEN MODESTO POLICE DEPARTMENT GIVES ME PERMISSION TO TALK TO SCOTT ABOUT THIS CASE, I WILL INTERVIEW HIM.

DETECTIVE CRAWFORD #0341
SC/PLH/02/24/03 1058
Supp

SWD
12403

EXHIBIT 4

SAN LUIS OBISPO COUNTY SHERIFF

SAN LUIS OBISPO, CA 93401

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	273
CASE TYPE	CAD EVENT NUMBER
MISSING	
REPORTING OFFICER	REPORT DATE
SLSO0587 - KENNY, DAVE	06/23/2014

INCIDENT

LOCATION					DATE	TIME
TRENT BUCKLE, , CA					06/23/2014	13:47
PREMISE NAME						
TRENT BUCKLE						
STATION	BEAT	RESP AREA		JURISDICTION		
ST24				SLSO		

ADDITIONAL INFORMATION

☐ INC SUPP 1	☐ INC SUPP 3	
INC SUPP 1	INC SUPP 4	INC SUPP 6

SUSPECTS

ENTRY NO	INVOLVEMENT	NAME: LAST, FIRST, MIDDLE
163	SU	BUCKLE, TRENT VICTOR

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
697 CHORRO ST	SAN LUIS OBISPO, CA 93401		
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
SELF			PHOTOGRAPHER
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
01/20/1971	43	M	W		508	165	BLN	BLU			

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
C7020532							

COMMENT

OTHERS

ENTRY NO	INVOLVEMENT	NAME: LAST, FIRST, MIDDLE
164	OT	VIRGILIO, ANGEL ROSANNA

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
38050 HIGHWAY 36E APT #8	MINERAL, CA 96063		
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
LASSEN VOLCANIC NATIONAL			PARK RANGER
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
02/15/1976	39	F	W		506	135	BLN	BLU			

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
A4335770		572352858					

COMMENT

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
514	E	OTHER		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
					514	Y

DESCRIPTION	CUSTODY STATUS
SAN DIEGO PD INFO RE: BUCKLE	SUBMITTED

COMMENT

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
515	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
	1				515	Y

DESCRIPTION	CUSTODY STATUS
DVD, INTERVIEW OF ANGEL VIRGILIO	SUBMITTED

COMMENT

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
DF	06/28/1996	A	02/11/2013	SLSO0520 - MANUELE, MICHAEL	06/25/2014

04/22/2021
6:001435

NARRATIVE

Report Purpose: To document information about Trent Buckle.

In reviewing this case, I located a Crime Stoppers tip received on 11-19-98 involving Trent Buckle. The call was received by Crime Prevention Specialist Terri Woods. The anonymous tipster called and related the following information:

Trent Buckle was convicted of PC 187 / homicide in Long Beach. Buckle left this area (Cal Poly, San Luis Obispo) soon after Smart case with only one semester left. Buckle was a "pimp" and "go between" for approximately ten strippers in San Luis Obispo. Buckle was a "street preacher" and was "very aggressive" person. Buckle was described as being "irrational and very strong." Buckle would go to bars at 2200 hours to preach to young girls. Between midnight and 0200 hours, he would drive the streets looking for people who needed a ride home so he could preach to them.

The tipsters were apparently two males and they believed that Kristin Smart may have been a "stripper" named "Roxie" who may have worked for Buckle. Buckle also drove a Ford Escort and at one time bought a Camaro.

I obtained several San Luis Obispo Police Department reports regarding Trent Buckle. One of the reports, dated 03-18-1996, related that Buckle was running an escort service in the San Luis Obispo area named "SLO Models." The escort or massage therapist that was cited for P.C. 647 (B)/ prostitution went by the nickname of "Genesis." Her real name was Angelita Roy (a.k.a. Angel Virgilio). There was a copy of the "New Times" ad for SLO Models within the classified section dated from March 14 to March 21, 1996. Within that ad, it contained the nicknames of the SLO Model employees including "Genesis" and "Roxy."

I located a Crime Stoppers tip that had been received on 06-12-96 from an anonymous tipster regarding an exotic dancer with the same nickname "Roxy." The tipster stated that he had a friend who worked for a "dance agency" and had seen a picture of "Roxy" the stripper and believed that she may have resembled Kristin Smart.

04-21-04 at 1315 hours, I spoke with Long Beach P.D. record's supervisor, Fannie. Buckle was cited for speed in 1997. The hard copy of the citation is no longer available, only information entered into the computer. The vehicle listed was a 96 Chevy Camaro, 2 door, black, CA license #3RMT660, and the address was 1900 E. Ocean Blvd.in Long Beach. Buckle did not have any further history with their agency and he was not listed as a suspect in any homicide.

On 04-21-04, I contacted the San Diego Police Department (SDPD) and spoke with a clerk who ended up locating the homicide case (SDPD #97-077228) involving Buckle and located the lead detective, Bob Donaldson. I left a voice mail for him to contact me.

On 04-21-04 at 1352 hours, I spoke with SDPD Det. Donaldson. He explained the circumstances of the homicide case. Buckle was residing in an expensive apartment / condominium complex in Long Beach. He was running an alcohol and escort / prostitute service with female college students as employees. He also worked as an escort for both males and females. He would place ads to get female roommates. In 1997, he had a 42 year old female roommate for a few months. He did not

want her as a roommate anymore but she would not leave. He wanted a younger female roommate.

Buckle strangled his roommate, placed cloth-type medical tape over her mouth, bound her hands with black and orange rope, placed her in an old refrigerator with cardboard boxes over her, drove her to San Diego in his Camaro and dumped her body. One of the boxes had his name on it, which ultimately led to his arrest. The victim had not been sexually assaulted.

Buckle did not have any prior history in San Diego. Buckle was arrested 12-02-97 and booked in San Diego County Jail. Buckle did not get released on bail. Buckle was convicted of second degree murder and sentenced to 15 years to life. On 10-10-01, Buckle appealed and had his judgment reversed. On 10-16-01, he was convicted of P.C. 192(a) / voluntary manslaughter and sentenced to 11 years in prison.

Det. Donaldson will review the report to determine if the evidence was still available. I requested that he review the report for any information or possible connection to Kristin Smart. I also asked him to search for a purple bra or any unidentified keys or key chain with a small surfboard on it.

In May of 2004, Det. Donaldson later contacted me and informed me that he checked through the case file and the evidence with negative results. He explained that their investigation showed that Buckle operated an escort service out of San Luis Obispo by the name of S.L.O. Models, Inc. prior to his move to Long Beach. Buckle started another escort service named Malibu Enterprises on 11-19-96. He looked through many of the photos of the models and did not locate any that resembled Kristin Smart. He also sent me a copy of information (RMS #514) related to their investigation.

On 06-11-09, Buckle was released from prison and discharged from parole in Long Beach.

07-22-09, I spoke with Chris Garcia, a SLO High School classmate who had just gone to his 20 year class reunion. He spoke with a friend of Buckles', Jimmy (James) Bonsangue, at the reunion and received information about Buckle. Buckle had stated that he "didn't do that murder" but he deserved to do time because "I've done things worse" (or something similar). Garcia will obtain contact information for Bonsangue.

On 09-21-09, Chief D.A. Investigator Hanley and I attempted to locate Buckle at his listed residence (697 Chorro Street in San Luis Obispo) and nobody was home. I went by the residence several times and was unable to locate any activity.

I conducted a Google search for Trent Buckle and located a business he has as ProImage Weddings (wwwproimageweddings.com) located at 6481 Atlantic Ave in Long Beach.

I obtained current address information from the California Department of Motor Vehicle for Angel Virgilio. I contacted the Tehama County Sheriff's Office and requested contact information for Virgilio. They did not locate any contacts.

On 10-06-09 at 1444 hours, I spoke with Angel Virgilio (a.k.a. Angelita Roy). The interview was digitally-recorded and later transferred to a DVD (RMS #515). The following is a summary of the interview (refer to the DVD for specific information):

She began employment with S.L.O. Models, Inc. in 1996 after answering an ad in the newspaper. She worked for the company for approximately six months. She thinks that she moved away in approximately May or June of 1996.She did not remember a dancer named "Roxy." She dealt with the manager that went by "Devin" (a.k.a. Trent Buckle). She remembered a few other employees, "Murriah" and "Austin", but could not remember their real names. Virgilio went by the name "Genesis" or "Jenna." She was not aware of any photos that were taken of the group of employees. She has not had any contact with any of the co-workers.

On 06-14-11 at 1430 hours, Detective Commander Hastie informed me that he had received a call from a subject, Gary Orback, with information provided from Ina Davenport.

On 06-16-11 at 1517 hours, I spoke with Ina Davenport and she provided information that she had received from her son, Tyler Mitchell. She provided the name of Todd Buckles (believed to be Trent Buckle) and said that she had been told that he was a "disturbed individual" and believed that Kristin Smart was on the "fringe" of the Christian group that Buckle was.

I have not located any information to substantiate that Kristin Smart was in fact an escort named "Roxy." Based on the information available, I have not found any direct connection between Kristin Smart and Trent Buckle.

The report (RMS #514) and DVD (RMS #515) were entered into evidence at the Sheriff's Property Office detective locker.

CLOSING STATEMENT

Case status active, investigation continuing.

/S/Detective D. Kenny #0587
DK/nr/06-23-14

SAN LUIS OBISPO COUNTY SHERIFF

SAN LUIS OBISPO, CA 93401

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	274
CASE TYPE	CAD EVENT NUMBER
MISSING	
REPORTING OFFICER	REPORT DATE
SLSO0587 - KENNY, DAVE	06/24/2014

INCIDENT

LOCATION					DATE	TIME
ERNIE RIVAS, , CA					06/24/2014	13:44
PREMISE NAME						
ERNIE RIVAS						
STATION	BEAT	RESP AREA		JURISDICTION		
ST24				SLSO		

ADDITIONAL INFORMATION

☐ INC SUPP 1	☐ INC SUPP 3	
INC SUPP 1	INC SUPP 4	INC SUPP 6

OTHERS

ENTRY NO	INVOLVEMENT	NAME. LAST, FIRST, MIDDLE
165	FI	RIVAS, ERNEST

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
2211 N HARBOR BLVD	OXNARD, CA 93036		
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(805) 8153071	(805) 6510560		

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
10/03/1957	56	M	H								

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
N3828451							

COMMENT

ENTRY NO	INVOLVEMENT	NAME. LAST, FIRST, MIDDLE
166	OT	VALADEZ, MARCO ANTONIO

HOME ADDRESS	CITY, STATE, ZIPCODE	MAILING ADDRESS	CITY, STATE, ZIPCODE
EMPLOYER	EMPLOYER ADDRESS	CITY, STATE, ZIPCODE	OCCUPATION
HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(624) 1439596	(044) 1750685		

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RES	GANG IDENTIFICATION
02/14/1970	44	M	H		507	160	BLK	BRO			

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL	ID	ID
U6155716							

COMMENT

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
516	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
	1				516	Y

DESCRIPTION	CUSTODY STATUS
DVD, CONTACTS WITH ERNIE RIVAS	SUBMITTED

COMMENT

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
517	E	53		

SERIAL NUMBER	QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE
	1				517	Y

DESCRIPTION	CUSTODY STATUS
DVD, INTERVIEW WITH ERNIE RIVAS AT ST 22	SUBMITTED

COMMENT

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
DF	06/28/1996	A	02/11/2013	SLSO0520 - MANUELE, MICHAEL	06/25/2014

04/22/2021
6:001439

EXHIBIT 5

1030 Brief Mr Smart in my office Psychic wanted to talk to someone who had spoken to the suspect and I said no

PAGE 19

1150 Sgt Schroeder checked with a local mental health expert about doing a profile on the m/p to see from what we know if she would run off.

1155 Called Hawaii, LMTC for Shelley

1200 Called Hawaii, spoke with Alyssa Said Kristin was carefree, outgoing spontanious, boycrazy. Told me that Kristin had disappeared several times during her stay at camp at around 2300 hours and would not come back till morning. Felt she was out with males
Said she had a crush on one of the other camp counselors and spent a great deal of money on him Followed him to another island and spent approximately $175 on a hotel room for them. She also spent a "lot" of money on a gold ring for this person
Alyssa said that when Kristin came back for the Christmas reunion, she was walking around to several men at the party asking them to "rape" her. These were strangers that she did not know but were at this particular party. She disappeared with a male named Danny or Derrick overnight Then returned and said that this guy was "great" but there was no sex At the reunion, Alyssa believes they slept together on the beach and had sex on the beach
Alyssa believes Kristin is fully capable of hiding money and leaving on her own for an extended period of time.

1235 Called the camp where the m/p used to work. They will look for her but she has not contacted the camp or any of the people there as of the day of my call. The director of the camp described her as a "free spirit"

1400 Sgt Schroeder told me that he was to meet with the mental health care professional at 1200 hours on Friday Cancelled after the focus changed.

1600 Ms. Smart called to thank me for my efforts and for the trip to talk with them

1615 Called KSBY for an update.

1820 Call from Larry Hobson. Flores refused poly and walked out. Did not invoke

1825 Called and told Dale Ensley about refusal

CALIFORNIA POLYTECHNIC STATE UNIVERSITY
PUBLIC SAFETY SERVICES
UNIVERSITY POLICE
SUPPLEMENTAL REPORT
CASE # 96-1308

CONFIDENTIAL

DATE: 6/25/96, 1200 hours

SECTION: Missing person

SYNOPSIS: Timeline of activity

VICTIM: Kristin Denise Smart

NARRATIVE:
This is a time line of the investigation to date.

5/28/96,1700 hours
Found and spoke with Paul Flores in his room. No obvious blood on bed or walls. He was very nervous, his heart was pounding under his t-shirt. He said he thought we were going to arrest him for a warrant that was outstanding. He said he paid the bail on the warrant and had a receipt. He said he walked with the missing person up the hill and left her near the driveway behind Sequoia Hall. He last saw her at that location. He set he went straight to his room and feel asleep. I asked if he had any physical contact with the m/p. He said he gave her two hugs on the way up the hill from the party because she was cold. Flores had a slight discoloration, yellowish, under his right eye. I asked if he had seen her since that time and he said no. I asked if he knew who she was. He said he did not know her name. I told him we would need to talk to him again and he said that would be fine

5/29/96, Wednesday
0830 Spoke with Denise Smart. She told me that Kristin may have been upset by the death of a family friend but she didn't think m/p would take off over that. She said the last messsage from Kristin was left on 5/24/96, Friday around 1700 hours. The message was enthusiastic in tone about some good news from a biology class last quarter
I asked if Kristin would go back to Stockton or Napa. Mother said absolutely not. I asked where she would go Beach area or Hawaii. Mother thought Pismo or Avila.
I asked about the incident in Hawaii where Kristin was missing before. Mother said it was for one day only. Krisitin was supposed to fly from Oahu to Kauai to visit friends. Instead she flew to the Big Island and visit her friend Alyssa, no last name at 808-929-9203. There was some sort of situation that developed on the beach with Alyssa and some male. Kristin had to hitchhike back to the other side of the island.
I asked her to let me know if there was anywhere else she might go.

Prepared by: M. Kennedy, S0757 Date: 6/26/96 Approved by:_____
COPIES:Detectives:_____Patrol:_____DA:_____SO/PD:_____Muni Ct:_____NTF:_____
Housing:_____Judicial Affairs:_____Probation:_____Other:_____

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I asked her to let me know if there was anywhere else she might go.

EXHIBIT 6

5/5

Dear Kristen

Well, thank again for the wonderful cheerful Sunday afternoon telephone Ceell.

I am beginning to think that maybe you need to start thinking about what your real choices in life are and STOP complaining about how rough you have it.

Your Dad and I have trusted and supported you through numerous adventures, even at times when we probably shouldn't have. You've lied to us "hundreds" of times covering poor choices. And yet we have been unwavering in our support of helping you to reach your dreams.

ADD has made the road bumpier for you as a freshmen but the ROAD is still there and it seems instead of trying to

(2.)

make the best out of your journey
you are CONSTANTLY complaining
and making up excuses. Again,
today, instead of being greatful
that DSS "will pay" for a tutor for
you, it's NOT the one you want.
There are hundreds of kids at Cal Poly
who need a TUTOR and NO ONE
will PAY for ANY tutor!
You need to LOOK at your real
choices for next year and then DO
something about it.

1. Return to Cal Poly & LIVE on dorm.
   a. until January w/ enough "A" "B" credits to transfer as A "JR" to other more "Perfect" place
2. Return to Stockton and attend Delta Full time or
3. Get a JOB - TRY THE Real World Minimum wage job would give you about ~~$800~~, a month. Apt fee about $500. utilities $100. food $100 +, leaves about $100. a month to live on!

(3)

It shouldn't take a brain surgeon to figure out that you are NOW living the dream of 1,000,000! And I cannot even begin to tell you how many would trade in their lives for yours!

You are intelligent, you can and have shown in the past that you can do whatever you set your mind to!

RB, I said last week, it is never too late to make up your MIND TO SUCCEED. You've lost what? 10 units that you had 2 jobs w/ a 1,000 excuses for both. The same thing life is going to happen to you if you DON'T WAKE UP and take Responsibility for

(1)

for yourself. You are a product of the choices you make. Whatever you make OR DON'T make of yourself is a direct outcome of your choices! You've made some very good choices this year and its painfully OBVIOUS — poor choices as well! [As has every other freshmen at Cal Poly] It's all up to you Kristen. I am here to support you as is your Dad but we cannot change the outcome of poor choices OR continue to provide financial support for you when you make POOR choices. I am sure it is very difficult to enjoy oneself and appreciate what you have when you have to CONTINUOUSLY complain to your family and friends about how terrible life is at Cal Poly.

(5)

My advise is

1. Make the best of this LAST MONTH / Sort to "POSITIVE"
2. Go see a Counselor to help you SORT your GOALS
3. FOR The 3,000th TIME Go see a Counselor w/ your TRANSCRIPTS!
4. Go see BIO. PROF. and MAKE-UP YOUR MISSED FINAL EXAM!
5. Go to HOUSING OFFICE ASAP - get APP
6. Get a SUMMER PLAN!
7. Wake Up & Smell the ROSES You have a world of opportunities at your fingertips learn to LOOK at the Best in others and in your

(6)

self life choices! You CAN do it!
Learn to accept yourself and others. Learn from your mistakes and go on with life. You are in charge (AND VERY CAPABLE!)

If you are concerned about Monday being ineligible to attend Cal Poly next fall - according to catalog - you can be on AP more than "1" quarter as LONG as you are making progress toward your degree. If you need verification - "GO" talk to DSS. 1,000's of Kids have been in the same spot & they've gotten HELP! No one can DO IT ALONE! Let them help you!

We Love You ALWAYS!

Mom & Pa

08/04/2021
93:039630

EXHIBIT 7

SAN LUIS OBISPO COUNTY SHERIFF
1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

INCIDENT REPORT	
CASE NUMBER 960610965	SUPPLEMENT NUMBER 479
CASE TYPE HOMICIDE (MISSING)	CASE VOID NUMBER
REPORTING OFFICER SLSO0588 - COLE, CLINTON	REPORT DATE 03/31/2020

NARRATIVE

Date of Report: 03/31/2020

Purpose of Report: To Document Dr. Kusomoto's Evaluation of Paul Flores' Black Eye

DETAIL

On 12/02/1998 at 1100 hours, at the San Luis Obispo County SART Office, former Sheriff's Office Detective S. Crawford provided 2 photographs that indicated a bruise under Paul Flores' right eye. One of the photographs was 14" by 11" and the other photograph was 3" by 5". Detective Crawford also wrote a memo to Dr. Kuosomoto and requested he evaluate the pictures and attempt to determine an approximate date when Paul Flores received his injury. Dr. Kusomoto was provided a timeline by Detective Crawford as to when various witnesses noted Paul Flores' black eye. Detective Crawford had 12 questions that he wanted Dr. Kusomoto to answer. For further information refer to the memo to Detective Crawford from Dr. Kusomoto dated 12/03/1998 scanned into Laserfiche.

On 12/07/1998, Detective Crawford retrieved the photographs and Dr. Kusomoto's report. For information regarding Detective Crawford's comments, refer to his Supplemental Report in Laserfiche, #134.

I reviewed Dr. Kusomoto's report. Dr. Kusomoto stated that after reviewing the timeline and the photographs, it was his opinion to assess the age of a bruise from photographs however it appeared to him the bruise on the subject's right lower eyelid is 0 (zero) to 3 (three) days old at the time of the photographs

The following are Detective Crawford's questions and Dr. Kusomoto's responses.

Q: Would the location of this injury suggest an accidental or non-accidental type injury?
A: The injury could be either accidental or non-accidental. The bruise could have been inflicted by having been hit by another person or by an object such as a basketball.

Q: What amount of force would be required to inflict this injury? Could the size of the bruise be a determining factor in the amount of force?
A: The force equivalent to punching with a fist would cause this type of injury. The size of the bruise is not a determining factor in the amount of force

Q: Could this injury be self-inflicted?
A: The injury is not likely self-inflicted.

Q: Could the injury have been caused by being struck by an arm or elbow, while playing basketball; hitting the steering wheel or being struck in the face with a hand or fist?
A: The injury could have been caused by having been struck by an arm or elbow or having been struck

by a fist. but not by hitting a steering wheel.

Dr. Kusomoto answered the additional 8 questions as well. For further information refer to his report Those questions and responses are related to other potential medical conditions that could have caused the bruising.

I reviewed Detective Crawford's timeline regarding Paul Flores' black eye. reference Laserfiche Supplemental Report #130. A friend to Paul Flores. Jeremy Moon. noticed Paul Flores' black eye on Sunday. 05/26/1996, which is the first time any person said they saw the bruise on Paul Flores' face. The last time any person witnessed the bruise was on 05/31/1996. This is when DA Investigators Hanley and Hobson interviewed Paul Flores and noted the bruise.

Dr. Kusomoto's opinion that the bruise is 0 to 3 days old is consistent with the bruise being seen by Jeremy Moon on 05/26/1996.

I placed Detective Crawford's report and Dr. Kusomoto's report on the case hard drive. which will later by booked into evidence.

CLOSING STATEMENT

Case status active.

/s/ Detective C. Cole, #0588
CC/nr 3-31-20

SAN LUIS OBISPO COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT
#9606-10965

DATE WRITTEN: 12-14-98
REPORT PURPOSE: Eye Injuries to Flores

FOLLOW-UP INVESTIGATION

12-2-98/1100 HOURS

I spoke to Dr Kusumoto (S.A.R.T.) at his office. I gave him photographs of Flores, a letter with questions and a time line that outlined statements about Flores' injury to his right eye. I also requested that he determine the age of injury for Paul Flores' right eye.

12-7-98/0950 HOURS:

I picked up the pictures of Flores and Dr Kusumoto's report at the S.A.R.T. office. For details, see the attached copy of the report. I placed the report and pictures into evidence.

CLOSING STATEMENT

Investigation on-going

/s/ S. Crawford, Detective #0341
cpc 12-15-98 <mail 134

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 4:13 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants	CASE NOS. 22CR003712 & 22CR003713 OPPOSITION TO MOTION TO EXCLUDE EVIDENCE RELATED TO 710 WHITE COURT INSPECTION, INVESTIGATION, AND SOIL ANALYSIS Date: July 7, 2022 Time: 8:30 AM Dept. 4

I

INTRODUCTION

An archeological team analyzed a specified grid of land underneath the porch at 710 White Court and identified specific possible anomalies with the use of ground-penetrating radar, one of which was of a size consistent with a human burial site. They then excavated the areas of the anomalies to verify their existence and determine their nature. In the area of the largest anomaly, the excavation located an area of staining consistent in size and manner with the decomposition of human remains but with soil disturbance consistent with the removal of a body. Soil samples taken from the stained soil tested positive for hemoglobin in human blood. The floor of a trailer seen in the area of the burial site tested positive in a presumptive luminol-based test for blood.

This evidence is competent, relevant proof that the body of Kristin Smart was previously buried underneath the porch of defendant Ruben Flores and subsequently removed, and was derived by methods that are generally accepted by the scientific community. The People have previously and will again establish the relevance and admissibility of testimony regarding the ground-penetrating radar evidence, the excavation of the largest anomaly that revealed staining consistent with a human burial, the testing of the soil samples that revealed the presence of human blood, and the presumptive luminol-based testing of the trailer observed parked in the area of the burial site that was positive for the presence of blood.[1]

II

STATEMENT OF PERTINENT AND ANTICIPATED FACTS[2]

A. Inspection of Land Grid Underneath the Porch at 710 White Court

Cindy Arrington and Phil Hanes are part of a small company called Natural Investigations Company, Inc., headquartered in Sacramento. Natural Investigations performs a variety of archeology work, and in their work together Ms. Arrington and Mr. Hanes have completed 50 to 100 large-scale excavation and small-scale testing projects. (PH RT 5110, 5226.) In their work on excavation sites, Mr. Hanes operates a ground-penetrating radar machine to look for evidence of a disturbance underneath the ground level, and if the machine detects an anomaly, Ms. Arrington carefully excavates the area of the anomaly to determine if something is there. (PH RT 5188.)

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[1] The defense notes an unrelated complaint regarding the refusal of the prosecution to provide the soil samples in evidence to Technical Associates, Inc., laboratory for testing. While this claim is irrelevant to the motion at hand, the People wish to note in response that they previously made the soil samples available to Wallace Labs in El Segundo at the request of the defense. Technical Associates, Inc., is also not accredited to perform analysis on either DNA or blood evidence.

[2] Statement of pertinent and anticipated facts taken from the preliminary hearing reporter's transcript ("PH RT"), notes by Phil Hanes attached as Exhibit A, notes by Cindy Arrington attached as Exhibit B, Sheriff's Office case number 960610965 supplemental report number 782 attached as Exhibit C, SERI laboratory report number 11034.19 attached as Exhibit D, Sheriff's Office case number 960610965 supplemental report number 823 attached as Exhibit E, SERI HemDirect validation documents attached as Exhibit F, and Sheriff's Office case number 960610965 supplemental report number 565 attached as Exhibit G. All of the attachments are hereby incorporated by reference. The September 8, 2021, preliminary hearing transcript will be referred to as "9/8/21 RT" because it has separate pagination from the rest of the preliminary hearing transcript referenced in this motion.

Mr. Hanes has been an archeologist for fifteen years. (PH RT 5108.) He has a bachelor's degree in anthropology and a master's degree in a subset of archeology called cultural resource management, and his master's degree thesis heavily focused on the use of ground-penetrating radar in archeology. (PH RT 5108, 5131.) He is a registered professional archeologist, membership in an organization that maintains ethical and educational standards for archeologists. (PH RT 5133.) He is a member of the Society for California Archeology, the Society for Historical Archeology, and the Society for American Archeology, and he attends professional conferences and lectures to stay up to date on new developments in his field. (PH RT 5109-5110.) Mr. Hanes specializes in remote sensing, which uses technology to gain a better understanding of what is underground prior to possible excavation. (PH RT 5110-5111.)

One particular technique that Mr. Hanes has specialized in is ground-penetrating radar, which is the transmission of electromagnetic waves into the ground to measure their reflections to determine what may or may not be underground. (PH RT 5111-5112.) Radar technology that forms the base of the machine is a hundred years old, and was developed initially by the military for aerial radar. (PH RT 5141.) It was used for ground-penetrating radar in the 1960s and 1970s for scientific geological research and became more commercially available in the 1970s and 1980s. (PH RT 5141.) Ground-penetrating radar was applied until around the early 1990s with the advent of modern computer processing which provided for better modeling with the data. (PH RT 5141-5142.) Depending on the frequency of the antenna, it can be used for concrete detection, structural determination of bridges, geologic or oil and gas exploration, and more. (PH RT 5142.)

Mr. Hanes uses a machine with an antenna and physical radar connected to a field computer to collect data. (PH RT 5112.) In this process, he is looking for anomalies, or consistency changes to the underground environment that is visible on the radar, which include voids and pipes but are more often soil changes caused by digging/excavation and backfill. (PH RT 5112; Exh. A.) To accomplish this, Mr. Hanes creates a tight grid (typically one-foot transects) on the ground surface then uses the ground-penetrating radar unit to send radar pulses within the ground and receive a signal back to determine buried anomalies. (PH

RT 5111, 5113.) He then reviews the data reflecting horizontal slices across the ground to determine whether there are anomalies in any locations within the grid. (PH RT 5115.)

Ground-penetrating radar has been subject to extensive peer review, and the topic of ground-penetrating radar and human remains is the subject of scholarly articles and books. (Exh. A.) Some of the academic literature included scientific experiments to determine the accuracy and feasibility of ground-penetrating radar on detecting burials. (Exh. A.) The methods used by Mr. Hanes are standard and representative of good data-collecting practice, as described in "Ground Penetrating Radar of Archaeology" by Lawrence Conyers. (Exh. A.)

Mr. Hanes has used ground-penetrating radar machines since his time as an undergraduate, has received trained in it both by his college advisor—one of the preeminent practitioners in the field who assisted in the development of the hardware and its application to archeology—and by the manufacturer, and has taken subsequent classes on the topic. (PH RT 5114, 5128.) He has owned the machine he uses for approximately eleven years, and has used ground-penetrating radar on a site approximately 30 times. (PH RT 5115, 5135.)

On March 15, 2021, Ms. Arrington and Mr. Hanes began work on an evaluation and possible excavation of 710 White Court in Arroyo Grande. (PH RT 5186.) Ms. Arrington and Mr. Hanes examined the requested areas, took soil samples to calibrate the radar unit to determine depth, cleared brush and objects from under the porch to provide access for the machine, calibrated the machine for the specific environment of sand, and set up a specific grid pattern for the analysis. (PH RT 5119-5120, 5186-5187.) Ground-penetrating radar can penetrate most materials except metal, and disturbance from grasses and household weeds do not significantly impact ground-penetrating radar data. (PH RT 5123, Exh. A.)

Ms. Arrington and Mr. Hanes ran approximately six grids at 710 White Court that day and identified four anomalies of interest under the porch, identified in the grid pattern as Grid 1, Grid 3 and Grid 10. (PH RT 5148, 5189.) The largest anomaly was approximately four feet by six feet in Grid 1, a size that was large enough to fit human remains, and began at the surface or close to it and went approximately three and a half or four feet deep. (PH RT 5149, 5153,

5189.) Grid 1 was relatively flat and easy to work with, without much surface obstruction. (PH RT 5126.)

B. Excavation of Grid 1 Underneath the Porch at 710 White Court

Ms. Arrington is an archeologist. (PH RT 5182.) She has a bachelor's degree in anthropology and a master's degree in historical archeology with an emphasis on human remains. (PH RT 5182.) She has worked in the field of archeology since the 1980s, and approximately 25 percent of that work has dealt with human remains. (PH RT 5183-5184.) She has evaluated hundreds of sites with possible human remains. (PH RT 5184.) Ms. Arrington has been a Registered Professional Archeologist since 2004. (PH RT 5184-5185.)

As a body decomposes it begins to liquify, and this liquification creates a very distinct stain in soil in which a body has been buried. (PH RT 5195.) When a burial has never been disturbed, archeologists typically find a large ring around it where the body has decomposed and liquefaction has slowly spready out, and this staining can remain there. (PH RT 5195, 5202.) Ms. Arrington has personally observed similar staining in an excavation of prehistoric remains that were 3,500 years old. (PH RT 5202.) This staining did not match the stratigraphy in the soil surrounding the anomaly. (PH RT 5200.)

Prior to excavating Grid 1, Ms. Arrington and Mr. Hanes took specific steps to ensure the integrity of the excavation, including ensuring the ground surface was clear and setting up tarps and buckets to isolate and hold any soil removed from the anomaly. (PH RT 5191:26-5192:8.) With the assistance of Sheriff's Office personnel, Ms. Arrington excavated the large Grid 1 anomaly and located what she referred to as a thin "bathtub ring" where the stain ran along the sides of the hole in the location of the identified anomaly. (PH RT 5193.) This staining is consistent with fluid having permeated that strata or layer of soil. (PH RT 5194.)

Based on Ms. Arrington's experience excavating human remains, the stain was consistent with that of a decomposition stain also referred to as a cadaver-soaked stain. (PH RT 5195.) The soil appeared to have been disturbed between the staining and the March 2021 excavation because it had no defined stratigraphy and the staining lacked a definitive, continuous bottom or "basement layer" where the fluid congregated that is typically seen when

a burial has not been disturbed. (PH RT 5202-5204, 5269-5270.)[3] Ms. Arrington did not locate any possible source for the leaked fluid, which suggested, in conjunction with the evidence of disturbance post-staining, that the hole had been previously excavated and the source of the leaked fluid had been removed. (PH RT 5202-5204.) Ms. Arrington did not locate any bones in the area of the staining, which—given the staining that was consistent with a decomposition stain from a human burial—would be consistent with a body having been wrapped in a semi permeable material that allowed some fluids to leak out but kept the bones contained. (Exh. B, C.)

The staining was inconsistent with staining from a plumbing issue, as Ms. Arrington would expect to see a feathering stain and not a bathtub ring. (PH RT 5204.)

Excavation of the areas of the anomalies in Grid 3 and Grid 10 did not locate anything of significance. (PH RT 5166-5167.) Ms. Arrington assisted Sheriff's Office personnel in the collection of soil samples from the excavation. (PH RT 5261.)

C. <u>Testing of Soil Samples Taken from Staining in Soil at 710 White Court</u>

Angela Butler is a forensic serologist at SERI and specializes in the identification of body fluids and the performance of DNA analysis. (9/8/21 RT 4.) She earned a bachelor's degree of science in biology from the University of San Francisco in 1998, spent several years after graduating in the biotechnology industry working with DNA in a research setting that involved sequencing the human genome in search of drug targets to help with diabetes, and has been a forensic serologist at SERI since 2001. (9/8/21 RT 4-6.) She began as an assistant forensic serologist and is currently the senior analyst and the lab supervisor. (9/8/21 RT 6.)

Along with her college degree, Ms. Butler has taken all of the upper-level coursework required by the FBI to be a forensic DNA analyst. (9/8/21 RT 5-6.) She received extensive on-

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[3] Shelby Liddell testified that the staining that *was* located did not appear to have been disturbed. (PH RT 5758.) Contrary to the defense claims but consistent with the magistrate's holding order at the preliminary hearing, this is not inconsistent with Ms. Arrington's testimony, which noted that portions of the staining that would have comprised the bottom layer appeared to be missing. The magistrate specifically noted that "[b]oth Ms. Arrington and Shelby Liddell testified that the staining had been disturbed in areas and was discontinuous. And when questioned closely about the photographs of the soil staining by Mr. Sanger, Liddell was careful to say that the staining in the photographs had not been disturbed." (PH RT 6308.)

the-job training at SERI over the last 20 years, goes to continuing education as required for accreditation standards, and stays current up to date on the forensic literature in her field. (9/8/21 RT 5.) As part of her duties, Ms. Butler works with human blood and tests for the presence of DNA as well as the presence of human blood. (9/8/21 RT 10.)

The process of testing for the presence of human blood at SERI involves two steps. The first step is an orthotolidine presumptive test, used by SERI since it was founded in 1978, where an analyst touches a small piece of filter paper to the suspected blood stain or stain of interest, adds a drop of one chemical then a second drop, and inspects the filter for a color metric change. (9/8/21 RT 10-11.) If there is a reaction, the filter paper turns blue. (9/8/21 RT 11.) Iron can cause a very slow and very weak false positive result. (9/8/21 RT 11.) Ms. Butler was trained in the orthotolidine test, has performed the test tens of thousands of times, has trained others in the orthotolidine test, and does technical reviews of the orthotolidine test. (9/8/21 RT 11-12, 17.) The small portion of a sample that is used in the orthotolidine test is not placed back in the original sample. (9/8/21 RT 53.)

The second step is a SERATEC HemDirect confirmatory test that is a very sensitive test that detects the presence of hemoglobin, which is the red pigment found in red blood cells, on a variety of forensic samples. (9/8/21 RT 13, 44.) The test kit is a plastic cartridge with a membrane, and the analyst adds a sample to the well on the membrane for an antigen-antibody interaction. (9/8/21 RT 13.) During a test, the test membrane should show a pink band in the control section to confirm the test is working properly and a second pink band after ten minutes if there is a positive result. (9/8/21 RT 13.) The test is human-specific, though it can show positive tests for the blood of higher primates like chimpanzees and gorillas. (9/8/21 RT 13-14.) The literature and SERI's own validation study tested cross-reactivity with a number of animals, including dogs, cats, sheep, pigs, cows, and ferrets, and all were negative except the ferret, which showed a slight positive reaction. (9/8/21 RT 14.) SERI's validation study also determined that the test can detect weak positive results for hemoglobin in other bodily fluids like saliva, semen, and urine, all of which have trace numbers of red blood cells. (9/8/21 RT 80.) The SERATEC HemDirect test is generally accepted in the courts and

scientific community and has been validated by numerous labs across the country. (9/8/21 RT 63.) Ms. Butler is not aware of any false positive results from the test in the literature and is not personally aware of any false positives in her experience. (9/8/21 RT 93.)

SERI has been using the HemDirect test for almost ten years, and Ms. Butler has been trained on its use. (9/8/21 RT 16.) Ms. Butler had to pass an internal competency examination using the test on a number of stains in order to administer the test, and every six months she is required to perform proficiency examinations for every test she has been trained to do, including the SERATEC HemDirect test. (9/8/21 RT 16.) Ms. Butler's lab has used the SERATEC HemDirect test at least one thousand times in casework, she has trained other analysts how to use it, and she does technical reviews for the tests. (9/8/21 RT 16.) Ms. Butler has utilized the HemDirect test with soil three times prior to this case, and other analysts in her lab have used the HemDirect test on soil as well. (9/8/21 RT 49, 74.) Validation studies on the HemDirect test exist for a variety of substances. (9/8/21 RT 44; Exh. E.) Between 75 and 100 laboratories in the United States utilize the HemDirect test, and multiple labs have used the HemDirect test can detective hemoglobin on samples over 30 years old, and these results are consistent with the literature. (Exh. E.)

Testing for the presence of DNA occurs after testing for the presence of human blood, in part because testing for the presence of DNA involves the extraction of any potential DNA by mechanically opening the cells to release the DNA by chemical means, the purification of the sample to remove all extra cellular material, the measurement of the amount of DNA recovered, and the subsequent DNA analysis. (9/8/21 RT 17-18.) Ms. Butler has tested for the presence of human DNA tens of thousands of times. (9/8/21 RT 18.)

On March 17, 2021, the Sheriff's Office delivered two containers of soil samples (Evidence Items 775 and 776) to the Serological Research Institute (SERI) in Richmond, California, for analysis. (9/8/21 RT 21.) Ms. Butler weighed and photographed the soil samples and placed them in sterile plastic containers. (9/8/21 RT 23.) She administered orthotolidine presumptive tests on one sample of material from Evidence Item 775 and six samples of material from Evidence Item 776 and all seven reflected weak positive results for blood.

(9/8/21 RT 24-26.) Ms. Butler then visually inspected the samples and collected samples using a stereomicroscope. (9/8/21 RT 47.) She administered the HemDirect confirmatory test to each sample by dissolving it into a special buffer solution to neutralize the PH to avoid the possibility of a false negative test and placing the resulting liquid onto the HemDirect test card. (9/8/21 RT 24-26, 45.) The confirmatory test was negative for Evidence Item 775, negative for one sample from Evidence Item 776, weak positive for two samples from Evidence Item 776, and positive for three samples from Evidence Item 776. (9/8/21 RT 26-27.)

On April 27, 2021, the Sheriff's Office delivered Evidence Items 898, 831, 847, 849, 863, and 859 to SERI for analysis. (9/8/21 RT 28.) Ms. Butler administered presumptive and confirmatory tests to samples from all six evidence items with the following results:

Item No.	Location	Presumptive Test	Confirmatory Test
859	Soil Probe, Area E (4 samples)	Positive Positive Positive Positive	Weak Positive Weak Positive Negative Negative
831	Control Sample, Northwest Corner (2 samples)	Negative Negative	Negative Negative
847	Stained Soil, Area A2 (3 samples)	Weak Positive Weak Positive Weak Positive	Weak Positive Weak Positive Positive
849	Soil Stain, Area B4 (2 samples)	Weak Positive Weak Positive	Negative Weak Positive
863	Soil Sample, Area A2	Weak Positive Weak Positive Weak Positive	Positive Positive Not tested

(9/8/21 RT 28-34.) The control pink band in the test, the testing of control soil samples that yielded negative results, and the fact that not all separate samples from individual items of evidence tested positive are consistent with the test working properly. (Exh. E.)

Ms. Butler also attempted to extract DNA from all of the samples tested for the presence of hemoglobin but did not detect any DNA in the samples. (9/8/21 RT 33-34.) Receiving a positive test for the presence of hemoglobin and no detection of DNA is not inconsistent because red blood cells break down differently than DNA double helixes. (9/8/21 RT 83.) Soil is not a solid material from which DNA can be directly extracted, while the test for the presence

of human blood can detect one part in ten million, and the hemoglobin test detects for the presence of red blood cells, which do not contain DNA. (9/8/21 RT 34-35.) DNA is degraded over time by heat, moisture, and microbes that exist in soil, and the soil samples in question were damp. (9/8/21 RT 20, 34-35, 73.) Liquid blood may have DNA and red blood cells in it, but blood poured into the dirt would be broken down over time by enzymes, the blood would start to decay, and the protein would start to denature. (9/8/21 RT 79-80.) Microorganisms that live in soil are attracted to biological material and would begin to break it down. (9/8/21 RT 80.) When protein is denatured, it ruptures the cell membrane and the nucleus where DNA resides, which releases the DNA into the soil where it is broken up into fragments. (9/8/21 RT 81-82.) Humic acid, found in soil, also chews up DNA fragments and affects the quantity and quality of DNA recovery. (9/8/21 RT 84.) At that point, the DNA may not be usable but other things, like red blood cells, may still be detectable. (9/8/21 RT 83.) Studies regarding the aging of blood on the surface of objects and likelihood that hemoglobin will no longer exist over time are not the same as soil samples covered by three to four feet of soil. (Exh. E.)

D. <u>Testing of Trailer Seen at 710 White Court</u>

Bluestar is a luminol-based technique used to enhance potential blood evidence using a chemical that reacts to hemoglobin in blood, creating a chemical luminescence that glows blue and is visible in the dark. (PH RT 4954-4955; Bluestar Forensic, "The Chemistry of Bluestar Forensic," < https://www.bluestar-forensic.com/the-chemistry-of-bluestar-forensic/> [as of June 22, 2022].) It is a presumptive reagent for the presence of blood. (Exh. G.) Household cleaners that contain chlorine with bleach, some vegetables and foods, paints and varnishes have shown false positives. (PH RT 4955, 4960.) Blood tends to glow very slowly and shows bright blue, whereas false positives typically flash and sometimes glow white instead of blue. (PH RT 4955.)

Shelby Liddell, a Forensic Specialist for the San Luis Obispo County Sheriff's Department, received training on the Bluestar technique on the job, in a Field Evidence Technician course, and Advanced Crime Scene investigation course on luminol techniques and Bluestar application. (PH RT 4954.)

On April 21, 2021, Ms. Liddell was present at 710 White Court when a white Haulmark Passport Cargo trailer was located and towed to the Crime Lab. (PH RT 4958, 4956).) She was present for the initial search of the trailer, which was pretty full of items including tools, files, and paperwork, and photographed items of note identified by detectives. (PH RT 4955-4956.) After the initial search of the trailer, Ms. Liddell photographed the area she would be applying Bluestar to with a flash and normal light and applied Bluestar in spray bottle form. (PH RT 4959-4960.) She captured the slow luminescence of the Bluestar reaction and glow with a camera in manual setting with an open shutter over the course of 30 seconds. (PH RT 4950-4960.) The Bluestar application had a reaction on the floor inside the side door entrance to the trailer. (Exh. G.) The composite photograph of the Bluestar reaction was approximately a foot and a half to two feet in width and two and a half to three feet in length. (PH RT 4962.) The area where the reaction was observed was cut out of the floor and booked into evidence. (Exh. G.)

Ms. Butler also performed a presumptive orthotolidine test on Evidence Item 898, plywood from the trailer, and received a very weak positive result. (9/8/21 RT 36.) She did not perform a confirmatory test on it due to the nature of the presumptive result, the lack of visible stains, and the desire to use the entire sample for possible DNA extraction. (9/8/21 RT 36.) Ms. Butler did not locate any DNA from Kristin Smart, Paul Flores, or Ruben Flores on the plywood from the trailer. (9/8/21 RT 36-37.)

III

LAW AND ARGUMENT

The People must prove its case to a jury beyond a reasonable doubt, but that standard does not apply to the admissibility of evidence. (Pen. Code, § 115.) Subject to foundational requirements, evidence is relevant when it has "*any tendency in reason* to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210, emphasis added.) The party offering expert testimony has the burden of proving its admissibility by a preponderance of the evidence. (*People v. Nieves* (2021) 11 Cal.5th 404, 444 (*Nieves*).)

Expert opinion testimony is relevant when it is related to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact, and it is based on matter, including special knowledge, skills, experience, training, and/or education, that is reasonably relied upon by an expert in forming an opinion on the subject. (Evid. Code, § 801.) The challenged ground-penetrating radar evidence of an anomaly of a size consistent with a human burial, the soil stratification and staining evidence consistent with a previous human burial that has since been disturbed, the hemoglobin test evidence of the stained soil samples that was positive for human blood, and the luminol-based presumptive test of the trailer observed at the burial site that was positive for blood are relevant evidence that Kristin Smart's body was previously buried under 710 White Court, are not based on new or novel scientific techniques, are not clearly invalid and unreliable, and are therefore admissible.

A. THE ADMISSIBILITY OF EXPERT TESTIMONY

The court serves two separate but related gatekeeping functions for scientific evidence and expert testimony: the *Kelly* rule of admissibility of expert testimony based on a new or novel scientific technique, and the *Sargon* test that requires expert testimony have a sufficient basis to merit a jury's consideration. (*People v. Lund* (2021) 64 Cal.App.5th 1119, 1136-1138.)

1. The *Kelly* Rule on the Admissibility of New Scientific Techniques

The admissibility of expert testimony based on a new or novel scientific technique is governed by rules adopted in the leading cases of *Frye v. United States* (D.C. Cir. 1923) 293 Fed. 1013 (*Frye*) and *People v. Kelly* (1976) 17 Cal.3d 24 (*Kelly*) (abrogated by statute on another point as explained in *People v. Wilkinson* (2004) 33 Cal.4th 821, 845-848). Federal courts have since abandoned *Frye* (*Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993) 509 U.S. 579; *People v. Cowan* (2010) 50 Cal.4th 401, 469, fn. 22); however, California has retained the *Kelly* test. (*People v. Leahy* (1994) 8 Cal.4th 587, 598-604, 612; see also *Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747, 772, fn. 9 (*Sargon*).)

Under the *Kelly* test, the proponent of evidence derived from a "new scientific technique" must show " '(1) "the technique is generally accepted as reliable in the relevant

scientific community"; (2) "the witness testifying about the technique and its application is a properly qualified expert on the subject"; and (3) "the person performing in the test in the particular case used correct scientific procedures." [Citation.]' " (*People v. Nieves* (2021) 11 Cal.5th 404, 444 (*Nieves*).) "The first and third prongs can be confused; the *Kelly* first-prong analysis applies only to a new technique or procedure, whereas the third prong is case specific." (*People v. Stevey* (2012) 209 Cal.App.4th 1400, 1410.) "In determining whether there has been 'general acceptance,' '[t]he goal is not to decide the actual reliability of the new technique, but simply to determine whether the technique is generally accepted in the relevant scientific community.' [Citation.]" (*People v. Morganti* (1996) 43 Cal.App.4th 643, 656.) The party offering the evidence has the burden of proving its admissibility by a preponderance of the evidence. (*Nieves*, *supra*, 11 Cal.5th at p. 444.)

Not all new scientific testing procedures or instruments are subject to the *Kelly* test. "The *Kelly* rule is frequently inapplicable to expert testimony because the testimony is often neither based on a new scientific technique nor likely to convey an aura of certainty. '[A]bsent some special feature which effectively blindsides the jury, expert opinion testimony is not subject to *Kelly*.' [Citation.]" (*In re O.D.* (2013) 221 Cal.App.4th 1001, 1006-1007.)

2. The *Sargon* Rule for Expert Testimony

Evidence Code section 801 mandates that expert witness testimony be based on matter, including the witness's special knowledge, skill, experience, training, and education, "that is of a type that reasonably may be relied upon by an expert in forming an opinion on the subject." (*Id.*, subd. (b).) Under section 801 and 802, "the trial court acts as a gatekeeper to exclude expert opinion testimony that is (1) based on matter of a type on which an expert may not reasonably rely, (2) based on reasons unsupported by the material on which the expert relies, or (3) speculative." (*Sargon*, *supra*, 55 Cal.4th at pp. 771-772.)

The California Supreme Court warned trial courts to be cautious in excluding expert testimony, as the goal of trial court gatekeeping is "simply to exclude 'clearly invalid and unreliable' expert opinion." (*Id.* at p. 772.)

> The court must not weigh an opinion's probative value or substitute its own opinion for the expert's opinion. Rather, the court must simply determine whether the matter relied on can provide a reasonable basis for the opinion or whether the opinion is based on a leap of logic or conjecture. The court does not resolve scientific controversies. Rather, it conducts a 'circumscribed inquiry' to 'determine whether, as a matter of logic, the studies and other information cited by experts adequately support the conclusion that the expert's general theory or technique is valid.' [Citation.]

(*Id.*) "In short, the gatekeeper's role 'is to make certain that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field.' " (*Id.*)

"The trial court has broad discretion in deciding whether to admit or exclude expert testimony [citation], and its decision as to whether expert testimony meets the standard for admissibility is subject to review for abuse of discretion." (*People v. McDowell* (2012) 54 Cal.4th 395, 426.) Unless the expert testimony is inadmissible under the *Kelly* or *Sargon* tests, arguments regarding its persuasiveness go to the weight and not the admissibility of the evidence. The defense is entitled to present their own expert as a defense witness on the issues and to challenge the persuasive value of the expert's opinion through cross-examination, but "questions regarding the validity or the credibility of an expert's knowledge are matters for the jury to decide" and do not provide a basis for excluding the expert's testimony. (*People v. Morales* (2020) 10 Cal.5th 76, 101.)

A. <u>Phil Hanes' Testimony About Ground-Penetrating Radar</u>

Phil Hanes provided a sufficient foundation for his use of ground-penetrating radar technology in his role in the search of 710 White Court. His education and career have focused on the use of ground-penetrating radar, he trained under one of the preeminent practitioners in the field who assisted in the application of the technology to archeology, and the use of ground-penetrating radar—which has been subject to extensive peer review—in the detection of human remains has been the subject of scholarly articles and books. Mr. Hanes has also

received training from the manufacturer of the device, has owned the machine for approximately eleven years, and has used the technology on a site approximately 30 times.

Furthermore, Mr. Hanes deployed the ground-penetrating radar technology in the manner in which he was trained in an environment conducive for the science.

And finally, the use of ground-penetrating radar was an initial approach to the soil and anomalies identified in its use were then subject to "ground-truthing" or verification by excavation. The defense would have the court believe this is a weakness in the evidence, but rather, it is one step in a complete investigation of the soil and its results are also admissible to explain the subsequent excavations. It is not only admissible on its face, but its reliability was subject to validation in this case by excavation.

Based on the foundational evidence provided to the court through preliminary hearing testimony, the attached exhibits, and anticipated testimony at the contested hearing on this motion, the concerns raised by the defense may be the appropriate subject of cross-examination, subject to appropriate objections, but they go only to the weight of the testimony and not its admissibility.

B. <u>A Scientific Basis Exists to Assert the "Bathtub Ring" Soil Staining is Consistent with a Human Burial</u>

The defense would have the court believe that the staining in Grid 1 at 710 White Court, identified by ground-penetrating radar, confirmed by excavation, the size of a human body burial site, consistent with staining patterns observed at human burial sites, and whose soil tested positive for the presence of hemoglobin, is "not probative" to whether the son of its occupant murdered Kristin Smart and its occupant assisted in hiding the murder. This evidence is relevant and highly probative evidence of whether and how the defendants initially disposed of the body of Kristin Smart.

1. Staining Pattern Consistent with Human Burial

Cindy Arrington has worked in the field of archeology since the 1980s and both her education and her professional experience has included a focus on human remains. She has evaluated hundreds of sites with possible human remains, and has personally observed a

large ring of staining in the soil around a burial site that occurs when a body decomposes and liquifies. In this case, Ms. Arrington personally assisted in the excavation of Grid 1, took steps in accordance with her training to ensure its integrity, and observed evidence of the type of "bathtub ring" staining that she has seen at human burial sites over the course of her career. The difference between the human burial sites Ms. Arrington has worked where a body has been discovered and this site is that the staining appeared to have been disturbed since it occurred: the soil in the area did not exhibit the sort of stratification consistent with that around it and the bottom layer was interrupted. Ms. Arrington assisted in obtaining soil samples of the stained areas for testing to determine whether they contained hemoglobin consistent with human blood and, therefore, consistent with a human burial.

Not only are Ms. Arrington's observations based on training and experience that is more than sufficient for their interpretation, but the defense contention that the lack of human remains renders them unreliable is directly contradicted by Ms. Arrington's testimony and observations. The fact that the soil appeared to have been disturbed after the staining occurred combined with the fact that a body wrapped in a semipermeable material would have resulted in bodily fluids and liquified remains leaking out to create the staining but bones remaining contained within the material is consistent with and highly probative of the prosecution theory that the body of Kristin Smart was buried under Grid 1 for some time but was subsequently removed.[4]

Like Mr. Hanes' testimony, the concerns raised by the defense related to the excavation and staining of the soil may be the appropriate subject of cross-examination, subject to appropriate objections, but they go only to the weight of the testimony and not its admissibility.

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[4] The fact that a tenant who moved into the residence in 2010 did not notice an odor coming from the deck almost 15 years after Kristin Smart was murdered does not diminish the relevance of this evidence. Indeed, Ms. Arrington testified that the first four stages of the decomposition of a body occur within the first 24 days and include fresh decomposition, bloat, decay, and active decay. (PH RT 5232.) The final stage, called skeletonization, can occur from 24 days to 10 years, and would have concluded almost five years before the tenant moved in. (PH RT 5232.)

2. Positive Results in Forensic Analysis of Soil are Admissible

Ms. Butler has spent almost twenty years working as a forensic serologist, testing samples for the presence of hemoglobin and DNA and analyzing DNA samples. Both the presumptive orthotolidine test and the confirmatory HemDirect test are tests that Ms. Butler is trained to do, has conducted many times, has trained other analysts to conduct, and are generally accepted in the scientific community.[5] At least 75 laboratories in the United States alone utilize the HemDirect test, which has been the subject of validation tests at SERI and which has been documented detecting hemoglobin in samples at least 30 years old and detecting hemoglobin in bodily fluids other than blood. Ms. Butler conducted the tests in this case in accordance with her training.

While the issues before the court in this motion are primarily case-specific and evidence-based, some of the issues have an historical underpinning documented in case law. More than 30 years ago, the California Supreme Court noted that "presumptive tests for blood are generally accepted by California courts, and have been used by criminologists and admitted into evidence in this state for over 40 years." (*People v. Coleman* (1988) 46 Cal.3d 749, 775.) The documented history of the use of tests of substances for the presence of hemoglobin in blood, combined with the information provided to the court regarding the specific tests used in this case, provides more than a sufficient foundation for the admissibility of its results.

The evidence demonstrates that the testing of substances for hemoglobin is not a "new scientific technique" under *Kelly*, but even assuming arguendo that this court finds the HemDirect hemoglobin test is a new scientific technique, it meets all three prongs of the *Kelly* test. The defense has not challenged the first prong of *Kelly* (Def. Mot. at p. 10), but the widespread use of the test in laboratories throughout the country and Ms. Butler's testimony

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[5] The defense has not explicitly challenged the orthotolidine test in their motion. If they raise that issue after the filing of this response, the People respectfully refer the court to the case law and analysis contained in section III, subdivision (C) of this opposition and request the opportunity to more fully address any claims not made at the time of the filing of this opposition.

demonstrates the test is generally accepted as reliable in the relevant scientific community.[6] Ms. Butler's education, training, and experience in the field in general and with the tests in particular render her a properly qualified expert. And Ms. Butler's testimony establishes she used correct scientific procedures in her testing process.

Similarly, a *Sargon* gatekeeping analysis also demonstrates that the use of HemDirect testing is valid and reliable. The HemDirect test is made to test a variety of substances for the presence of hemoglobin, and includes a buffer—used by Ms. Butler in her tests—that neutralizes the Ph of the substance to avoid false negative results. It has been used in soil tests by labs including but not limited to Ms. Butler's. The results in this case demonstrate that the test was working as expected because the control portion of the test functioned properly and because the control soil samples taken from areas that did not contain the staining tested negative. The soil sample analysis, done with a commonly used test in an approved manner, is not the "clearly invalid and unreliable" nature that requires exclusion under *Sargon*, and any defense concerns do not affect the admissibility of this evidence but only its probative weight.

C. Testimony About Forensic Analysis of Trailer is Admissible

The defense claims that the presumptive results of the Bluestar chemical used on the trailer are irrelevant and inadmissible, but fails to provide legal authority for their specific claim, likely because the claim that luminol-based presumptive tests for blood are inadmissible has been explicitly rejected by the California Supreme Court in *People v. Alexander* (2010) 49 Cal.4th 846 (*Alexander*). (*Id.* at p. 904.)

In *People v. Burgener* (1986) 41 Cal.3d 505, the California Supreme Court specifically considered the question of a presumptive test for the presence of blood that could not determine whether the blood was human or blood at all, because the test could also produce positive results for animal blood, some vegetable enzymes, and fecal material. (*Id.* at pp. 526-

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[6] Courts have generally held that a new product for a test is not a prong one issue in the *Kelly* analysis. (See, e.g., *People v. Hill* (2001) 89 Cal.App.4th 48 [new kit for PCR DNA testing not a prong one issue].) Hemoglobin tests have been utilized by the scientific community in forensics since at least 1958. (See *People v. Schiers* (1958) 160 Cal.App.2d 364, 374-375 [addressing propriety of court questioning of expert witness about test for the presence of hemoglobin on substances].)

527, disapproved of on other grounds by *People v. Reyes* (1998) 19 Cal.4th 743.) Relying on the definition of relevant evidence in Evidence Code section 210, the Court stated,

> [i]t is difficult to view the presence of a substance which might be blood on the seat of a car in which a murder victim was seen shortly before her death as having *no* tendency in reason to prove that the car's owner might have killed her. Similarly, as here, the presence of a substance which might be blood on defendant's shoes certainly has *some* tendency in reason to prove he might have been present at the scene of a bloody shooting the night before his arrest.

(*Id.* at p. 527, emphasis in original.)

The Court echoed this language in *Alexander*:

> The factors raised in defendant's challenge to this evidence—that the presumptive tests could not confirm the substance tested was human blood, that confirmatory tests failed to confirm the presence of blood, and that it is unknown when the jacket might have been exposed to the substance that created the positive results—do not mean the test results have *no* tendency in reason to establish that defendant shot Agent Cross. Those issues affect the probative weight of the evidence, not whether the test results meet the threshold requirement of relevancy.

(*Alexander*, *supra*, 49 Cal.4th at p. 904.)

In this case, the floor inside the side door entrance of the trailer showed a reaction with the Bluestar application. The section of that trailer showed a weak positive result in a presumptive orthotolidine test by Ms. Butler but Ms. Butler did not locate the presence of DNA of either defendant or Kristin Smart. Pursuant to the rulings in *Burgener* and *Alexander*, the Bluestar presumptive test results on the trailer, as well as the orthotolidine presumptive test results, are relevant to whether Kristin Smart's body was moved from a burial site at 710 White Court in the trailer because they tend to show the presence of human blood. They are also relevant because another possible reason for the positive reaction—household cleaners that contain chlorine with bleach—are relevant to both a recent cleaning of the area of the trailer where a body was placed and to explain the lack of DNA of Kristin Smart. The admission of this evidence does not preclude the defense from exploring the limits of its interpretation.

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IV

CONCLUSION

All of the challenged evidence has at least some tendency in reason to establish the defendants buried the body of Kristin Smart at 710 White Court and removed it before the March 2021 excavation. Phil Hanes, Cindy Arrington, Angela Butler, and Shelby Liddell are highly trained and qualified in their respective fields and used methods which the evidence establishes are generally accepted in their scientific communities. Their testimony, alone and together, more than meets the requirements of relevance and scientific rigor for admissibility.

Furthermore, each piece of evidence is relevant not only in and of itself but also to explain the subsequent steps taken in the investigation of the soil at 710 White Court to attempt to determine what that evidence means: Phil Hanes observed suspicious anomalies with his ground-penetrating radar, which led to Cindy Arrington excavating the largest anomaly and observing a staining pattern consistent with a human burial, which led to Ms. Arrington and Ms. Liddell taking samples of the stained soil, which led to Ms. Butler testing the soil and determining that some samples of the stained soil were positive for hemoglobin, and Ms. Liddell tested the trailer seen parked near the suspected burial site and received a presumptive positive test for blood.

Any defense concerns with the evidence can be addressed—if appropriate—on cross-examination or through defense witnesses: "[t]he court may find an expert qualified to give an opinion, and that the opinion is founded on sound logic and reliable theory or technique. Yet an opponent may argue that the jury should not accept it." (*People v. Cottone* (2013) 57 Cal.4th 269, 290; see also Evid. Code, §§ 720 et seq, 801, 802.)

Date: June 23, 2022

Respectfully submitted,

Dan Dow
District Attorney

By:

Christopher G. Peuvrelle
Deputy District Attorney

EXHIBIT A

TO THE CLERK OF THE COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SAN LUIS OBISPO AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that on June 6, 2022 at 8:30 a.m., or as soon thereafter as the case may be heard in the above-entitled Court, Defendant Paul Flores, will move the Court to proceed to a hearing under Evidence Code sections 402 and 403 and to issue an order to exclude evidence pertaining to the inspection, excavation or analysis of ground configurations or soil, including ground penetrating radar, purported staining or the analysis or composition of any soils, purported stains or deposits or the results of any tests thereon on the grounds that the prosecution has the burden of establishing foundational facts sufficient to support said testimony and evidence. This motion is submitted in anticipation of the evidence to be proffered by the prosecution based on the testimony presented at the preliminary hearing in this matter and the Defense reserves the right to augment its response, by way of evidence or argument, at such time as the prosecution's proffer is made at the hearing on this motion.

At the chambers conference held yesterday, May 31, 2022, the prosecution stated that it did not intend to surrender soil samples to Technical Associates, Inc. laboratory for HemDirect testing. In light of the fact that the Defendant does not wish to waive additional time for trial and the fact that the prosecution's discovery relating to the SERI lab results and underlying documentation has been delayed, the defense will proceed with the pre-trial motions relating to the soils and White Court matters even though the prosecution is not in compliance.

The expert opinions and curricula vitae of Dr. David Carter and Dr. Elizabeth Johnson are attached as Exhibits A and B. These opinions are offered reserving the right to augment any opinions in light of further

developments. The defense is requesting that Dr. Johnson and Dr. Carter be permitted to appear by Zoom for the purpose of the pre-trial hearings only. Dr. Johnson is located in Southern California, however, Dr. Carter is located in Hawaii.

This motion is made to protect Mr. Flores' rights to due process and a fair trial pursuant to the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, article I, §§ 7 and 15 of the California Constitution, relevant statutory and case law.

The motion will be based on this Notice of Motion, the Memorandum of Points and Authorities served and filed herewith, such supplemental memoranda of points and authorities as hereafter may be filed with the Court, the transcript of the preliminary hearing, all pleadings and documents heretofore filed with the Court and such evidence and oral argument as may be presented at the hearing on the motion.

Dated: June 1, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF RELEVANT FACTS

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A. The Testimony of Philip Hanes is Inadmissible at Trial

Philip Hanes' testimony regarding the ground penetrating radar device does not meet the criteria for admissibility of scientific evidence in California. The admissibility of expert testimony in California is governed by the California Supreme Court decision in *Sargon Enterprises, Inc. v. University of*

Southern California (2012) 55 Cal.4th 747, 770-772 (*Sargon*). The Court expressly acknowledged that judges are the "gatekeepers" with regard to a determination of the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993) 509 U.S. 579 (*Daubert*). The California Supreme Court set forth three criteria to determine the admissibility of this kind of testimony:

> "[U]nder Evidence Code sections 801, subdivision (b), and 802, the trial court acts as a gatekeeper to exclude expert opinion testimony that is (1) based on matter of a type on which an expert may not reasonably rely, (2) based on reasons unsupported by the material on which the expert relies, or (3) speculative." (*Sargon, supra*, 55 Cal.4th at pp. 771-772.)

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As gatekeepers, courts must focus on the "'principles and methodology'" asserted by the proposed expert and not "'on the conclusions that they generate.'" (*Sargon, supra*, 55 Cal.4th at 772, quoting *Daubert, supra*, 509 U.S. at p. 595.) Thus, the "gatekeeper's role 'is to make certain that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field.'" (*Sargon, supra*, 55 Cal.4th at p. 772, quoting *Kumho Tire Co. v. Carmichael* (1999) 526 U.S. 137, 152 (*Kumho Tire*).) These requirements apply to both scientific testimony as well as non-scientific expert testimony. (*Kumho Tire, supra*, 526 U.S. 137.)

The California Supreme Court in *Sargon* relied on the Evidence Code itself but also incorporated the *Kelly/Frye* analysis. Under *People v. Kelly* (1976) 17 Cal.3d 24 (*Kelly*), there are three prongs: "First, there must be proof

that the technique is considered reliable in the scientific community. Second, the witness testifying about the technique must be a qualified expert on the subject. Third, there must be proof that the person performing the test used correct scientific procedures." (*People v. Willis* (2004) 115 Cal.App.4th 379, 385 (*Willis*).) Therefore, under *Sargon*, Evidence Code sections 801 and *Kelly*, the court is the gatekeeper charged with the duty to exclude expert evidence unless a foundation is laid demonstrating that there is foundational validity to the technique employed and that it is valid as applied by a qualified expert using correct scientific procedures. This is consistent with the view of the scientific community as set forth in the PCAST report and other current scientific studies. (See President's Counsel of Advisors on Science and Technology (PCAST), *Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods* (2016).)

Here, there is no foundation for the admissibility of results of ground penetrating radar as evidence of a burial site. Hanes did not establish the validity of the "'principles and methodology'" on which he based his conclusions as they would pertain to evidence that a body had been buried in a place where an anomaly was detected. (*Sargon, supra*, 55 Cal.4th at 772, quoting *Daubert, supra*, 509 U.S. at p. 595.)

His device is typically used for finding buried pipes and other artifacts and the fact that the device registers an anomaly, it is just that and not evidence of what caused the anomaly. In other words, even though it is not designed to find human remains or burial sites and has not been subject to scientific testing or approval for that purpose, at best it is an investigative tool that may or may not lead to the discovery of actual evidence.

At the preliminary hearing, Philip Hanes testified that ground penetrating radar is a device used to find anomalies but is not capable of determining the nature or the cause of the anomaly. In other words, it is of

not evidentiary value but is simply a tool to attempt to locate an area that might be of evidentiary value. The device he used is not subject to proficiency testing and does not claim to have the ability to define what is being observed. He testified that an anomaly is "a consistency change to the underground environment that is visible on the radar, but may or may not be specifically defined until we excavate or ground truth that anomaly to determine what it actually is." (18RT 5112.)

When Mr. Hanes received the equipment, he had some "initial over-the-phone training in its operation" with the manufacturer. (18RT 5129.) Mr. Hanes was not aware of any peer-reviewed journals where this technology was reviewed for proficiency in detecting human remains. (18RT 5129.) The typical use of ground-penetrating radar is to find voids due to things like buried pipes or use in ice research and commercial uses such as finding structural damage on bridges or oil and gas exploration. (18RT 5136, 5142.) The ground-penetrating radar at 710 White Court was not used for any of those purposes and no voids were found. (18RT 5145.) The radar is just used to screen for anomalies that then have to be confirmed by "ground truthing" or actually digging up the area. (18RT 5146-5147.)

Mr. Hanes found a number of areas at White Court that seemed to be anomalies, one of which was located under the porch. (18RT 5126.) On the wall of the house near Grid 1 there was a sewer clean-out and a dryer vent. (18RT 5162.) Before using the machine on Grid 1, vegetation was cleared from under the deck and it looked "pretty heavily vegetated." (18RT 5176, 5178.)

The evidence technician who excavated at Grid 1 did not find a burial site in the area of the purported anomaly. Instead, she found in the soil stains that continued down through the soil from two-and-a-half feet on down. (20RT 5755.) Ms. Liddell testified that in Grid 1, "[i]n the area of

staining it does not appear that after the stain was there that the stain had been disturbed." (20RT 5758.) When going through the specific photographs relating to the excavations, Ms. Liddell concluded as to each that any stain that was deposited would have been deposited after the soil was disturbed, if it had been disturbed. (20RT 5780-5781.)

Therefore, the anomalies had nothing to do with burial sites. The stains, whatever they were, were deposited on top of the anomaly areas not under them. The fact that there were several anomalies in the soil at the White Court property is meaningless at the Grid 1 location or elsewhere. The anomalies are not evidence and are not probative of anything.

B. There is no Scientific Basis to Assert that the Staining Observed by Arrington and Liddell is Human Blood

First, the staining was located within two feet of the surface of the ground and travelled down through undisturbed soil and set forth above. Second, archeologist Cindy Arrington, business partner of Mr. Hanes, the owner of the ground penetrating radar device, testified "that there's a stain there and it looks like it could have come from human remains, but you don't know." (18RT 5213.) As Ms. Liddell testified, once a person dies, they stop bleeding because there is no blood pumping. (17RT 4969-4970.)

However, Ms. Arrington testified that, if there had been a body there under the deck, it would have emitted a "very strong odor" at one point. (18RT 5217.) She also testified that the staining could have been decomposing plant material. (18RT 5274.) Ms. Arrington testified that she has never excavated a human grave and not found some physical evidence of human remains. (18RT 5275.) Ms. Arrington testified that if a body had been deposited under the deck with a 25-year span, one would expect to find bones or fibers. (18RT 5235.) Ms. Arrington did not see any of that during the excavation. (18RT 5235.)

EXHIBIT B

TO THE CLERK OF THE COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SAN LUIS OBISPO AND DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE:

PLEASE TAKE NOTICE that on June 6, 2022 at 8:30 a.m., or as soon thereafter as the case may be heard in the above-entitled Court, Defendant Paul Flores, will move the Court to proceed to a hearing under Evidence Code sections 402 and 403 and to issue an order to exclude evidence pertaining to the inspection, excavation or analysis of ground configurations or soil, including ground penetrating radar, purported staining or the analysis or composition of any soils, purported stains or deposits or the results of any tests thereon on the grounds that the prosecution has the burden of establishing foundational facts sufficient to support said testimony and evidence. This motion is submitted in anticipation of the evidence to be proffered by the prosecution based on the testimony presented at the preliminary hearing in this matter and the Defense reserves the right to augment its response, by way of evidence or argument, at such time as the prosecution's proffer is made at the hearing on this motion.

At the chambers conference held yesterday, May 31, 2022, the prosecution stated that it did not intend to surrender soil samples to Technical Associates, Inc. laboratory for HemDirect testing. In light of the fact that the Defendant does not wish to waive additional time for trial and the fact that the prosecution's discovery relating to the SERI lab results and underlying documentation has been delayed, the defense will proceed with the pre-trial motions relating to the soils and White Court matters even though the prosecution is not in compliance.

The expert opinions and curricula vitae of Dr. David Carter and Dr. Elizabeth Johnson are attached as Exhibits A and B. These opinions are offered reserving the right to augment any opinions in light of further

developments. The defense is requesting that Dr. Johnson and Dr. Carter be permitted to appear by Zoom for the purpose of the pre-trial hearings only. Dr. Johnson is located in Southern California, however, Dr. Carter is located in Hawaii.

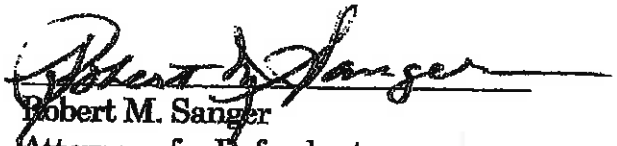
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Dated: June 1, 2022

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SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

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EXHIBIT C

SAN LUIS OBISPO COUNTY SHERIFF
1585 KANSAS AVE
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	782
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLDA6061 - CAMP, JAMES	03/14/2022

INCIDENT

LOCATION				DATE	TIME
, CA				03/14/2022	11:12
PREMISE NAME					
C ARRINGTON INT 03 07 2022					
STATION	BEAT	RESP AREA		JURISDICTION	
ST24				SLSO	

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 2

INC SUPP 3

INC SUPP 4

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	11/08/2021	AA	04/08/2021	SLSO1138 - MENGHRAJANI, D	03/14/2022

03/22/2022
150:055768

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	STATUS
		960610965	782

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL				
1115	E	53						
	SERIAL NUMBER		QUANTITY	CALIBER	COLOR	TAG	RECOVERED	EVIDENCE
								N
	DESCRIPTION						CUSTODY STATUS	
	DISC AND HARD COPIES OF DOCUMENTS FROM C. ARRINGTON (FROM INT ON 03 07 2022)						SUBMITTED	
	COMMENT							

NARRATIVE

REPORT DATE: 3/10/2022

REPORT PURPOSE: Document interview with Cindy Arrington on 3/7/2022

On 3/7/2022 at about 1001 hours, DDA C. Peuvrelle and I met with Cindy Arrington for purposes of a pretrial interview. We initially spoke generally about the case status and the April 2021 dig. At one point, Arrington indicated that there are 206 bones in the human body, and as such indicated that she did not see how all of the bones (of Kristin Smart) could have been collected. She said that in her opinion, Kristin Smart was put in something " semi permeable" and that the wrapping was not watertight. As a result, some fluids would have leaked out and that was where the staining came from. Further, she stated in that situation, the bones would remain contained. She said that there was deformation/disruption of the soil, and it was not uniform.

Regarding the staining, it was not an oval pattern and there was a discontinuous staining pattern. She said that the deformation of the soil was caused by multiple digs. Arrington stated that the burial was " amateur" .

We discussed general testimony from the preliminary hearing as well as expected trial testimony. Arrington indicated that she would be sending us some graphics that could be used and referred to at trial. These images/files depict issues surrounding stratigraphy and may be used to assist in gaining an understanding of the topics Arrington is expected to testify to.

DDA Peuvrelle showed Arrington preliminary hearing exhibit #179. Arrington indicted that her opinion was that the bottom portion depicted in the image is decomposition - the " bathtub" staining is decomposition. She added that decomposition fluid leaked out and was dug up which is why the presentation is " messy" . She indicated that soil and stratigraphy will tell a story as to what happened and added that there was no way a bone would not have been left behind. Arrington went on to say that because of this, Kristin Smart would' ve been wrapped up, fluids leaked but the bones remained in the wrapping material. She said that Kristin Smart had to have been wrapped in something.

Regarding the initiation of decomposition, there are variables such as weather, climate, soil, and the environment. She said there are a lot of different variables, and you can estimate, but it is localized.

Regarding the second dig (in April) and looking at the first and second dig, the April dig confirmed what was seen in March.
We discussed how there was no soil soap seen, which is different from bathtub stain decomposition.

We discussed the general anticipated trial testimony direction.

Arrington eventually provided a series of documents to the District Attorney' s Office for use in this case. I attached photocopies of the documents to this supplemental report for reference. I also booked hard copies of the documents along with digital copies into property at the Sheriff' s Detective Division (See RMS # 1115).

CLOSING STATEMENT:

Case status cleared by Adult Arrest.

DA Investigator JT Camp #6061

JTC/sw 03/14/2022

Supp#782

What is the process of decomposition?

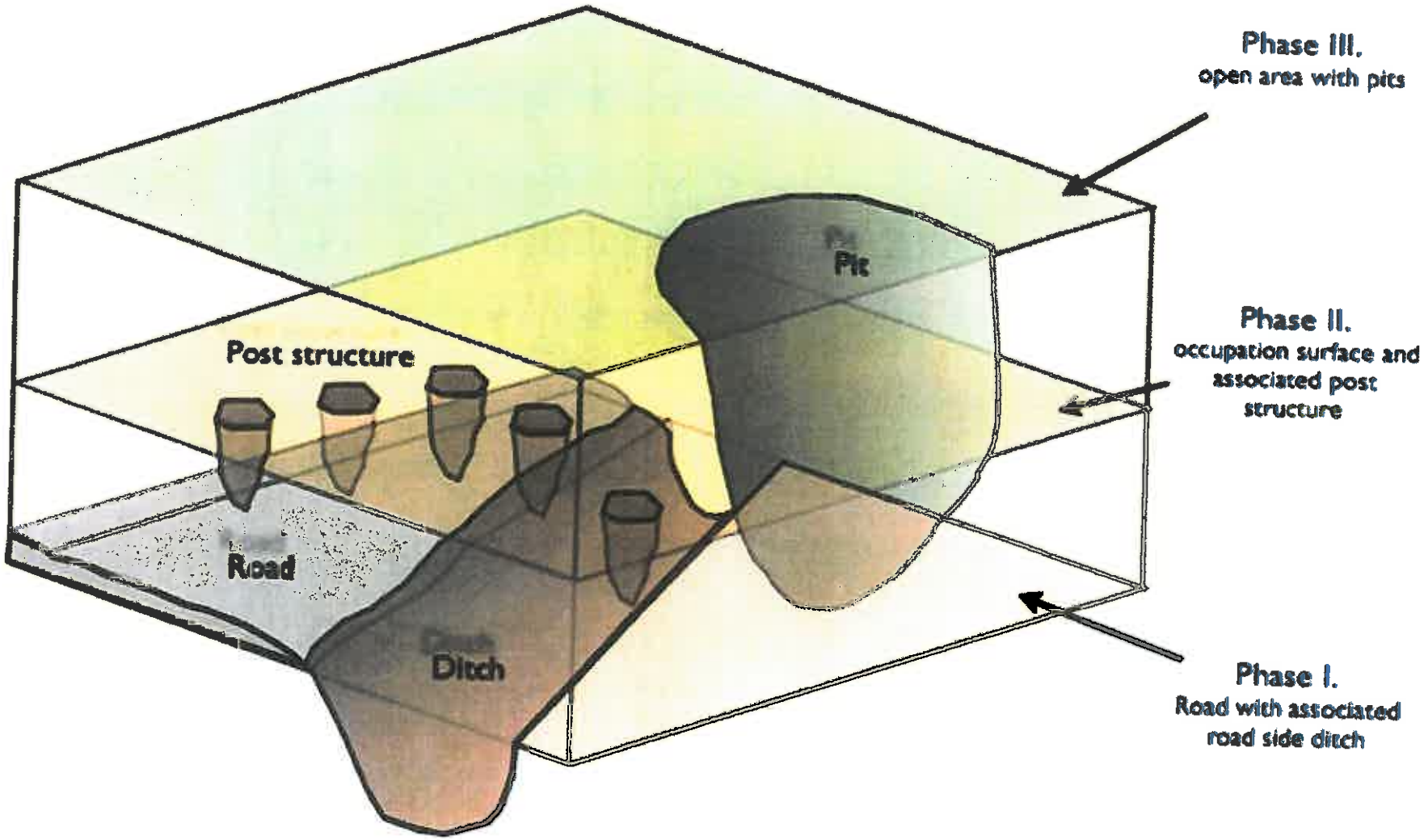
A corpse generally progresses through five stages of decomposition—fresh (1-2 days), bloat (2-6 days), active decay (5-11 days), advanced decay (10-24 days) and skeletonization (24days +). Again, this is highly subjective to environment, weather, soil type, and body disposal.

Specific Factors Affecting the Decomposition Process

- Temperature.
- Oxygen availability.
- Embalming.
- Cause of death.
- Burial conditions.
- Access by scavengers.
- Trauma.
- Humidity.

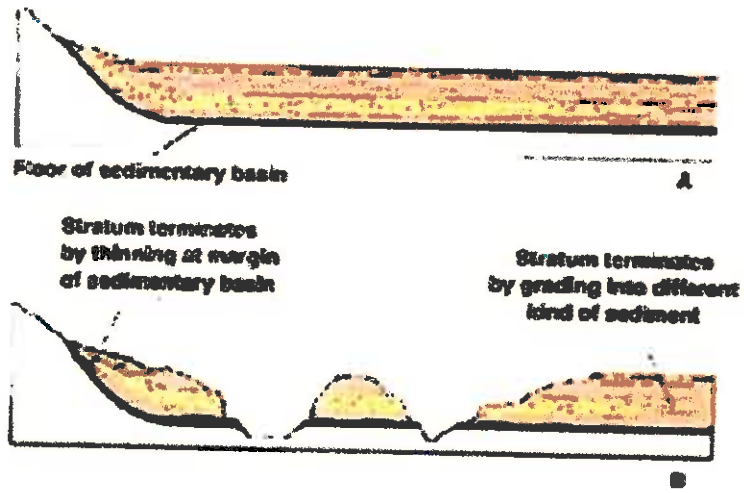
A number of factors affect the rate of decomposition of organic matter: **climate, substrate quality, and soil type**.

Sequence with 3 phases



03/22/2022
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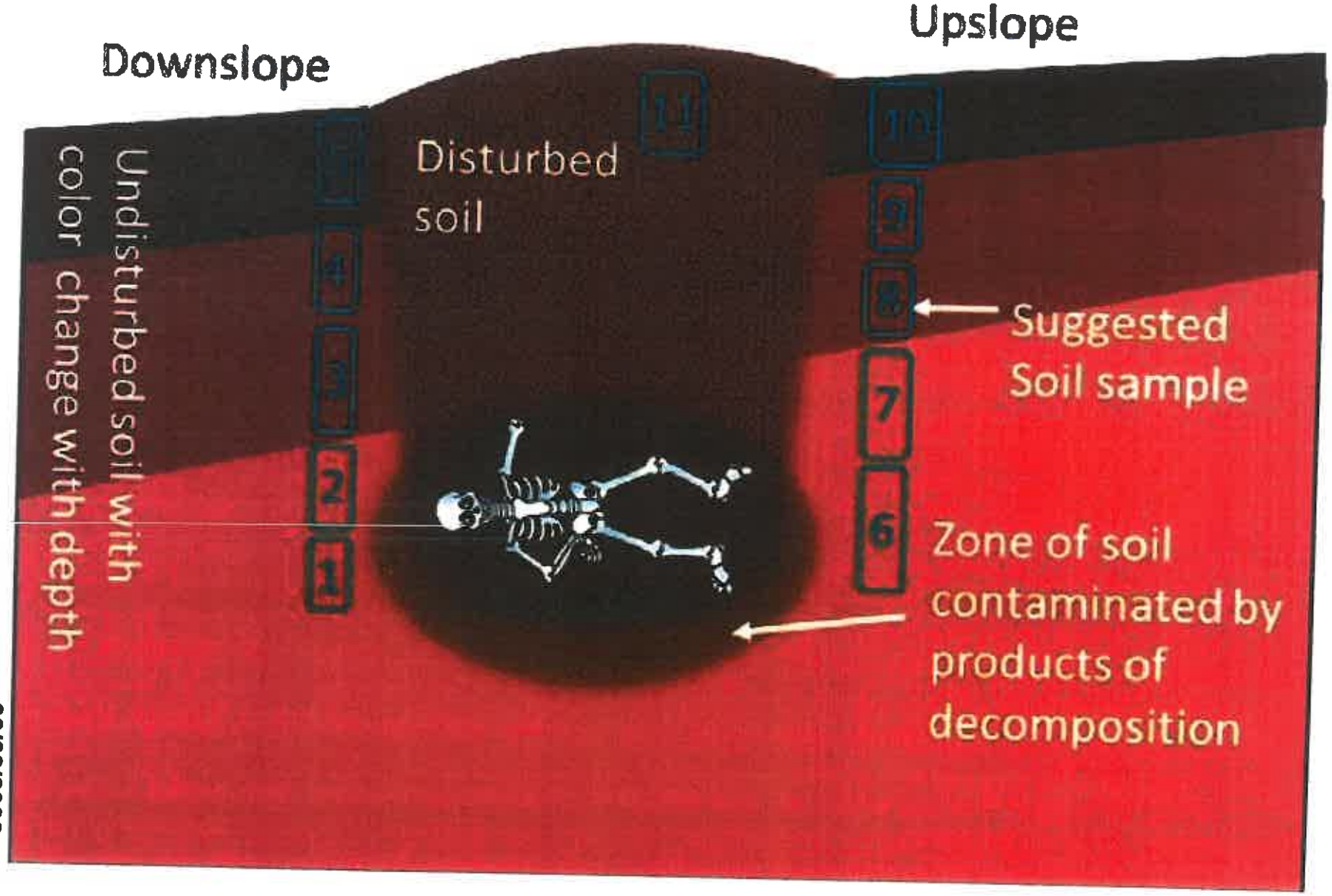
Principle of lateral continuity



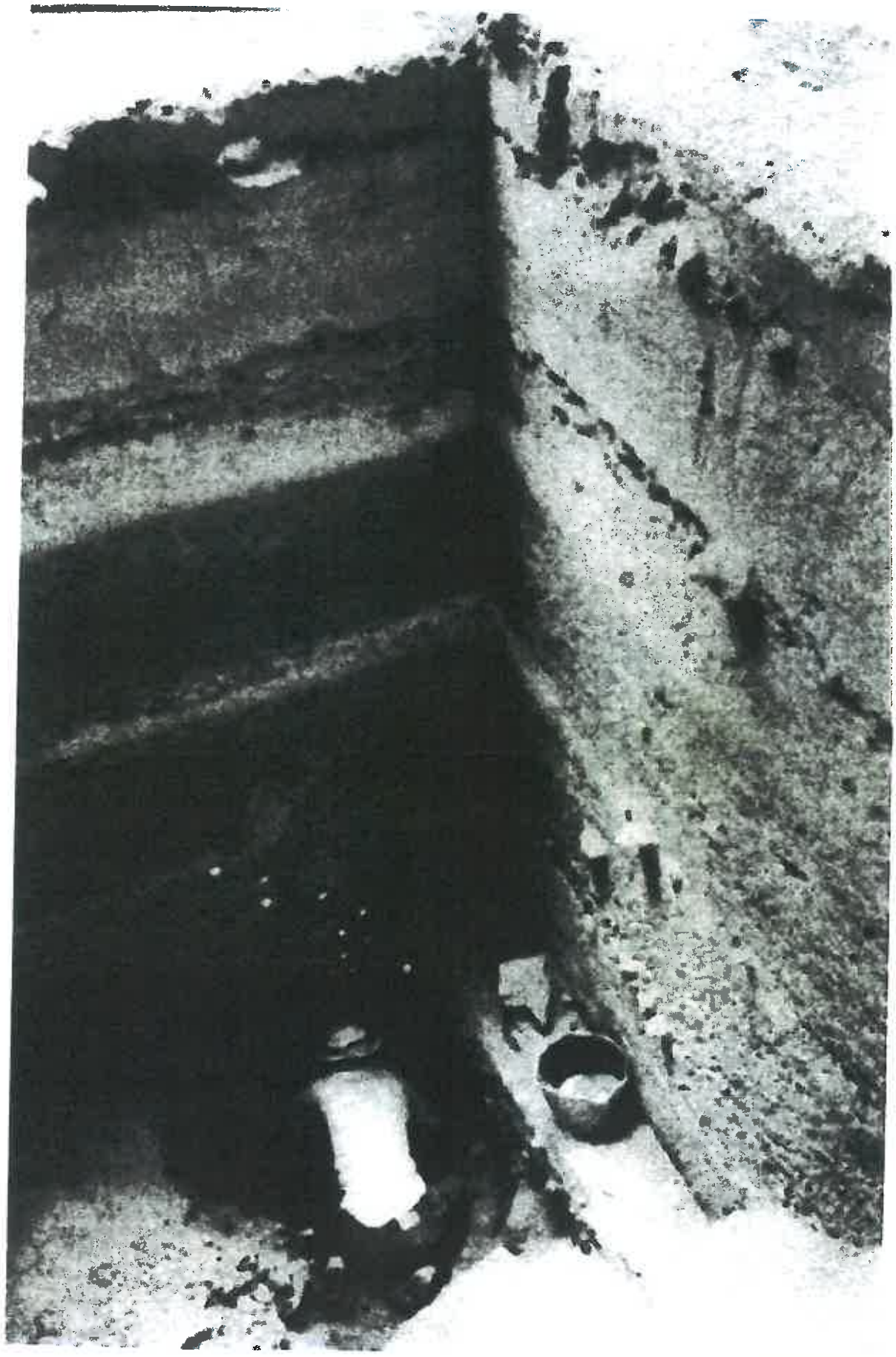
- Strata are deposited in a basin and thus will be continuous from end to end
- Any breaks are due to erosion or deformation *after* deposition

03/22/2022
150:055773

Cross-sectional view of clandestine grave



03/22/2022
150:055774



03/22/2022
150:055775

03/22/2022
150:055776

EXHIBIT D

Quality Forensics since 1978

March 25, 2021

Senior Deputy Clinton Cole
San Luis Obispo County Sheriff's Office
1585 Kansas Avenue
San Luis Obispo, CA 93401

SERI Case No. 11034.19
Agency Case No. 9606-10965
Victim: Kristin Smart
Suspect: Paul Flores

ANALYTICAL REPORT

On May 9th 2019, nine items of evidence were received at the Serological Research Institute (SERI) from the San Luis Obispo County Sheriff's Office via OnTrac (B10318478284). On May 14th 2019, one item of evidence was received at SERI from the San Luis Obispo County Sheriff's Office via OnTrac (B10318478319). On November 14th 2019, nine items of evidence were received at SERI from Deputy Cole. On December 31st 2020, five items of evidence were received at SERI from Deputy Cole. On January 25th 2021, one item of evidence was received at SERI from Deputy Cole. On December 31st 2020, five items of evidence were received at SERI from Deputy Cole. On March 17th 2021, two items of evidence were received at SERI from Deputy Cole. Body fluid screening, DNA analysis using the Polymerase Chain Reaction (PCR), and comparison were requested.

The results of the testing from the following items will be issued in a subsequent analytical report:

ITEM 1 CLOTH (22)
ITEM 2 HAIR FROM BED (26)
ITEM 3 SLIDE WITH HAIRS (27)
ITEM 4 CORNER MATTRESS (81)
ITEM 5 CORNER MATTRESS CONTROL (82)
ITEM 6 BLOOD – STAN AND DENISE SMART (200)
ITEM 7 SWAB 55 A1 MATTRESS (13)
ITEM 8 SWAB 55 A2 MATTRESS (14)
ITEM 9 BLOOD – PAUL FLORES (7)
ITEM 10 SMART'S PANTIES (51)
ITEM 11 CANVAS MATTRESS PAD (8)
ITEM 12 TRUCK CARPET CUT OUT (600)
ITEM 13 SWAB: UNDER CARPET STAIN (593)
ITEM 14 SWAB: DRIVER'S SIDE CARPET (594)
ITEM 15 SWAB: REAR PASSENGER SEAT (595)
ITEM 16 SWAB: UNDER SEAT NEAR ASSEMBLY (596)
ITEM 17 SWAB: BACKSIDE OF DRIVER SEAT (597)
ITEM 18 SWAB: CONTROL BACKSIDE OF DRIVER SEAT (598)

ITEM 19 SWAB: CONTROL BACKSIDE OF DRIVER SEAT (599)
ITEM 20 SWAB OF ITEM 58 (58A)
ITEM 21 SWAB OF ITEM 58 (58B)
ITEM 22 CONTROL FOR ITEM 58 (58 CONTROL)
ITEM 23 SWAB OF BOX SPRING COVER STAIN (58C)
ITEM 24 SWAB OF CONTROL CORNER OF MATTRESS (55BSC)
ITEM 25 DNA EXTRACTS (758)

ITEM 26 UPPER SOIL SAMPLE UPPER (775)

This item consisted of a plastic tube containing approximately 43 grams of brown sand with some clusters of dark brown colored material. A small cluster of the dark brown colored material (item 26-1) was tested for the presence of human blood. The results are tabulated below.

ITEM 27 DEEPER SOIL SAMPLE (776)

This item consisted of a plastic tube containing approximately 42 grams of brown sand with several different sized clusters of dark brown colored material. Two small quantities of the dark brown colored material was sampled (item 27-1 and item 27-2) and directly tested for the presence of human blood. Under microscopic examination, four additional clusters of the dark brown colored material were sampled (items 27-3 through 27-6), tested for the presence of human blood, extracted for DNA content, and quantified. The results are tabulated below.

BODY FLUID RESULTS

Item	Description	o-Tol	HemDirect
26-1	Upper Soil Sample	WK+	-
27-1	Deeper Soil Sample	WK+	-
27-2	Deeper Soil Sample	WK+	WK+
27-3	Deeper Soil Sample	WK+	+
27-4	Deeper Soil Sample	WK+	+
27-5	Deeper Soil Sample	WK+	+
27-6	Deeper Soil Sample	WK-	WK+

Key:
+ Positive
- Negative
WK Weak Positive
o-Tol ortho-Tolidine, presumptive test for blood
HemDirect Human hemoglobin, confirmatory test for human blood.

EXPLANATIONS

Blood of any species can appear as a red to brown stain in the dried form and will react positively with the chemicals ortho-tolidine/peroxide. This two-step test is used as a presumptive test for the presence of blood. Other substances are also known to react with ortho-tolidine; therefore, the test is not confirmatory for blood.

EXPLANATIONS (continued)

Blood contains a red pigment, known as hemoglobin (Hb), which is located in the erythrocytes, or red blood cells of vertebrate animal species. Hemoglobin is one of the most abundant proteins found in blood, and can be detected using a specific antigen/antibody reaction. The Seratec HemDirect Hemoglobin Assay is a test that is specific for human hemoglobin and is highly sensitive. The HemDirect Assay is capable of detecting hemoglobin at a concentration as low as 40 ng/ml, or a 1 in 1,000,000 dilution of fresh human blood. Although there is cross-reactivity with other primates and domestic ferret, a positive result with this test on a blood sample or stain is considered most likely to be blood of human origin.

Deoxyribonucleic acid or DNA is found in nucleated cells, e.g., white blood cells, salivary, vaginal and tissue epithelial cells and spermatozoa. It is possible to obtain a profile from DNA deposited by touching an item. An individual may, at any time, contain biological material on his or her hands. This can originate from saliva, perspiration; trace amounts of blood, tears, etc. These DNA-containing fluids can be potentially transferred to an object (i.e. gun grip, steering wheel, tools, clothing) when handling or touching the object. Items can be swabbed, cut, or scraped to obtain the biological material left behind. The DNA can be extracted, and the amount obtained is proportional to the number of DNA-containing cells present.

CONCLUSIONS

1. No human blood was detected in upper soil sample (item 26-1).

2. No human blood was detected in the deeper soil sample (item 27-1).

3. Human blood was detected in the deeper soil (item 27-2 through item 27-6).

4. No human DNA was detected by quantification in the deeper soil samples (item 27-3 through item 27-6).

EVIDENCE DISPOSITION

SERI item 3 was returned to Deputy Cole on January 25th 2021. The remaining submitted evidence will be retained at SERI pending instructions from Deputy Cole. Any remaining case extracts will be retained at SERI.

SERI REPORT REVIEWED DATE MAR 25 2021

SEROLOGICAL RESEARCH INSTITUTE

Angela P. Butler
Senior Forensic Serologist

SERI

EXHIBIT SHEET

SERI CASE NO.: 11034119 **DATE:** 4/20/22 **PERFORMED/ TESTED BY:** AKS **CASE ANALYST:** AKS

EXHIBIT NO.: 57 **EXHIBIT NAME:** Soil Sample Arm (840)

PACKAGING small brown paper bag TLS specimen cup screw top

LABELING See photos

B#1

RESULTS

Otol: QC ✓ see exh 64 lot#

DESCRIPTION

~90g of sandy soil (dump)
few small clusters of brown ~~AKS~~ material disintegrated w/ forceps when trying to examine further.

EXAMINATION

Otol -ve no fibers observed or other material of interest.
no further testing

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB) Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB), Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
AJH	MAY 05 2022

05/25/2022
175:057411

SERI

EXHIBIT SHEET

SERI CASE NO.: 110319 **DATE:** 4/21/22 **PERFORMED/ TESTED BY:** AS **CASE ANALYST:** AS

EXHIBIT NO.: 58 **EXHIBIT NAME:** Soil Sample Area A #1 (84')

PACKAGING small brown paper bag T/S ⇒ Specimen cup - screw cap

LABELING See photos

DESCRIPTION

sandy soil dark colored (~105g) slightly damp

EXAMINATION

Several small fibers, dark, white colored. Several small pieces of possible plant material ^possible orange colored.

Several reddish brown clusters removed to 1.5mL tube. Otol wk twp

58-1

RESULTS

Otol QCV Lot # See CX 64

Hu Direct (See each 64) lot #

58-1 ⊖

4/27/22

DNA Ext	
58-1	77574
BC1	77593
BC2	77594
BC3	77595
BC4	77596
	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
DH	MAY 0 : 2022

05/25/2022
175:057412

SERI

EXHIBIT SHEET

SERI CASE NO.: 11034119 **DATE:** 4/22/22 **PERFORMED/TESTED BY:** [illegible] **CASE ANALYST** [illegible]

EXHIBIT NO.: 59 **EXHIBIT NAME:** Soil Sample D1 (8412)

PACKAGING small brown paper bag TS → specimen cup screwcap

LABELING see photos

DESCRIPTION ~119g of sandy soil, clump ↑ brown otol -ve

EXAMINATION nothing observed microscopically to remove into 1.5ml tubes

RESULTS

otol QC ✓

see exh 64 Lot ##

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
[illegible]	MAY [illegible]

05/25/2022
175:057413

SERI

EXHIBIT SHEET

SERI CASE NO.: 11034104 **DATE:** 4/12/22 **PERFORMED/ TESTED BY:** AM **CASE ANALYST:** AM

EXHIBIT NO.: 60 **EXHIBIT NAME:** Soil Sumpk CA (843)

PACKAGING small brown paper bag TS → specimen cup screw cap

LABELING See photos

DESCRIPTION ~brown ~85g slightly damp sandy soil

EXAMINATION

numerous ~small pieces of material w/ brownish material w/ embedded apparent fibers. Only observed when soil dried. Collected, otol only WK (+)

red, Black clear/white ↓ 8 x 1.5mL tubes 6 ext for DNA

RESULTS

Otol QC ✓ See ext 04 lot #

DNA ext 4/27/22

60-1	77575
60-2	77576
60-3	77577
60-4	77578
60-5	77579
60-6	77580
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB) Swabs considered intact unless noted otherwise

TECHNICAL REVIEW	DATE
AM	MAY 0 [illegible] 22

05/25/2022
175:057414

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 **DATE:** 4/26/22 **PERFORMED/ TESTED BY:** AS **CASE ANALYST:** AS

EXHIBIT NO.: 61 **EXHIBIT NAME:** Soil sample C#2 (844)

PACKAGING small brown paper bag T/S → specimen cup screw cap

LABELING See photos

DESCRIPTION See Below

EXAMINATION

~118g sandy soil | slightly damp small clusters of dark brown material some have reddish brown appearance under microscope. Removed very small pieces wk utol twice for DNA ext.

61-1

RESULTS

0101 QCV

see exh 64 lot #

DNA EXT 4/27/22

61-1	77581
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP), Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise

TECHNICAL REVIEW AT	DATE MAY 5 2022

05/25/2022
175:057415

SERI

EXHIBIT SHEET

SERI CASE NO.: ~~1130419~~ 1103419 DATE: 4/20/22 PERFORMED/ TESTED BY: AB CASE ANALYST: AB

EXHIBIT NO.: 62 EXHIBIT NAME: Soil Sample B#2 (846)

PACKAGING small brown Paper bag T/S → specimen cup - Screw cap

LABELING
See photos

DESCRIPTION
~120g sandy soil, ~~dry~~ damp clusters of brown material few clear possible fibers. few pieces of possible plant material. Several pieces of reddish brown dirt. one very small piece of unknown solid material with a clear fiber adhering to it. Removed to a gel lift, for further inspection

EXAMINATION clumps/ clusters of dirt otol tve. sampled ~~2 tubes of~~ colored dirt pieces into 2 1.5mL tubes for Hemdirect. Ext in 200uL dH2O. Material on gel lift placed into 62-1 and 62-1 & 62-2 Ext. for DNAs. Remaining gel lift material placed into manila env. "Soil samples Trace"

RESULTS
otol QC ✓ see exh 64 lot #
Hemdirect (see exh 64 lot #)

62-1 (-)
62-2 AB (-)

DNA Ext 4/27/22

62-1	77582
62-2	77583
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AN	DATE MAY [illegible] 2022

05/25/2022
175:057416

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/19/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: 03 EXHIBIT NAME: Soil Sample (848)

PACKAGING Small brown paper bag t/s specimen cup screw top

LABELING see photos

DESCRIPTION

~~19~~ 35g of sandy soil, slightly damp

EXAMINATION

one ~~the possible~~ apparent red colored fiber, blue fibers

clumps/clusters of dark material removed several pieces of and fibers. to 1.5 mL tubes (5 tubes) AS

ext in dH2O

dark material in soil wk otol +ve (slow)

B-3

RESULTS

otol: see exh 64 QC ✓

Hemdirect see exh 64 lot #

03-1	⊖	neg
03-2	↓	↓
03-3		
03-4		

DNA EXT 4/27/22

03-1	77584
03-2	77585
03-3	77586
03-4	77587
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS). Not Sealed (NS) Brown Paper Bag (BPB). Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AJT	DATE MAY 1 2022

05/25/2022
175:057417

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/15/22 PERFORMED/ TESTED BY: AB CASE ANALYST: AB

EXHIBIT NO.: 4/4mg 64 EXHIBIT NAME: Soil Sample Area B Probe 4+ (850)

PACKAGING small brown paper bag TS
specimen cup
screw top

LABELING see photos

DESCRIPTION ↗ Slightly damp
~8cc of sandy soil light brown
many "clumps" of dark brown
/clusters of material

EXAMINATION several dark possible fibers, red observed
several possible pieces of plant material
removed dark colored pieces and fibers with adhering dark colored material to a 1.5mL tube (2 tubes)
ext. in dH2O for HemDirect (200uL)

dark pieces of soil wk (+) (slow)

RESULTS

Oto 1: 9732/9733 exp 8/11/22 QC ✓

Hemdirect Lot 210079 exp 1/2024
Buffer B210079 exp 1/2024

64-1 } ⊖Neg
64-2

DNA Ext 4/27/22

64-1	77588
64-2	77589
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

*Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AJH	DATE MAY 1 2022

05/25/2022
175:057418

SERI

EXHIBIT SHEET

SERI CASE NO.: ~~#130419~~ #, 110319 DATE: 4/20/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: E5 EXHIBIT NAME: Soil Sample Area E #1 (858)

PACKAGING small brown paper bag T/S → specimen cup screw top

LABELING see photos

DESCRIPTION ~~,~~ brown 2110g dump sandy soil

otol -ve

EXAMINATION no material of interest no further exam

RESULTS

otol QC ✓ see exh key lot#

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Seals considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
DH	MAY 0 2022

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175:057419

SERI

EXHIBIT SHEET

SERI CASE NO.: 1105419 DATE: 4/21/22 PERFORMED/ TESTED BY: [illegible] CASE ANALYST: [illegible]

EXHIBIT NO.: 66 EXHIBIT NAME: Soil Sample Area G#1 (860)

PACKAGING

LABELING

See photos

DESCRIPTION

~117g sandy soil, slightly dump, small clusters of sand.

EXAMINATION

no material of interest

no further exam

OTOL - VP

RESULTS

OTOL QC ✓

See exh 64 Lot #

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW [illegible]	DATE MAY [illegible] 2022

05/25/2022
175:057420

SERI

EXHIBIT SHEET

SERI CASE NO.: 110319 **DATE:** 4/22/22 **PERFORMED/ TESTED BY:** AM **CASE ANALYST:** AM

EXHIBIT NO.: 67 **EXHIBIT NAME:** Soil Sample Stain Probe Area G

PACKAGING small brown paper bag +1s → specimen cup screw top

LABELING

see photos

DESCRIPTION

~57g of slightly damp sandy soil
some clusters of brown material
several dark colored fibers (apparent and)

EXAMINATION <1 long possible fiber? Hair? (no identifiable root)
removed to gel lifter to observe
several reddish brown very small flakes/grains removed to 1.5mL tube along w/ small pieces of soil
ext in loan dH2O 67-1

WC otol tvl

* several fibers + unknown fiber/poss hair
Removed to gel lifter and packaged in manila envelope "soil samples Trace"

RESULTS (Sec 2)

otol QC ✓ see ext log Lot#

Hemdirect see ext log Lot#

67-1 (-)

DNA Ext 4/27/22

67-1	77590
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (MEs) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Fiber Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
DH	MAY 9, 2022

05/25/2022
175:057421

SERI

EXHIBIT SHEET

SERI CASE NO.: 110341 19 **DATE:** 4/21/22 **PERFORMED/ TESTED BY:** AZ **CASE ANALYST:** AS

EXHIBIT NO.: 68 **EXHIBIT NAME:** Soil Sample Beneath House (880)

PACKAGING Small brown paper bag T/S
Specimen Cup Screw Cap T/S

LABELING
See photos

DESCRIPTION ~90g
Fine ~~Fine~~ dry dark brown dirt small pebbles w/ sand plant debris (stems, apparent root material)

EXAMINATION many blue, black ~~yellow~~ red, clear, apparent fibers some in small clusters could not remove all some were stained w/ dark material. Removed some to a 1.5mL tube w/ debris. wk atol+MP ext in 150uL H_2O
2 apparent insects (dead) of unknown species - several legs

RESULTS

See ext 64 Lot #
Heindirect 4/27/22

68-1 (-)

DNA Ext 4/27/22

68-1	77591
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB), Swabs considered moist unless noted otherwise.

TECHNICAL REVIEW	DATE
AH	MAY 9 2022

05/25/2022
175:057422

SERI

EXHIBIT SHEET

SERI CASE NO.: 110349 DATE: 4/20/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: 69, 70 EXHIBIT NAME: Soil Sample of Interest #1 / #2 (337/338)

PACKAGING 5"x8" T/S white env.

LABELING See photos

RESULTS

Otol QC ✓ Lot 9732/9733 exp 8/11/22

DESCRIPTION

69: ~18g light brown dirt fine texture w/ some stems, pieces of plant material, small rocks.

EXAMINATION small ~~pieces~~ pieces of reddish Brown material - rusty 3 long fiber like strands (w/c otol +ve Brown material (slow) no further testing consistent w/ rust rxn ~~collected 3 same tube~~ (strands → gel lifter) plant material, returned to package

70: ~15g see above

NO material of interest. Nothing collected Otol -ve

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AJL	DATE [illegible]

05/25/2022
175:057423

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/20/22 PERFORMED/ TESTED BY: AS CASE ANALYST: AS

EXHIBIT NO.: 71, 72 EXHIBIT NAME: Soil sample of interest #3, #4

PACKAGING 5"x8" TS white env.

LABELING See Photos

RESULTS (339,340)

otol QC ✓

See exh 69

DESCRIPTION

#71 ~62g light brown dirt w/ some rocks

#72 ~38g " " " "

EXAMINATION

otol -ve #71 + #72

nothing collected

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Filter Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB); Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AJH	DATE [illegible]

05/25/2022
175:057424

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 **DATE:** 4/20/22 **PERFORMED/ TESTED BY:** AG **CASE ANALYST:** AG

EXHIBIT NO.: 73, 74 **EXHIBIT NAME:** Soil Sample of interest #5 #6, #~~5~~

PACKAGING 5"x8" TS white env.

LABELING see photos

RESULTS (342,343)

obol QC ✓
see each 69

DESCRIPTION

#73 ~35g light brown soil w/ rocks

#74 ~30g light brown soil w/ rocks

EXAMINATION

obol - VL
nothing collected

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Fiber Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB) Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW AH	DATE MAY 0 [illegible]

05/25/2022
175:057425

SERI

EXHIBIT SHEET

SERI CASE NO.: 1103419 DATE: 4/26/22 PERFORMED/ TESTED BY: JPS CASE ANALYST: JPS

EXHIBIT NO.: 75, 76, 77 EXHIBIT NAME: Soil Sample of Interest #7, 8, 9 (343, 344, 345)

PACKAGING 5"x8" TJs white env

LABELING see photos

DESCRIPTION

#75 ~26g light brown dirt w/ white rocks → no rocks

#76 ~35g " blue fabric pieces w/ rusty staining

#77 ~80g " + rusty pieces of rocks (in 77)

EXAMINATION

nothing of interest in 75 or 76, nothing collected

ext in 150uL dH2O 4/27/22

otol -ve fabric + rusty rock slow otol +ve

RESULTS

otol QC see ex 69

Lot 210079 exp 1/2024
Buffer B210079 exp 1/2024

Hm direct 4/27/22

77-1 (-)

DNA ext 4/27/22

77-1	77592
BC1	77593
BC2	77594
BC3	77595
BC4	77596
BC5	77597

Tape Sealed (TS), Manila Envelope (ME) Glue Sealed (GS), Heat Sealed (HS), Not Sealed (NS) Brown Paper Bag (BPB), Liber Paper (FP) Standard Swab Wrapper (SSW) Standard Swab Box (SSB). Swabs considered intact unless noted otherwise.

TECHNICAL REVIEW	DATE
JH	MAY [illegible] 2022

05/25/2022
175:057426

EXHIBIT E

SAN LUIS OBISPO COUNTY SHERIFF
1585 KANSAS AVE
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	823
CASE TYPE	CAD INCIDENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLSO0588 - COLE, CLINTON	08/09/2022

INCIDENT

LOCATION	DATE	TIME
6-9-22 ANGIE BUTLER , CA US	06/09/2022	11:54

STATION	BEAT	RESPONSE		JURISDICTION
ST24				SLSO

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 2

INC SUPP 3

INC SUPP 4

INC SUPP 5

INC SUPP 6

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	11/08/2021	AA	04/08/2021	SLSO1138 - MENGHRAJANI, D	08/14/2022

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER	REPORT
		960610965	823

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL
1158	E	53		

SERIAL NUMBER	QUANTITY	COLOR	CALIBER	ITEM	SET NO	EVIDENCE
						N

DESCRIPTION	CUSTODY & ATTR
INTERVIEW ANGIE BUTLER	CUSTODY

NARRATIVE

DATE OF REPORT: 06/09/2022

PURPOSE OF REPORT: Document Speaking With Angie Butler.

On 06/09/2022 at 1102 hours Assistant Chief Investigator Camp and I spoke to Angie Butler from the Serological Institute Lab in Richmond, CA. I previously provided Butler with information provided to DDA Peuvrelle by Elizabeth Johnson a Defense expert witness. This information was regarding the Seratec HemDirect human blood test. I recorded this conversation and booked it in to the Sheriff's Office Property ref RMS # 1158, the following is a synopsis of the conversation.

Butler said there is not a validation study for the HemDirect test for soil but according to SWGDAM you can not and should not validate every sample. SWGDAM is the Scientific Working Group on DNA analysis methods guidelines for the collection and Serological Examination of Biological Evidence. SWGDAM sets the guidelines for Federal, State and local Labs in the United States. In Johnson's report she referenced PCAST, however PCAST does not set the guidelines SWGDAM does. Butler said she believes soil could degrade a sample for DNA testing but she was unaware of the mechanism of how soil could degrade a sample to invalidate the results of HemDirect testing itself. Butler said her lab has a validation study from testing they did in their Lab using a variety of body samples of blood of humans and animals.

Johnson's report showed validation studies of blood that was exposed to the elements such as a garbage can and other items but there was no validation shown for soil in Johnson's report. Butler said the HemDirect test meets all the requirements of forensic evidence. I asked Butler what the information meant to her since she had 12 soil samples that were positive for blood and 24 samples tested negative for blood. Butler said the HemDirect test has its own internal controls that shows the test is working properly and she never had a test where the internal control failed in any of our samples. Butler said it means the tests were valid because she got more negative results than positive ones and if she had a positive in our control samples that would mean something isn't right. Butler only got positive blood results from some of the samples in our excavation site. Butler said if all the samples were positive for human blood it would be a serious red flag.

Butler said it was her opinion the soil samples we provided to her that were 3-4 feet down in a previously dug hole would be protected and less chance of contamination than if the samples were at ground level where they would have more contact with weather and human contamination. Butler used sterile water and the buffer provided by HemDirect in her samples following the manufacturer instructions. This is important to control the PH of the sample otherwise you can get a false negative tests not false positive results. Soil high in iron can have a positive to human blood result with the presumptive test but then you use the confirmatory test which is the HemDirect test. The HemDirect test will not provide a false positive only a false negative due to any chemicals in the soil. The

HemDirect test has a binding agent that attracts to human hemoglobin.

Butler said the HemDirect test can get positive results on samples over 30 years old. The Hem Direct test has a broad sensitivity range for detecting varying hemoglobin. The results of the Seratec aged blood study shoe the HemDirect hemoglobin assay is an applicable test kit for the determination of human blood in the Forensic field.

Butler said many Labs use the HemDirect test and they are not the only Lab that is in detecting aged blood samples at least 30 years old and consistently yields the same results. Butler said she has used the HemDirect card over 100 times and her lab has used it over 1000 times.

CLOSING STATEMENT
Case status cleared by Adult Arrest. Forward to the District Attorney's Office for inclusion with the original report.

Detective C. Cole #0588

CC/mc 06/14/2022

EXHIBIT F

VALIDATION FOR THE USE OF THE SERATEC® HEMDIRECT HEMOGLOBIN ASSAY IN THE IDENTIFICATION OF HUMAN BLOOD

INTRODUCTION

Human hemoglobin (hHb), the red blood pigment located in erythrocytes, is one of the major proteins found in blood. The Seratec® HemDirect Hemoglobin Assay for the forensic identification of human blood is a membrane immuno-assay that qualitatively detects human hemoglobin.

The principle of the test is that the hHb will interact with a gold labeled monoclonal murine anti-hHb-antibody to form a mobile antigen antibody complex. The complex migrates down the membrane via capillary action and is captured by a second immobile monoclonal murine anti-hHb-antibody (sandwich complex). If there is sufficient hHb (> 40 ng hHb/ml) in the test sample, then a red line forms where the immobile anti-PSA antibody is located ("T" area).

If the sample has a very high amount of hemoglobin (>500 ng/ml), the hemoglobin will not only bind to the mobile gold-labeled rabbit anti-hHb antibody, but too much free hHB will bind with the immobile anti-hHb antibody in the test region. The bound hemoglobin prevents the immobile antibody from capturing the labeled antibody-antigen complex. The result obtained is a false negative result, referred to as the high dose hook effect.

A positive test is indicated by the presence of two pink lines (at the test and the control areas). A negative result is indicated by the presence one pink line at the control area. An inconclusive result is obtained if there is no line formed in the control area. The test is time sensitive and the results should be read within 10 minutes.

SUMMARY OF VALIDATION STUDY

1. SENSITIVITY

The HemDirect card provides a sensitive method for the identification of blood. Using the provided kit buffer, a very weak positive result was attainable at a one in 20 million dilution of whole blood. When sterile dH2O was used, a weak positive result was obtained at a one in 100 thousand dilution of whole blood.

The HemDirect card was at least ten times more sensitive than ortho-tolidine in reacting with dilutions of whole blood. HemDirect was at least ten times more sensitive than species-crossover.

Comparisons were made between extractions of a Nist bloodstain in the kit buffer, PBS, and sterile water. Positive results were achieved from all three extracts. However, it should be noted that the PBS extract resulted in the weakest test area band.

2. SPECIFICITY

The HemDirect card is known to react with domestic ferret blood. Using the provided kit buffer, a weak positive result was attainable at a one in 100 thousand dilution of whole ferret blood. However, when two distinct ferret blood stains were extracted, negative results were obtained.

The HemDirect card also crossreacted with higher primates. Very weak positive results were obtained with gorilla and chimpanzee bloodstains.

HemDirect did not crossreact with rabbit, sheep, guinea pig, goat, and squirrel bloodstains.

Hemoglobin can be found in trace amounts in other body fluids. Consequently, because the HemDirect card is so sensitive, positive results may occasionally be obtained from other body fluids. In this study, positive results were obtained from semen, saliva, and vaginal fluid.

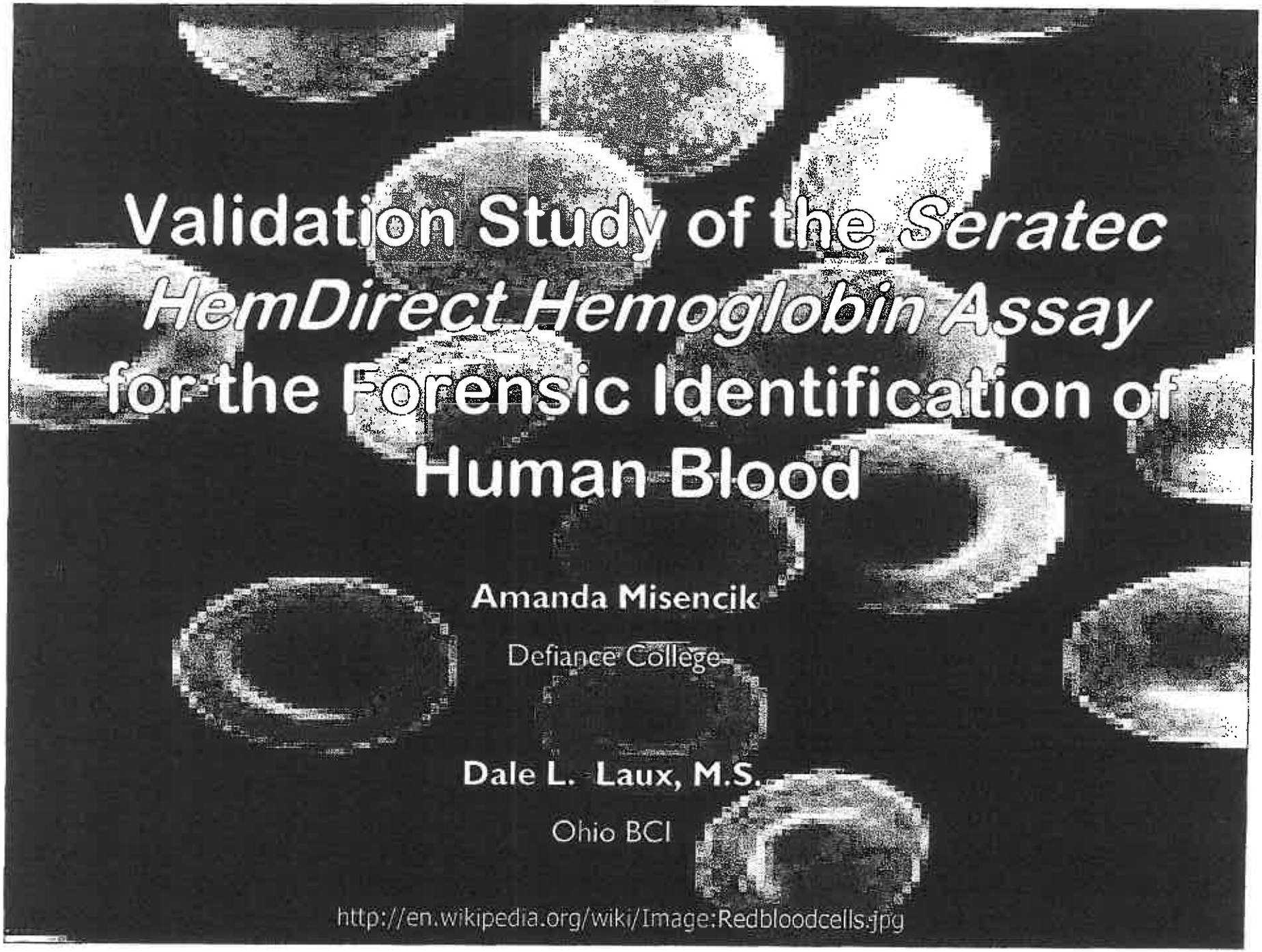
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Hermon et al. (2003) The Use of the Hexagon OBTI Test for Detection of Human Blood at Crime Scenes and on Items of Evidence. Part I: Validation Studies and Implementation. J Forensic Identification Vol 53, 566-575

http://mafs.net/fallmeeting2005/meetingcd1.pdf **Validation Study of the Seratec HemDirect Hemoglobin Assay for the Forensic Identification of Human Blood,** Dale L. Laux, Ohio Bureau of Criminal Identification & Investigation, MAFS 34th Annual Meeting, St. Louis, MO, October 07, 2005



Validation Study of the *Seratec HemDirect Hemoglobin Assay* for the Forensic Identification of Human Blood

Amanda Misencik

Defiance College

Dale L. Laux, M.S.

Ohio BCI

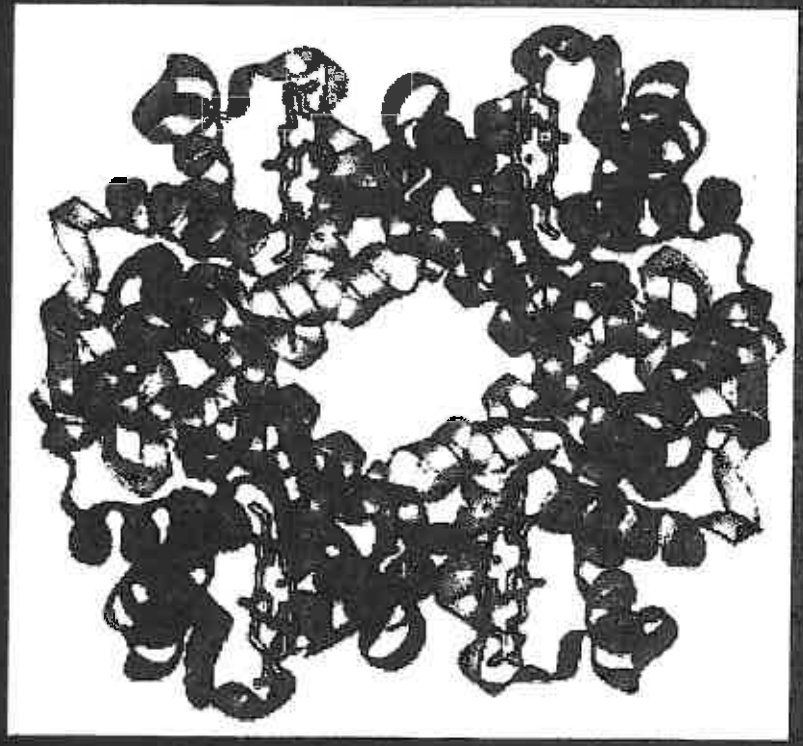
http://en.wikipedia.org/wiki/Image:Redbloodcells.jpg

About the *HemDirect* Test Kit

- The *Seratec HemDirect Hemoglobin Assay* is a one-step chromatographic immunoassay test for the detection of hemoglobin

- First developed for the determination of occult blood in stool samples and in the early detection of colon cancer

- For the forensic application the kit has been utilized for the identification of traces of human blood in forensic material



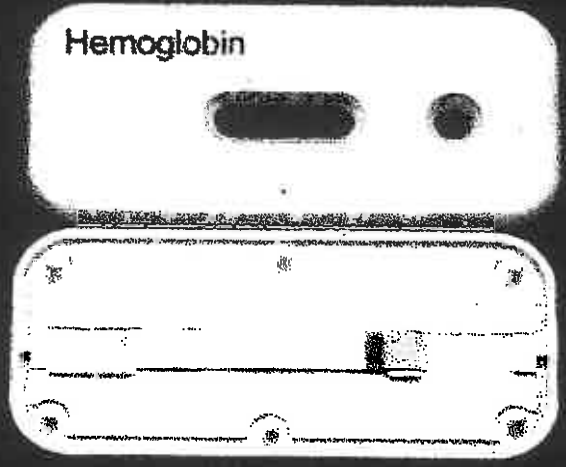
3-dimensional structure of hemoglobin
http://en.wikipedia.org/wiki/Hemoglobin

How It Works

- Uses 2 murine monoclonal anti-human hemoglobin antibodies as active components

- When hemoglobin is present, a red line will appear in the test region for a positive

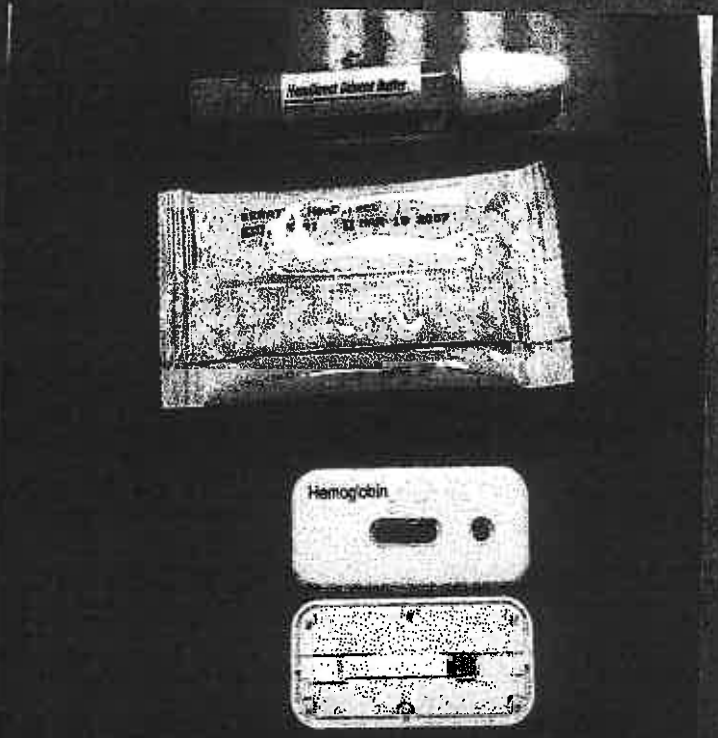
- Internal control results in a red line in the control region for a valid test



Seratec *HemDirect* test membrane

Methods for Validation

- Specificity and Sensitivity
- Degradation
- Aged Blood Stains
- Reproducibility

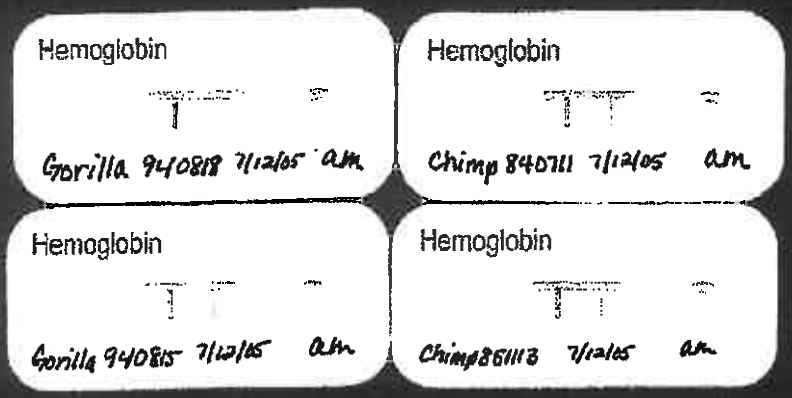


Seratec HemDirect test kit

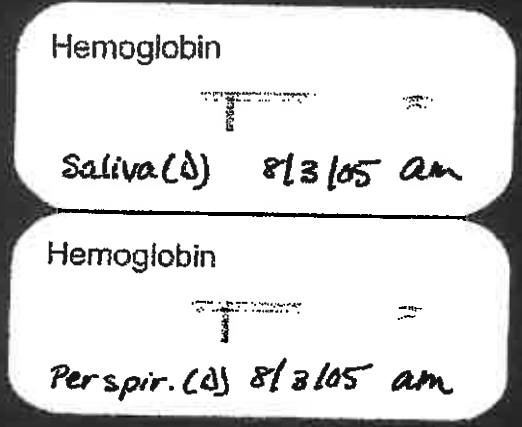
Specificity and Sensitivity

- Samples
  - Hemoglobin (Sigma H7379-1G, Lot 039H7605) at a concentration of 1 mg/mL
  - Whole blood (EDTA tube)
  - Animal blood (glass slides)
  - Urine
  - Semen
  - Saliva
  - Perspiration
- Tests
  - Hemoglobin and dilutions
  - Whole blood dilutions on clothing
  - Whole blood swab with dilutions
  - Animal Blood
  - Body Fluids

Results



Results from Gorillas and Chimpanzees



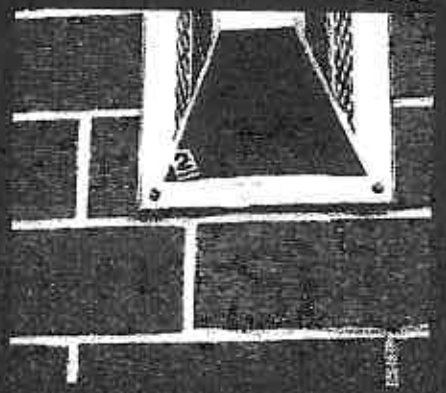
Negative results from body fluids

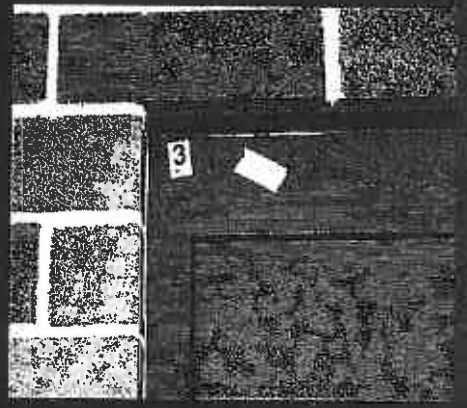
- Specific to human blood, with some cross reactivity in higher primates and the domestic ferret
- Trace amounts of hemoglobin were found in saliva and semen
- Samples containing a minimum of 40 ng hemoglobin/mL did show weak positives and dilutions of whole blood down to 1/9600 tested positive

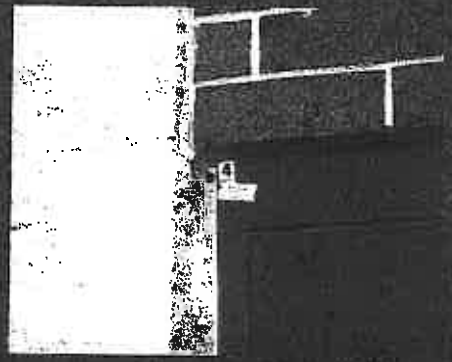
Degradation

- Samples
  - –Blood smears
  - –Whole blood stains
- Locations
  - –Blood smears on
    - (1) Dumpster
    - (2) Hot air vent
    - (3) Metal doorframe
    - (4) Brick on building
    - (5) Wood frame
  - –Whole blood stains on clothing were composed of four cloth strips set on a metal air vent
- Testing
  - –Blood smears collected weekly over a four week period with swabs
  - –Quarter portion of stains removed weekly over a four week period



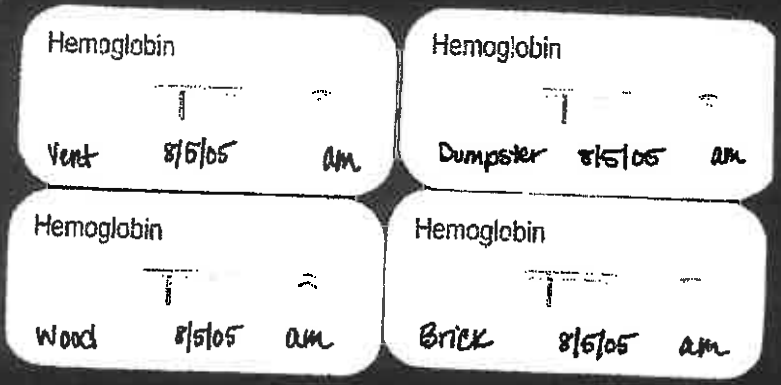




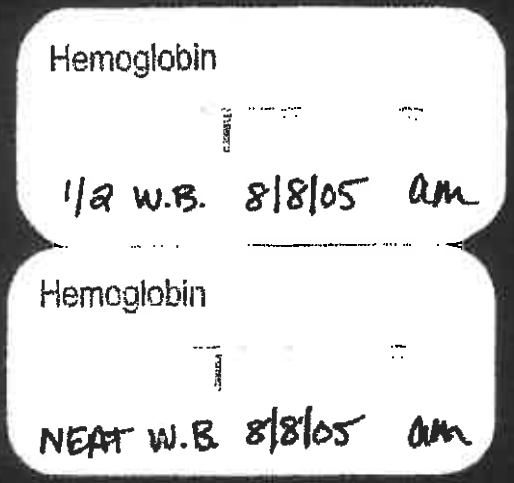




Results



Environment swabs after four weeks



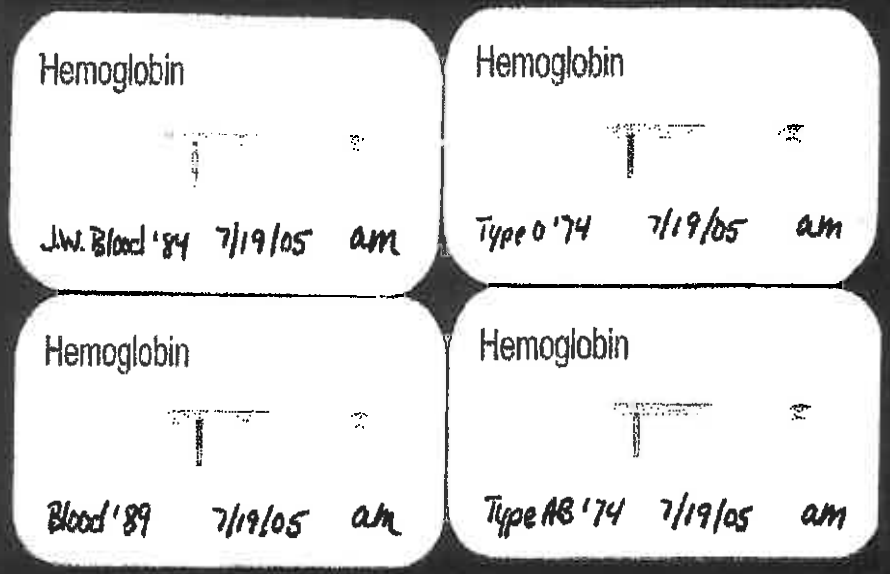
Stain results after four weeks of exposure

- Blood samples exposed to heat, rain, sunlight, and other environmental conditions showed significant degradation after four weeks
- Wood and brick substrates yielded continuous positive results
- On clothing, only the whole blood (EDTA) stain was positive after four weeks

Aged Blood Stains

- Samples
  - Type O 1974
  - Type AB 1974
  - 1984
  - 1989
    - * All samples were stored at room temperature
- Testing
  - Samples extracted over a 24 hour period

Results



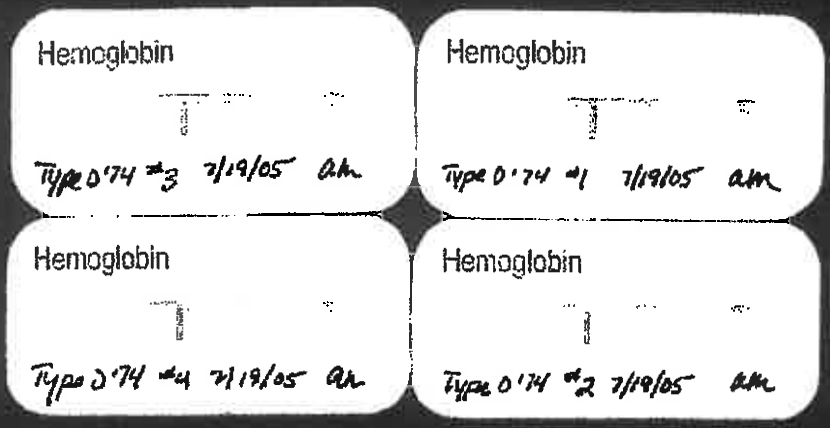
Aged blood results from all samples

- All aged samples tested positive using the *HemDirect* kit
- Blood 30 years or possibly older can be tested using a sufficient extraction method

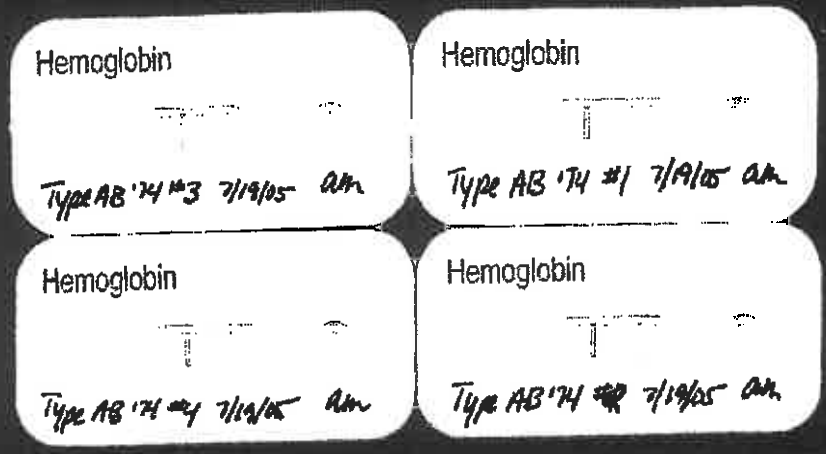
Reproducibility

- Samples
  - Type O 1974
  - Type AB 1974
- Testing
  - Each blood sample tested four times in separate test devices

Results



Type O 1971 Samples 1–4



Type AB 1971 Samples 1–4

- The *HemDirect* kit is consistent with test results in replicated studies
- The kit shows no signs of design flaws within test or buffer lots

Conclusions

- The *Seratec HemDirect Hemoglobin Assay* is an efficient and consistent kit for the determination of human blood in the forensic field

- Kit is specific to human blood* and sensitivity levels are true to the product literature

- Amino acid sequence of TNAVAHV on the alpha chain responsible for cross reactivity

- Separate species of ferret differ in hemoglobin



European Polecat
http://en.wikipedia.org/wiki/European_polecat



Domestic ferret
http://en.wikipedia.org/wiki/Ferret

- **Domestic Ferret**

1 * 10 * 20 * 30 * 40 * 50
1 VLSPADKTNVKSTWDKIGGHAGEYGGEALERTFASFPTTKTYFPHFDLSH
51 GSAQVKAHGKKVADALTNAVAHVDDLPGALSALSDLHAYKLRVDPVNFKL
101 LSHCLLVTLACHHPAEFTPAVHASLDKFFSAVSTVLTSKYR

- **European polecat**

- 1 * 10 * 20 * 30 * 40 * 50
- 1 VLSPADKTNVKSTWDKIGGHAGEYGGEALERTFASFPTTKTYFPHFDLH
- 51 GSAQVKAHGKKVADALTNAVAHMDDLPGALSALSDLHAYKLRVDPVNFKL
- 101 LSHCLLVTLACHHPAEFTPAVHASLDKFFSAVSTVLTSKYR

- See Rowley, JFS, 1999; 44:597-602.
- http://prowl.rockefeller.edu/

Thank you

- Cleveland Metroparks Zoo
  - Linda DeHoss
- BCI Richfield Staff


Questions?

Validation Study of the SeratecHemDirect Hemoglobin Assayfor the Forensic Identification of Human Blood

http://en.wikipedia.org/wiki/Image:Redbloodcells.jpg

Amanda Misencik, Defiance College
Dale L. Laux, M.S., Ohio BCI

About the HemDirectTest Kit

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•First developed for the determination of occult blood in stool samples and in the early detection of colon cancer
•For the forensic application the kit has been utilized for the identification of traces of human blood in forensic material

(3-dimensional structure of hemoglobin http://en.wikipedia.org/wiki/Hemoglobin)

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•Uses 2 murine monoclonal anti-human hemoglobin antibodies as active components
•When hemoglobin is present, a red line will appear in the test region for a positive
•Internal control results in a red line in the control region for a valid test

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•Specificity and Sensitivity
•Degradation
•Aged Blood Stains
•Reproducibility

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–Hemoglobin (Sigma H7379-1G, Lot 039H7605) at a concentration of 1 mg/mL
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–Animal blood (glass slides)
–Urine
–Semen
–Saliva
–Perspiration

•Tests
–Hemoglobin and dilutions
–Whole blood dilutions on clothing
–Whole blood swab with dilutions
–Animal Blood
–Body Fluids

Results

- Specific to human blood, with some cross reactivity in higher primates and the domestic ferret
- Trace amounts of hemoglobin were found in saliva and semen
- Samples containing a minimum of 40 ng hemoglobin/mL did show weak positives and dilutions of whole blood down to 1/9600 tested positive
- Negative results from body fluids

Degradation

•Samples
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–Whole blood stains

•Locations
–Blood smears on
1. Dumpster
2. Hot air vent
3. Metal doorframe
4. Brick on building
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–Whole blood stains on clothing were composed of four cloth strips set on a metal air vent

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–Blood smears collected weekly over a four week period with swabs
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–Type AB 1974
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–1989
All samples were stored at room temperature

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–Samples extracted over a 24 hour period

Results

•All aged samples tested positive using the HemDirect kit
•Blood 30 years or possibly older can be tested using a sufficient extraction method

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–Type AB 1974

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–Each blood sample tested four times in separate test devices

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- Domestic Ferret1 * 10 * 20 * 30 * 40 * 50
1 VLSPADKTNVKSTWDKIGGHAGEYGGEALERTFASFPTTKTYFPHFDLSH51
GSAQVKAHGKKVADALTNAVAHVDDLPGALSALSDLHAYKLRVDPVNFKL101
LSHCLLVTLACHHPAEFTPAVHASLDKFFSAVSTVLTSKYR

- European polecat•1 * 10 * 20 * 30 * 40 * 50
1 VLSPADKTNVKSTWDKIGGHAGEYGGEALERTFASFPTTKTYFPHFDLH
51GSAQVKAHGKKVADALTNAVAHMDDLPGALSALSDLHAYKLRVDPVNFKL1
01 LSHCLLVTLACHHPAEFTPAVHASLDKFFSAVSTVLTSKYR

- See Rowley, JFS, 1999; 44:597-602.
- http://prowl.rockefeller.edu/

TECHNICAL NOTE

Manfred N. Hochmeister,[1] M.D.; Bruce Budowle,[2] Ph.D.; Rebecca Sparkes,[3] Ph.D.; Oskar Rudin;[1] Christian Gehrig,[1] B.S.; Michael Thali,[1] M.D.; Lars Schmidt,[4] B.S.; Adrien Cordier,[5] and Richard Dirnhofer,[1] M.D.

Validation Studies of an Immunochromatographic 1-Step Test for the Forensic Identification of Human Blood*

REFERENCE: Hochmeister MN, Budowle B, Sparkes R, Rudin O, Gehrig C, Thali M, Schmidt L, Cordier A, Dirnhofer R. Validation studies of an immunochromatographic 1-step test for the forensic identification of human blood. J Forensic Sci 1999;44(3): 597–602.

ABSTRACT: An immunochromatographic 1-step test for the detection of fecal occult blood was evaluated for applicability for the forensic identification of human blood in stained material. The following experiments were conducted: 1) determination of the sensitivity and specificity of the assay; 2) evaluation of different extraction media for bloodstains (sterile water, Tris buffer pH 7.5 provided in the test kit, 5% ammonia); 3) analysis of biological samples subjected to a variety of environmental insults; and 4) evaluation of casework samples.

This immunochromatographic 1-step occult blood test is specific for human (primate) hemoglobin and is at least an order of magnitude more sensitive than previous methods for detecting human hemoglobin in bloodstains. The antigen is insensitive to a variety of environmental insults, except for exposure to certain detergents and household bleaches and prolonged exposure to certain preparations of luminol.

The entire assay can be conducted in field testing conditions within minutes. When in the laboratory the supernatant from a DNA extraction is used for the assay, there is essentially no consumption of DNA for determining the presence of human hemoglobin in a forensic sample. The data demonstrate that this test is robust and suitable for forensic analyses.

KEYWORDS: forensic science, hemoglobin, identification, human blood, bloodstains, luminol, species identification, DNA typing, validation studies

Presented at the 50th Annual Meeting, American Academy of Forensic Sciences, San Francisco, CA, Feb. 1998.

Forensic scientists and director, respectively, Institute of Legal Medicine, University of Bern, Switzerland.

Program manager for DNA Research, FSRTC, FBI Academy, Quantico, VA.

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Police Forensic Laboratory Bern, Switzerland.

Commander, Police Forensic Laboratory Aarau, Switzerland.

Names of commercial manufacturers are provided for identification only, and inclusion does not imply endorsement by the authors.

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When biological samples are obtained from a crime scene, at times it may be important to determine if the material is blood and if so, if it is human in origin. The two most often used confirmatory tests for the presence of hemoglobin are the Takayama test (1) and spectrophotometric methods (2). However, these methods can not determine whether or not bloodstains are human in origin and additional tests must be performed. Human specificity assays include immunological tests (2) or DNA-based hybridization assays (3). Therefore, it would be desirable to implement a single simple assay for the detection of human hemoglobin.

An anti-human hemoglobin antibody based system can provide information both on the presence of hemoglobin and human specificity. An overview of immunological tests is provided by Gaensslen (2). In 1994, Spear and Binkley applied an immunochemical fecal occult blood test (HemeSelect™; SmithKline Diagnostics, San Jose, CA) to detect the presence of human hemoglobin in forensic samples (4). The test was able to detect hemoglobin in bloodstain extracts diluted to 1:100 000 and was primate specific. Although effective and scientifically sound, this assay has not gained wide use in the forensic community.

Recently, the Hexagon OBTI Test (5), a test for the detection of fecal occult blood, has been introduced to a few police laboratories in Germany and Switzerland. The test is designed to detect the presence of human hemoglobin in stool samples through the use of an anti-human hemoglobin antibody in an immunochromatographic procedure. The assay offers several advantages compared with the test described by Spear and Binkley. These are: 1) the test is a 1-step immunographic assay, 2) there is no manipulation of the reagents, 3) the test does not rely on an antibody coated cell reagent, 4) the assay takes no more than 10 min, and 5) the assay is at least an order of magnitude more sensitive. Thus, this anti-human Hb assay may prove useful as a confirmatory test for the presence of human hemoglobin in forensic casework analyses. This paper presents the results from a forensic validation study of the Hexagon OBTI test.

Materials and Methods

Immunochromatographic 1-Step Test for the Detection of Fecal Occult Blood

The Hexagon OBTI test was purchased from Human Gesellschaft fuer Biochemica und Diagnostica mbH, Silberbach-

strasse 9, D-65232 Taunusstein, Germany, (Tel. ++49 6128 8750, Fax ++49 6128 875 100). The test kit consists of an all inclusive single test device, a sample tube with Tris-buffer pH 7.5 (containing a mild detergent) as a transport medium for the stool sample and an applicator stick for manipulating the stool sample. The test utilizes mobile monoclonal anti-human hemoglobin antibodies, which are conjugated to blue dye particles and can bind hemoglobin (Fig. 1). The resulting antigen-antibody complexes migrate on the membrane of the test device to a reaction zone, where immobilized polyclonal antihuman Hb antibodies reside. An antigen-antibody-antigen sandwich concentrates the dye particles resulting in the formation of a blue line, indicating the presence of human hemoglobin. Unbound mobile monoclonal antihuman hemoglobin antibodies migrate on the membrane to a control zone, where immobilized anti-Ig antibodies reside (Fig. 1). A complex is formed concentrating dye particles also resulting in the formation of a blue line. The test is considered valid when one blue line in the control zone is observed. With a positive test result, two blue lines will appear; with a negative result, only the control line will be visible (Fig. 1). From all samples used in this study, 100 µL of an extract were placed in the round opening at the end of the device. The test results were read after 10 min.

Determination of Sensitivity and Specificity

Whole blood from 10 individuals and whole blood from Chim panzee (*Pan troglodytes*), Gorilla (*Gorilla gorilla*), Orangutan (*Pongo pygmaeus*); Celebes black ape (*Cynopithecus niger*) and Spider monkey (*Ateles sp*) were serial diluted to 1:10 000 000 with either sterile water or the Tris-buffer pH 7.5, provided in the kit. Ten µL of whole blood from 10 individuals were placed on cotton cloth, air dried for 24 h, extracted with either sterile water or the Tris-buffer, pH 7.5, provided in the kit, for 2 h at room temperature on a shaker and then serially diluted to 1:10 000 000. Negative controls (sterile water and Tris-buffer pH 7.5) also were prepared and analyzed.

Saliva, perspiration, urine, stool, vaginal secretions, and semen samples were recovered on cotton swabs from 5 male and 5 female volunteers. Each swab was cut in half and extracted in 0.5 mL of the Tris-buffer, pH 7.5, provided in the kit, as well as in sterile water for 2 h at room temperature on a shaker. After centrifugation for 3 min at 13 000 rpm the supernatant was removed and serial diluted to 1:10 000.

The pH-dependency of the test was evaluated using whole blood diluted to 1:1000 with sterile water and the pH adjusted to 1–14 using either acetic acid or NaOH.

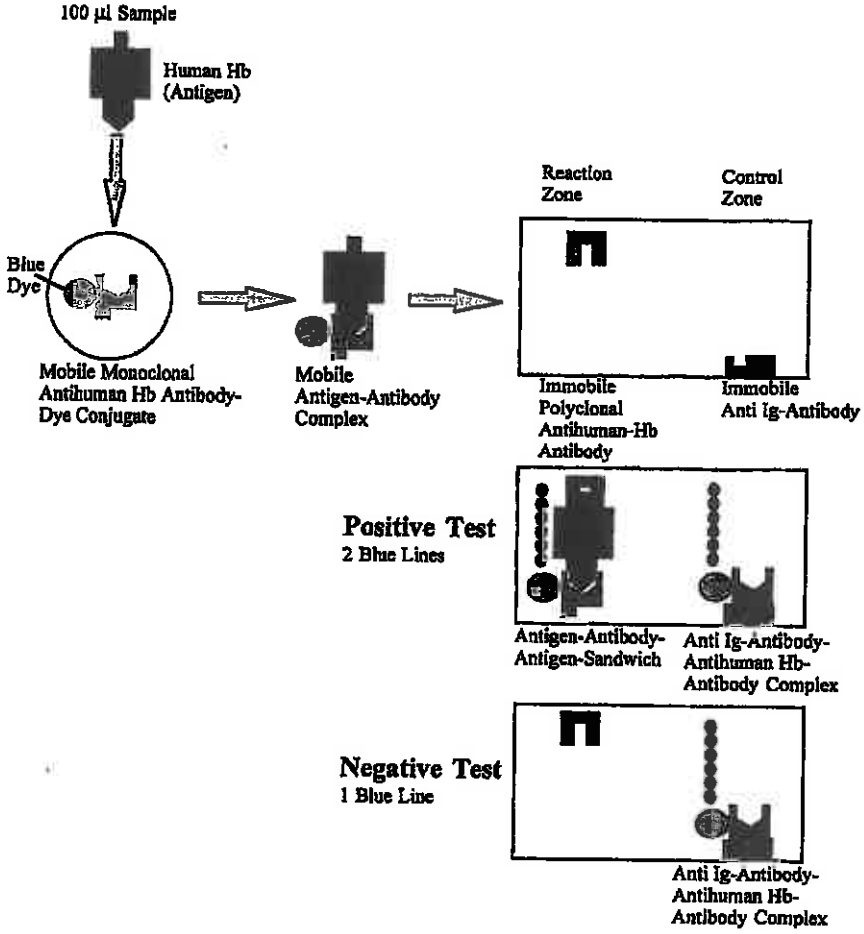


FIG. 1—*Unbound mobile monoclonal anti-human hemoglobin antibodies migrate on the membrane to a control zone, where immobilized anti-Ig antibodies reside.*

Microorganisms (*Bacillus Clostridium, Pseudomonas, Escherichia coli, Streptococcus, Staphylococcus, Candida albicans*) and 5 × 5 mm bloodstains from different animal species: Herring (*Clupea harengus*), Sea trout (*Salmo trutta*); Pigeon (*Columba livia*), Goose (*Anser anser*), Chicken (*Gallus gallus*); Toad (*Xenopus laevis*), Rat (*Rattus rattus*), Guinea pig (*Cavia cutleri*), Rabbit (*Oryctolagus cuniculus*), Cat (*Felis Catus*), Dog (*Canis familiaris*), Badger (*Meles meles*), Lamb (*Ovis aries*), Pig (*Sus scrofa*), Sika deer (*Cervus sika*), Red deer (*Cervus elaphus*), Horse (*Equus caballus*), Cow (*Bos taurus*), Elephant (*Loxodonta africana*); Chimpanzee (*Pan troglodytes*), Gorilla (*Gorilla gorilla*), Orangutan (*Pongo pygmaeus*); Celebes black ape (*Cynopithecus niger*) and Spider monkey (*Ateles sp*) prepared on Schleicher & Schuell paper were extracted in 0.5 mL of the Tris-buffer, pH 7.5, provided in the kit, as well as in sterile water for 2 h at room temperature on a shaker. After centrifugation for 3 min at 13 000 rpm the supernatant was removed and serial diluted to 1:10 000.

Extraction of Aged Blood Stains from Forensic Casework Samples

Eight stains of human blood on clothing from different forensic cases that have been stored at room temperature under ambient conditions for 2–15 years were tested. Extraction was performed using either 0.5 mL of the Tris-buffer, pH 7.5, provided in the kit, or 0.5 mL sterile water. From each stain two 5 × 5 mm pieces were removed, each placed into a separate 2 mL plastic tube and extracted for 2 h at room temperature on a shaker. After centrifugation for 3 min at 13 000 rpm, 100 μL of each supernatant were recovered and tested.

In five of the eight aged blood stains the hemoglobin was insoluble, when sterile water or Tris-buffer was used for extraction. Therefore, from all stains an additional 5 × 5 mm cutting was placed in a microtiter plate and extracted with 0.5 mL of 5% (v/v) ammonia (6,7). The ammonia was allowed to evaporate completely (approx. 30 min) and then 100 μL of the Tris buffer provided in the kit was used to resolubilize the extract.

In addition, 100 human blood stains from recent forensic cases, which tested positive for the presence of hemoglobin using the Hemastix® presumptive test for blood (8) and a spectrophotometric method (2) were extracted using 0.5 mL of the Tris-buffer supplied in the kit. In addition, a human (*primate*) specific DNA hybridization assay (3) was performed. The age of the stains was between 1 day and 6 months. All stains were removed from a variety of substrates either by scraping or swabing and ranged from very small particles or flakes to large reddish brown stains. Nine stains, that would not dissolve in the Tris-buffer, were extracted in 5% ammonia as described above.

Degradation Study

Fifty μL aliquots of human blood from 10 individuals were placed on cotton cloth and air dried for 24 h. Samples of deep muscle tissue (50 g) from 10 recently deceased individuals were obtained. All samples were subjected to different environmental conditions for 1 month: (a) frozen at −20°C (control samples), (b) exposed to ambient outdoor conditions during the summer months (June, sunlight, an average temperature of 25°C), (c) wrapped in plastic wrap and stored under the same conditions as (b), (d) immersed in water taken from a river and maintained at a temperature of 25°C, and (e) buried in soil at a depth of 50 cm.

From each stain two 5 × 5 mm pieces were removed and placed into separate 2 mL plastic tubes and each extracted with 0.5 mL Tris-buffer, supplied in the kit, or sterile water for 2 h at room temperature on a shaker. In addition, from each stain a 5 × 5 mm piece was placed in a microtiter plate and extracted with 0.5 mL of 5% (v/v) ammonia as described above. 100 mg of muscle tissue were extracted using 0.5 mL of the Tris-buffer supplied in the kit, sterile water, or 5% ammonia as described above and the supernatant was used for the assay.

DNA Compatible Assay

Ten μL of whole blood from 10 individuals were placed on cotton cloth, air dried for 24 h and extracted with stain extraction buffer (9), that did not contain detergent or Proteinase K, or extracted with 5% Chelex solution (10), and the supernatant was tested as described above. An additional 100 μL of supernatant was removed to verify the absence of DNA in the supernatant using a DNA hybridization assay specific for human DNA (3). Then detergent and proteinase K were added to the original extract and DNA extraction was continued (9).

Contamination with Detergents

Whole blood from 10 individuals was serially diluted to 1:1000 with sterile water and mixed with a variety of detergents including SDS, sarcosyl, stain extraction buffer used for organic DNA extraction (9) with and without SDS or sarcosyl, Triton X-100, and different brands of soaps and household-bleaches (final concentration of all contaminants in the samples 2%) and kept at room temperature for 1 h. Before testing, the pH of all extracts was determined using litmus paper and adjusted to approximately pH 7.

Contamination with Luminol

Three replicates of 50 μL aliquots of human blood from 10 individuals were placed on cotton cloth and air dried for 24 h. Each aliquot was exposed to a different preparation of luminol. Preparation one and two both used 0.1 g of luminol and 5 g of sodium carbonate dissolved in 100 and 90 mL, respectively, of distilled water (final luminol concentration, 0.1%). In the first protocol, 0.7 g of sodium perborate was added immediately prior to use, while in the second, 10 mL of 3% hydrogen peroxide were added immediately prior to use (2,11). In preparation three, 70 mL distilled water was mixed with a 10 mL solution of 8 g of sodium hydroxide dissolved in 500 mL of distilled water, 10 mL solution of 10 mL of 30% hydrogen peroxide in 490 mL of distilled water, and 10 mL solution of 0.354 g luminol dissolved in 62.5 mL of 0.4 N sodium hydroxide to a final volume of 500 mL distilled water (12). Using an aerosol sprayer each test reagent was added to the stains to produce a strong positive result. Special care was taken to ensure that the entire surface of the stains was covered with the reagent. From each luminol-exposed stain 5 × 5 mm pieces were removed and extracted as described above.

In addition, 50 μL of whole blood from 10 individuals diluted 1:1000 and 1:10 000 were mixed with 50 μL aliquots of the three different preparations of luminol and kept at room temperature for 1, 12 and 72 h. Before testing the pH of all extracts was determined using litmus paper and adjusted to approx. pH 7.

TABLE 1—*Results with various samples.*

Samples	Result
Liquid human blood/Fresh human blood stains	Diluted with water: pos. to 1:100 000 Diluted with Kit-Buffer: pos. to 1:1 000 000
Microorganisms/Different animal species	Neg.
Various human body fluids	Some body fluids tested pos.
pH-dependency of test	Pos. pH 1- 12, Neg. pH >12
High dose hook effect (false negative test)	Not observed when >1:100 fold dilution of whole blood was u
Aged bloodstains from forensic casework	Pos. (up to 15 years of room temperature storage)
Human bloodstains/Human muscle tissue exposed to various outdoor conditions	Pos.
DNA compatible assay	Pos.
Fresh human bloodstains contaminated with soaps, detergents, and household bleaches	Pos./Neg. (depending on brand, concentration, time)
Liquid human blood/Fresh human blood stains contaminated with luminol (3 preparations)	Pos./Neg. (depending on preparation, dilution of blood, time)

Results and Discussion

A summary of the results is presented in Table 1.

Determination of the Sensitivity and Specificity

All whole blood samples from human donors and blood samples from Chimpanzee (*Pan troglodytes*), Gorilla (*Gorilla gorilla*), Orangutan (*Pongo pygmaeus*); Celebes black ape (*Cynopithecus niger*) and Spider monkey (*Ateles sp*) tested positive for human hemoglobin to a dilution of 1: 100 000 when sterile water was used to dilute the sample. However, when Tris-buffer provided in the kit was used to dilute the whole blood, dilutions up to 1:1 000 000 tested positive. Therefore, as little as 500 total erythrocytes are required for a positive result. Additional components, in the Tris buffer provided in the kit, such as a mild detergent, may enhance the sensitivity of the assay. Only a few positive reactions were observed for blood samples diluted more than 1: 1 000 000. Similiar results were obtained from fresh bloodstains. For the negative control samples only the control line was visible.

In the species specificity experiments only human and primate blood tested positive with the assay. These data suggest that the assay is primate specific. Serial dilutions of human and primate blood revealed no difference in the reactivity.

Similiar to the findings of Spera and Binkley some of the extracts of saliva, urine, stool, vaginal secretions, and semen yielded a positive reaction with the assay. Perspiration tested negative in all cases. These results were anticipated since hemoglobin may be present at low concentration in various body fluids.

When the pH-dependency of the test was evaluated, a positive test result was obtained when the pH of the supernatant ranged from 1–12. At a pH > 12 the test was always negative, but if the pH was adjusted to approximately pH 7 the very same samples tested positive.

High Dose Hook Effect

When performing immunoassays the concentration of the antigen and the titer of the antibody have to be considered. Obviously, an antigen concentration in a sample below the sensitivity of detion of the assay will yield a negative result. A negative result also may be obtained when too high a concentration of antigen is assayed. The latter situation is known as high dose hook effect. In the Hexagon OBTI test excess hemoglobin will overwhelm the mobile monoclonal antihuman Hb antibodies and unbound hemoglobin will migrate towards the reaction zone, where the immobilized polyclonal antihuman Hb antibodies reside. Free unbound hemoglobin binds to the immobilized antibodies and prevents these antibodies from reacting with the antigen-mobile antibody complexes (Figs. 2, 3). The result will be a false negative. The manufacturer of the Hexagon OBTI test states a high dose hook effect has been observed at concentrations of hemoglobin of 2 μg/μL. We confirmed this observation and recommend that a dilution of blood at least 1:100 should be used to avoid the high dose hook effect. This can be achieved either by extracting a smaller portion of a sample, by increasing the extraction volume, or by diluting the extract prior to assay. Hemoglobin loses its visible color at whole blood dilutions greater than about 1:1000 (approximately 0.2 μg Hb/μL). This may be used as a guide for avoiding the high dosis hook effect.

Extraction of Aged Blood Stains from Forensic Casework

Out of 108 human blood stains, 14 were insoluble in either Tris buffer or water. These stains were extracted using 5% ammonia (6,7). All aged blood stains yielded positive results for human hemoglobin and a positive signal when using a human (*primate*) specific DNA hybridization assay (3). These results demonstrate that ammonia does not appear to have a deleterious effect on the immunological reaction of this assay.

Degradation Study

All samples of the degradation study, even heavily putrified human muscle tissue, yielded positive results. Thus hemoglobin appears to persist in samples exposed to extreme conditions. This demonstrates the usefulness of the test for the identification of the origin of recovered remains, such as putrified soft tissue.

DNA Compatible Assay

All human blood samples yielded positive results. In the aliquots that were removed to determine the quantity of DNA present in the portion of the extract used for the detection of human hemoglobin there was no detectable DNA. Therefore, no DNA is consumed when assaying for human hemoglobin during a DNA extraction.

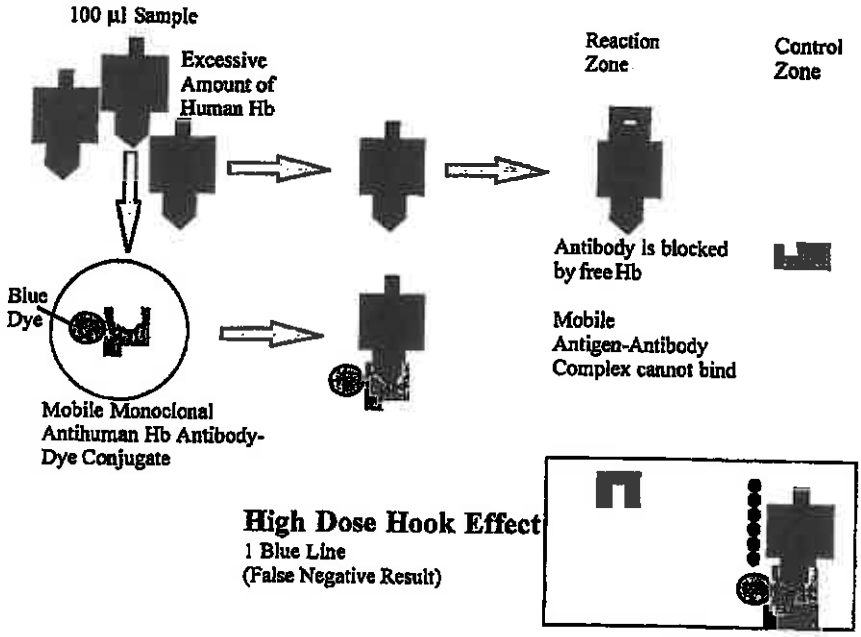


FIG. 2—*Free unbound hemoglobin binds to the immobilized antibodies and prevents these antibodies from reacting with the antigen-mobile antibody complexes.*

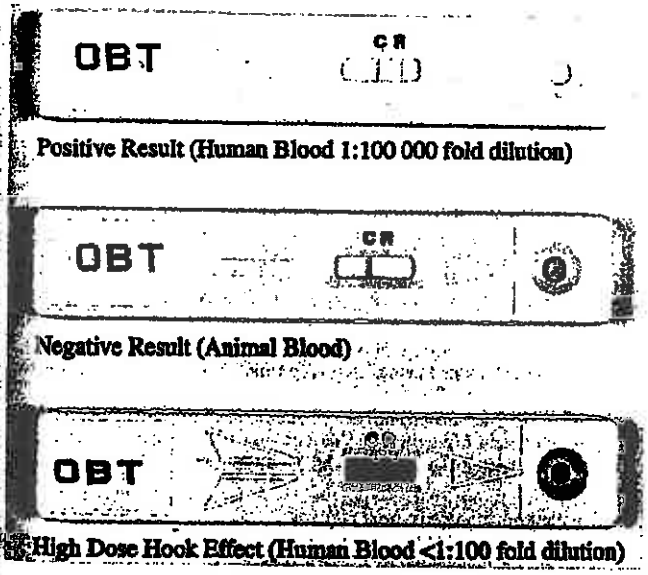


FIG. 3—*Immunochromatographic 1-step test for the identification of human blood. One hundred µL of the extract were placed in the round opening at the end of the device. A positive result is indicated by the formation of a blue line in the reaction zone (R) and in the control zone (C). A negative result is indicated by the formation of a blue line in the control zone. The high dose hook effect is a false negative result due to excess hemoglobin in the sample and indicated by the formation of a blue line in the control zone only.*

Contamination with Detergents

When human blood was mixed with SDS or sarcosyl (ionic detergents), at a final concentration of 2%, no human hemoglobin was detected in the assay, presumably due to denaturation of proteins and/or interference with protein-protein interactions. Triton X-100 (a non-ionic detergent) at the same concentration yielded a weak positive signal. The mixture of blood with stain extraction buffer without SDS or sarcosyl yielded a strong positive result, whereas stain extraction buffer with SDS or sarcosyl yielded a negative result. Therefore the use of a detergent to improve the DNA extraction should be avoided, if an anti-Hb assay is intended to be performed.

It could be anticipated that an individual might attempt to clean bloodstained items. Contamination of blood with different brands of soap at a final concentration of 2% yielded positive results. However, contamination with various household bleaches in the same concentration yielded either an extremely weak positive signal or a negative result, presumably due to the denaturation of proteins and/or inhibition of the immunoassay (data not shown). When the pH of the supernatant was adjusted to pH 7 before testing, the samples still yielded a negative result.

Contamination with Luminol

Luminol is often used in crime scene investigations to presumptively detect blood. Therefore, stains that arrive at the forensic laboratory for analysis may be contaminated with luminol and related reagents. Of the luminol preparations tested, only preparation one and two yielded detection of hemoglobin in all contaminated blood samples throughout a 72 h period. However, it was necessary to adjust the pH of the supernatant to <12 in order to obtain a positive result. Blood mixed with luminol preparation three tested positive only at a 1:1000 fold dilution of blood up to 1 h of exposure. Presumably certain components of the third luminol preparation, such as sodium hydroxide have deleterious effects on the immunoassay, depending on the dilution of blood and time of exposure. Therefore, preparation one and two may be considered the most desirable of the three preparations for the detection of blood at crime scenes. Furthermore, if samples were exposed to luminol, it is necessary to check and adjust the pH of the extract prior to testing to <12.

TABLE 2—*Test procedure. Test of suspected blood stains for the presence of human hemoglobin (field testing/laboratory testing).*

Apparently Fresh Stains	Aged Stains	Stains Exposed to Luminol
Extract a small portion of the stain in a microfuge tube or a microtiter plate with an appropriate amount of the Tris-buffer provided in kit, water, 5% Chelex solution, or any other suitable buffer that does not contain SDS/Sarcosyl or Proteinase K	If insoluble, extract with an appropriate amount of 5% ammonia. Let ammonia evaporate. Resolubilize with buffer provided in kit, water, or any other suitable buffer that does not contain SDS/Sarcosyl/Proteinase K	Extract with one of the described methods. Check and adjust pH before testing.
Use 100 μL of supernatant for confirmatory test		

TABLE 3—*Confirmatory testing. Confirmatory test for the presence of human hemoglobin during DNA-extraction.*

Depending on age and condition of the stain use one of the methods described above to resolubilize the stain
Centrifuge briefly
Use 100 μL of supernatant for confirmatory test
Continue DNA extraction

Conclusions

The Hexagon OBTI test has been demonstrated to be a powerful and robust tool as a confirmatory test for human blood, because it is human specific (or at least primate specific) and is suitable for use with both aged and degraded material. It can be a useful tool for either field testing or laboratory testing (Table 2). The antigen is insensitive to a variety of environmental insults, except for exposure to certain detergents and household bleaches and prolonged exposure to certain preparations of luminol. This immunoassay is compatible with highly solubilizing extraction procedures, such as those that use ammonia, that may be needed for the extraction of aged blood stains.

While this assay is specific for primate hemoglobin, it is not specific solely for blood. Body fluids other than blood may contain trace amounts of hemoglobin and yield a positive result. However, this observation should not be a problem for the detection of human blood in the large bulk of cases.

Most forensic laboratories characterize human blood stains using DNA-based procedures. This assay is compatible with the current DNA extraction procedures with slight modifications (Table 3). It enables the analysis of human hemoglobin and DNA comparable to results that would be obtained if each test was done individually and has the ancillary benefit of not consuming any DNA in the sample.

This test is simple to perform, requires a minimum amount of equipment, produces results that are easy to interpret and is relatively rapid to perform. Furthermore, the test was found to be at least one order of magnitude more sensitive than current presumptive or confirmatory tests described in the literature. The procedure can be easily implemented in the forensic laboratory.

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SERATEC® HemDirect Hemoglobin Assay

REF HbF07

A visual one-step immunoassay for the rapid identification of human blood in forensic samples by the determination of hemoglobin. In-vitro diagnostic device for professional use only.

Intended use

The SERATEC® HemDirect test serves the rapid identification of human blood for forensic purposes. The detection is based on the determination of human hemoglobin in the sample by a specific antigen/antibody reaction. The result is interpreted visually by the appearance of a red test result line in hemoglobin positive samples. The test is easy to perform (no training necessary) and can be used directly at the crime scene, if required.

Introduction

The red blood pigment, hemoglobin (Hb), is located in the erythrocytes and predominantly serves the transport of oxygen and carbon dioxide within the body. Hemoglobin has a molecular weight of 64.5 kDa. It is composed of 4 amino acid chains, two of which are identical. Each chain is associated with a hem group that contributes to around 4 % of the total weight of the molecule. With concentrations between 120-160 mg/ml and 140-180 mg/ml for women and men, respectively, hemoglobin is one of the most abundant proteins in blood.

For the examination of a crime it might be essential to know if biological samples contain blood and/or if the blood is of human origin. Various confirmatory tests for the identification of blood are based on the detection of hemoglobin but do not allow to differentiate if the blood is human. In order to analyze this, additional testing is required. Frequently immunological tests or DNA-based hybridization assays are performed. As these assays are time consuming and work intense, it is generally not possible to perform them directly at the crime scene.

The use of one-step immunoassays may eliminate these problems. In these tests human hemoglobin is generally detected by a specific antibody pair. Originally developed for an early detection of colon carcinoma by the determination of occult blood in stool samples, the SERATEC® HemDirect test combines a high specificity with an excellent sensitivity and can be used for the identification of traces of human blood in forensic samples. Employing the test has the following advantages over the conventional methods:

- The generation of the result does not require any difficult manipulations of the sample and can be performed directly at the crime scene.
- The result is generated rapidly. 5 minutes after the addition of the sample the result can be read and interpreted visually without the aid of further equipment.
- The sensitivity of the test is very high. Samples containing only 40 ng/ml human hemoglobin are detected easily by the test. Fresh human blood diluted in the extraction buffer up to 10^{-6} shows clear positive test results. Even 10^{-7} dilutions are generally detected by the SERATEC® HemDirect test.
- The test is specific for human hemoglobin. A cross reactivity is observed for blood of primates. Therefore a positive test results allows the conclusion that the sample tested most probably contained blood of human origin.

Studies[1,2] show, that immunoassays are also suited for the detection of old blood stains. 2-15 year old blood stains on clothing, that had been extracted in the laboratory, reacted positive when tested. Dried blood stains and muscle tissue stored at different environmental conditions for one month, also gave positive test results following an extraction. In contrast, the addition of detergents like SDS or sarcosyl or bleach to the sample led to negative or only weak positive results. This was probably due to the denaturation of hemoglobin.

The test result of immunoassays will be affected in its evidence by two facts. First, hemoglobin may also be present in other body fluids (e.g. urine, stool, seminal fluid, vaginal fluid or saliva) in trace amounts yielding positive test results. However, this observation should not be a problem for the detection of human blood in the large bulk of cases. Second it must be kept in mind that very high concentrations of human hemoglobin in the sample may lead to negative test results – a phenomenon known as high dose hook effect (prozone effect). The high dose hook effect can be avoided by testing different dilutions of a sample. As the visible color caused by the hemoglobin vanishes between a 10^{-3} and a 10^{-4} dilution, the color of the sample might be a guide for the user. At these concentrations no high dose hook effect is expected.

Description of the test

Originally the SERATEC® HemDirect test was developed for the determination of occult blood in stool samples and was used for the early detection of colon cancer. In the forensic use, the test is employed for the detection of human hemoglobin with the aim to identify traces of human blood in forensic material obtained at a crime scene.

Principle of the test

The SERATEC® HemDirect test is a chromatographic immunoassay (CIA). It contains two monoclonal murine anti-hHb (human hemoglobin) antibodies as active compounds. One of these antibodies is immobilized at the test region on the membrane as a line. The upstream control region contains immobilized polyclonal goat anti-rabbit antibodies that are also fixed on the membrane as a line. A glass fiber pad downstream of the membrane is used for sample loading and transmission to a second fiber pad that contains the dried and gold-labeled second monoclonal murine anti-hHb antibody that will bind the hemoglobin present in the sample. Additionally the pad contains gold-labeled rabbit antibodies.

Through the capillary effect of the membrane, the reaction mixture moves across the membrane towards the test and the control region. In any case the colored gold-labeled rabbit-antibodies will bind to the anti-rabbit-antibody at the control region resulting in the formation of the red control line in the upper part of the result well. This line indicates the correct performance of the test.

If the sample contains hHb, the hHb-gold-labeled anti-hHb-antibody complex will bind to the immobilized monoclonal antibody of the test region that recognizes another epitope on the hemoglobin molecule (sandwich complex). The binding is indicated by the formation of an additional line in the test result region.

A high dose hook effect can be observed, if too much free hemoglobin that is not bound to the gold-labeled antibody reaches the test result region. If the amount of hemoglobin is high, the antibody fixed at the test result region becomes saturated with free hemoglobin. This prevents the binding of the hemoglobin complexed with the gold-labeled antibody, thus repressing the formation of the test result line. The test result appears negative in spite of the presence of hemoglobin in the sample.

Materials

Materials provided: 40 individually wrapped tests, tubes with 2 ml extraction buffer for extracting the sample material
Materials required but not provided: Timer

Storage and Stability

The test is stable up to the expiry date stated on the sealed pouch. The tests can be stored at room temperature or refrigerated at +2 to +30°C (38-86 °F). The test must remain in the sealed pouch until use.

Qualitative Characteristics

Sensitivity

The test is capable of detecting hemoglobin in a concentration range of at least 40 ng/mL to 500 µg/ml. At higher concentrations a beginning high dose hook effect can be observed resulting in a continuous decrease of the color intensity of the test result line.

Reference Material

The qualitative characteristics of the test are confirmed in a final QC testing using human hemoglobin purchased form SIGMA. Using the extraction buffer as solvent the amount of hemoglobin is adjusted to the concentrations needed to confirm the performance characteristics of the test.

Performance Characteristics

For the detection of 40 ng/ml hemoglobin in sample buffer (indicated by the appearance of the test result line) the SERATEC® HemDirect test showed the following performance characteristics:

Diagnostic sensitivity:	100 %
Diagnostic specificity:	100 %
Positive predictive value:	100 %
Negative predictive value:	100 %
Reproducibility:	100 %

Specificity
The SERATEC® HemDirect Test shows no cross reactivity with bovine, dog, rabbit, cat, pig, wild boar, horse, chicken, sheep, mule, goat or red deer hemoglobin.
Blood of primates and blood of ferret reacted positive in the test.

Test procedure

For your safety
Samples containing human blood and all materials coming in contact with them should be handled and disposed of as if capable of transmitting infection. Avoid contact with skin by wearing gloves and proper laboratory attire.

- Test for single *in-vitro* diagnostic use only.
- Do not use the test after the expiration date or if the pouch has been damaged.
- Do not open pouch until ready to perform the assay.
- The test and all materials coming in contact with the sample should be autoclaved before their disposal. They contain potentially infectious material.
- The test consists of potentially infectious materials (e.g. antibodies). These materials do not cause any danger if the device is used according to the instructions.

Specimen collection/specimen preparation
Hold collection tube upright down and unscrew the blue cap. Collect some sample material (e.g. dried blood, blood stained thread of clothing) with the applicator stick attached at the cap. Re-insert the stick into the tube, thus transferring the sample material into the extraction buffer. Screw the cap tightly and extract the blood by shaking thoroughly. At this stage the specimen is stable at room temperature for at least 2 days.
The extraction of old bloodstains may be difficult. If necessary the extraction can be done in the laboratory using the provided buffer (transfer buffer into a different reaction tube, add sample material, extract for two hours on a shaker, centrifuge briefly, and test supernatant).
As solvent we recommend using the extraction buffer provided in the kit. However, other buffers at a neutral pH range (e.g. Phosphate, HEPES or TRIS buffered saline) might be used as well. The addition of pure water for the extraction is not recommended since it leads to a decrease in sensitivity of the test. No detergents like SDS or Sarcosyl should be added to the extraction buffer. If you feel unsure, if an unknown buffer is suitable for the extraction, it might be useful to test a serial dilution of fresh human blood in the buffer to check, if $10^{-6}/10^{-7}$ dilutions show positive test results. The first dilution step should be carried out in distilled water to ensure a complete lysis of the erythrocytes. Alternatively, a solution with 40 ng/ml hemoglobin can be used.

Note:

High Dose Hook Effect
Due to their high content of hemoglobin, fresh bloodstains should be diluted prior to testing to avoid a high a dose hook effect. As a guide for a suitable dilution, you may want to use the color of the sample. The visual detectable color caused by hemoglobin vanishes between a 10^{-3} and a 10^{-4} dilution. At this concentration range there is no danger of a high dose hook effect. Samples that exhibit an obvious color due to hemoglobin might cause negative test results because of the high dose hook effect.

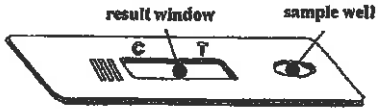
pH value of the Sample
If possible the pH value of the sample should be close to the neutral range. Samples with a pH less than 5 might cause false positive test results. At the alkaline range, the sensitivity of the test is slightly decreased between pH 9 and 11. At pH values of 12 or more the test is no longer functional. Generally no drastic changes in the pH are expected after the extraction of small amounts of sample material, because the extraction buffer exhibits a sufficient buffer capacity.

Influence of the temperature
The sensitivity of the test is only guaranteed if the test is carried out at room temperature. A drop of the temperature to 8 °C leads to a decrease of the sensitivity to approximately 400 ng/ml.

Extraction Buffer
The extraction buffer is composed of the following ingredients:
12.1 g TRIS; 8.8 g $Na_3Citrate$; 0.2 g NaN_3 →adjust pH auf 6.8 with HCl
0.5 g Tween 20; 5.0 g BSA → fill with distilled water to 1000 ml

Assay Procedure

- Bring test device and sample to room temperature prior to the testing. Remove the test from the protective pouch when ready to start the assay. Label the device for identification purposes if necessary.



- Add 3 drops of the sample (approximately 100 µl) into the round opening (sample well). If the extraction was carried out in the collection tube, remove the white conic cap at the lower end of the tube. Using a piece of paper (danger of splattering), break the seal of the tube by a twisting motion. Hold the tube upright down and dispense three drops of liquid into the round sample well by exerting a light pressure on the walls of the tube. Start the timer. Keep remaining liquid in case it might be necessary to test additional dilutions.
- Wait for 5 minutes. During this time one or two red lines appear in the result window. Negative results should be confirmed after 10 minutes.

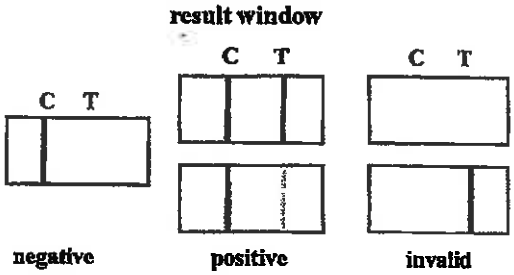
Interpretation of results

Negative result (no hemoglobin in the sample or hemoglobin beyond the detection limit)
Only one *red colored line appears in the control region (C). The absence of a line in the test result region T indicates a negative test result.*
In this case the sample most likely does not contain human blood or human hemoglobin.

Note:
Make sure that the dilution of the sample is within the detectable range Hemoglobin concentrations that are too low e.g. due to an insufficient extraction or hemoglobin concentrations that are too high e.g. due to an unsuitable dilution (also see high dose hook effect) interfere with the formation of the test result line.

Positive result (human hemoglobin present in the sample)
Two red colored lines appear in the result window, one at the control region (C) and one in the test result region (T). The color intensities of the two lines may vary. Even a weak test result line indicates a positive test result.
In this case it is very likely that the sample contains human hemoglobin.

Invalid result
The control line (C) does not appear.
In this case the test is invalid and should be repeated with a new cassette.



Further Reading

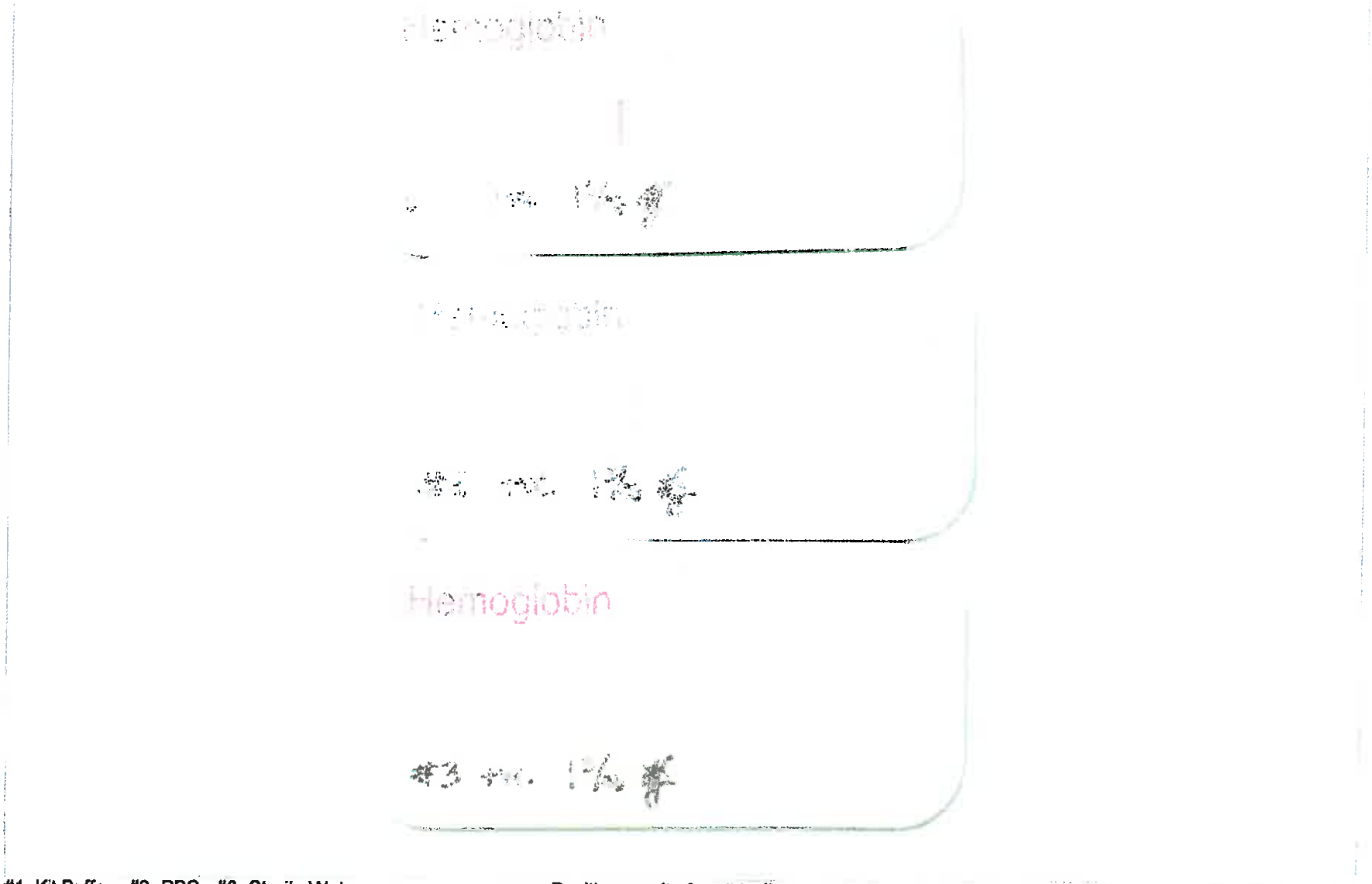
[1]Koehneleter et al. (1999) Validation Studies of an Immunochromatographic 1-Step Test for the Forensic Identification of Human Blood. J Forensic Sci Vol 44: 597-601

[2]Herman et al. (2003) The Use of the Hexagon OBTI Test for Detection of Human Blood at Crime Scenes and on Items of Evidence. Part I: Validation Studies and Implementation. J Forensic Sci Vol 53, 2008

October 2004

HemDirect Validation - Extraction Buffer Comparison

Nist Bloodstain #8657 Extracted in 3 Different Buffers



#1 Kit Buffer; #2 PBS; #3 Sterile Water

Positive results for all buffers

Sensitivity: Kit Buffer > H2O > PBS

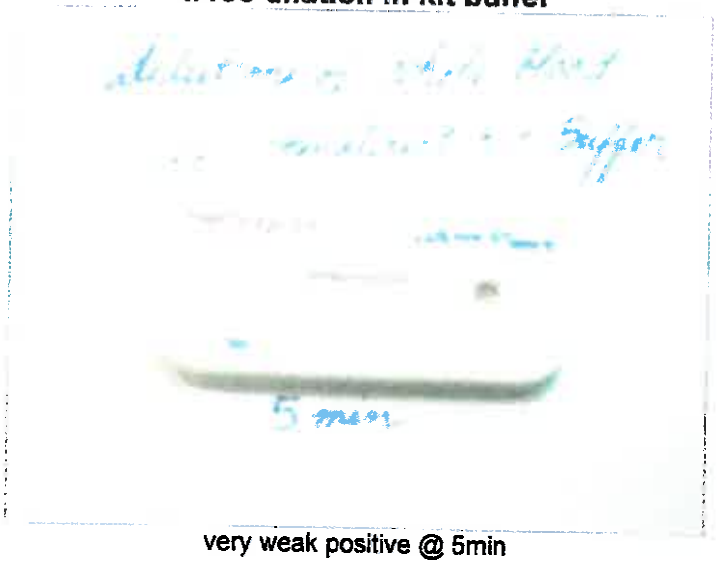
HemDirect Validation
Sensitivity Study
Comparison of Diliutions of Whole Blood in Water vs Kit Buffer

DILUTION IN WATER		
	5 mins	10 mins
1/10	negative (hook effect)	negative (hook effect)
1/100	very weak positive	very weak positive
1/1000	weak positive	positive
1/10,000	positive	positive
1/100,000	very weak positive	weak positive
1/1MIL	negative	negative
1/10MIL	negative	negative

DILUTION IN KIT BUFFER		
	5 mins	10 mins
1/100	very weak positive	weak positive
1/1000	positive	positive
1/10,000	positive	positive
1/100,000	positive	positive
1/1MIL	weak positive	positive
1/10MIL	negative	weak positive
1/20MIL	negative	very weak positive

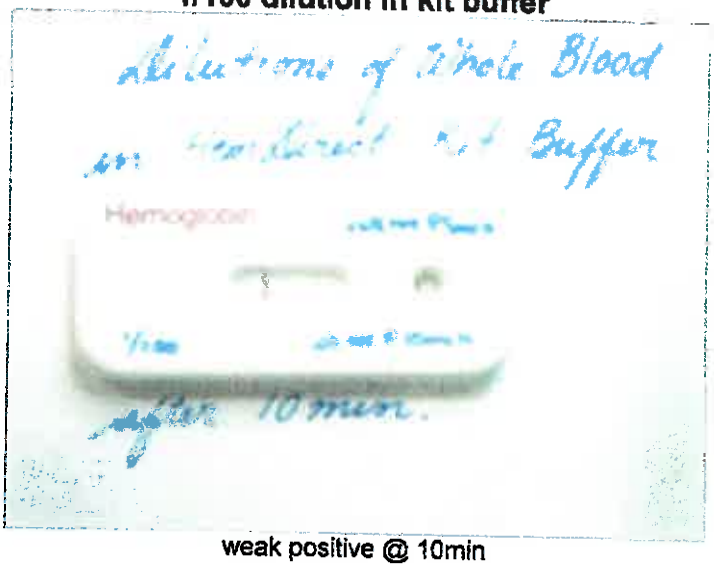
HemDirect Validation - Sensitivity

1/100 dilution in kit buffer



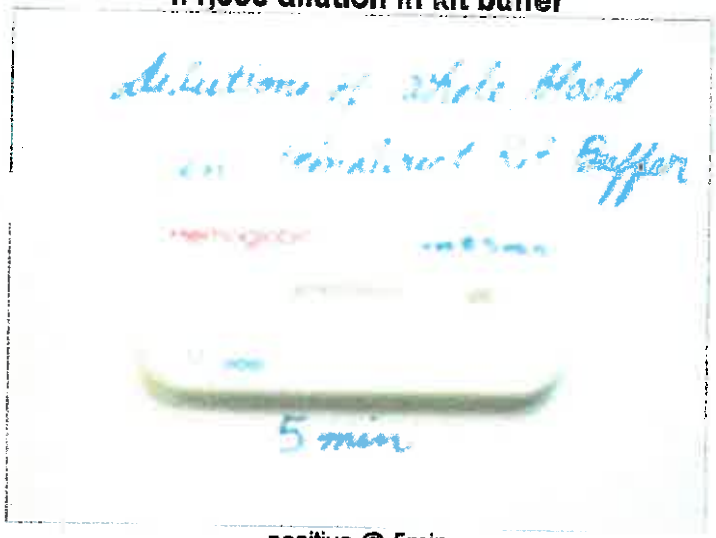
very weak positive @ 5min

1/100 dilution in kit buffer



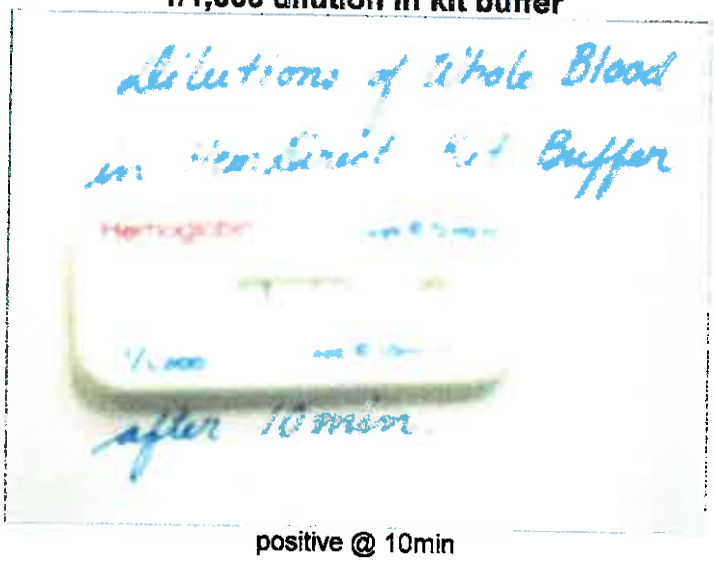
weak positive @ 10min

1/1,000 dilution in kit buffer



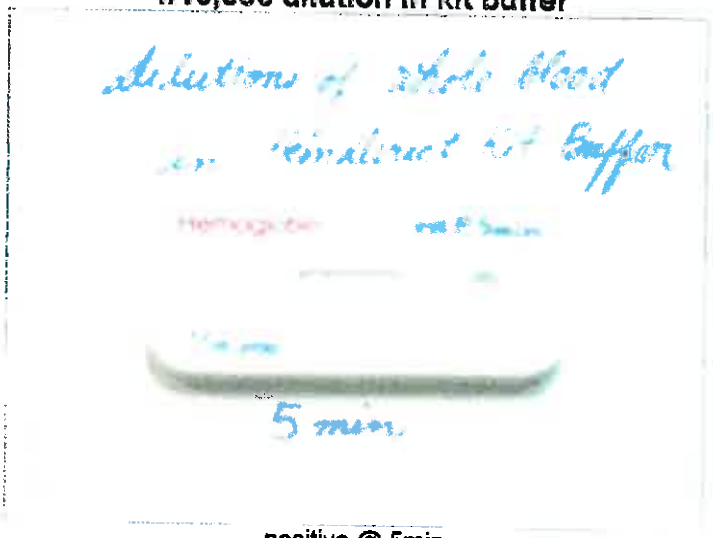
positive @ 5min

1/1,000 dilution in kit buffer



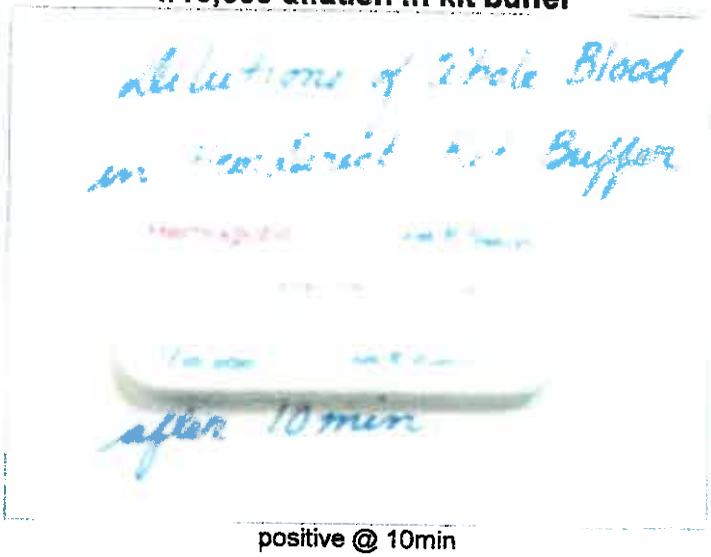
positive @ 10min

1/10,000 dilution in kit buffer



positive @ 5min

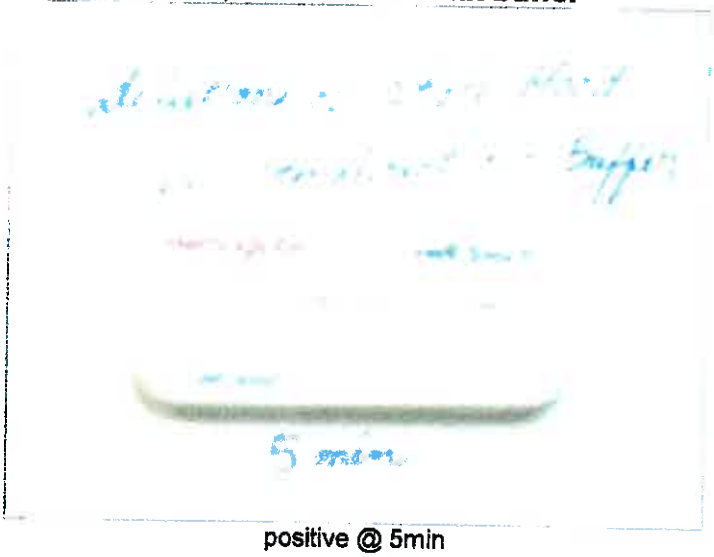
1/10,000 dilution in kit buffer



positive @ 10min

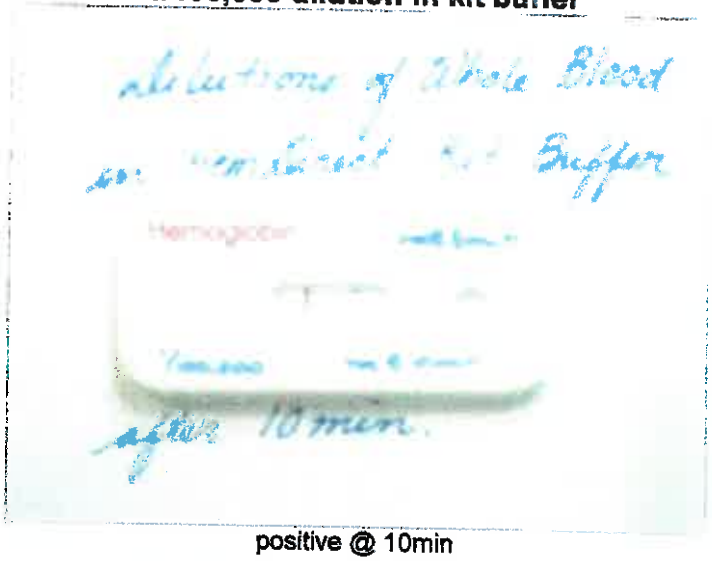
HemDirect Validation - Sensitivity

1/100,000 dilution in kit buffer



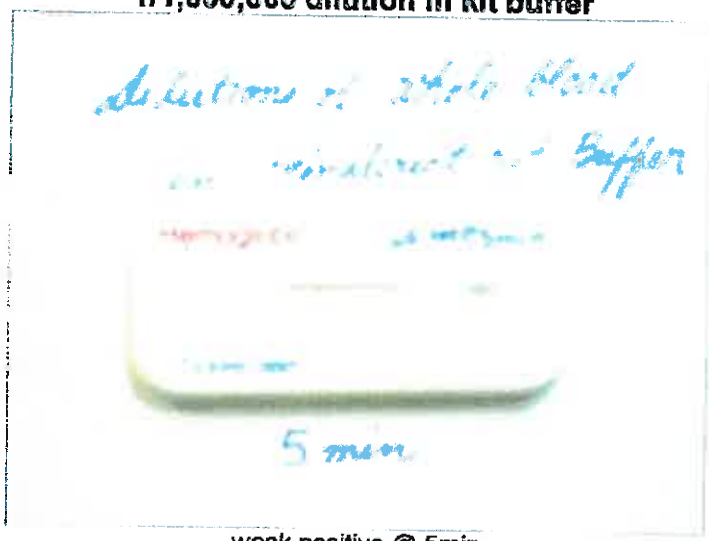
positive @ 5min

1/100,000 dilution in kit buffer



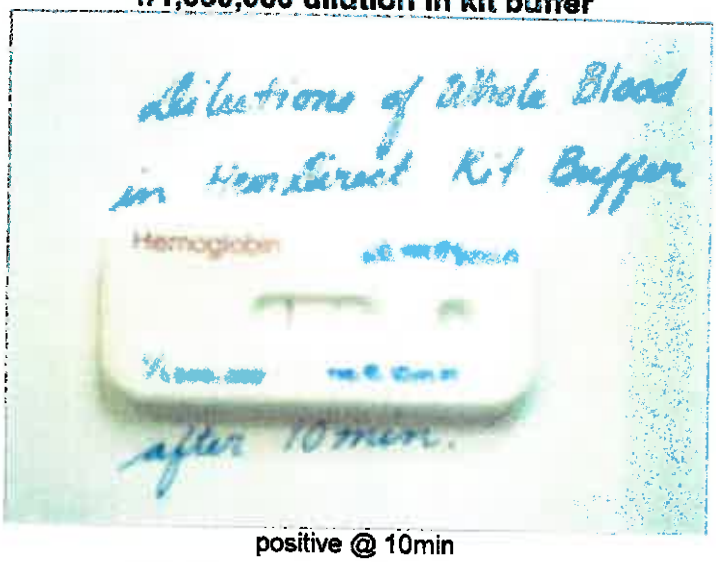
positive @ 10min

1/1,000,000 dilution in kit buffer



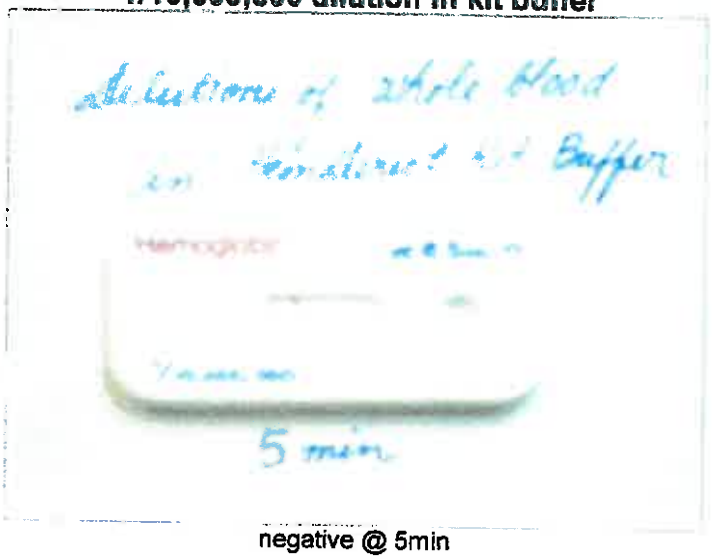
weak positive @ 5min

1/1,000,000 dilution in kit buffer



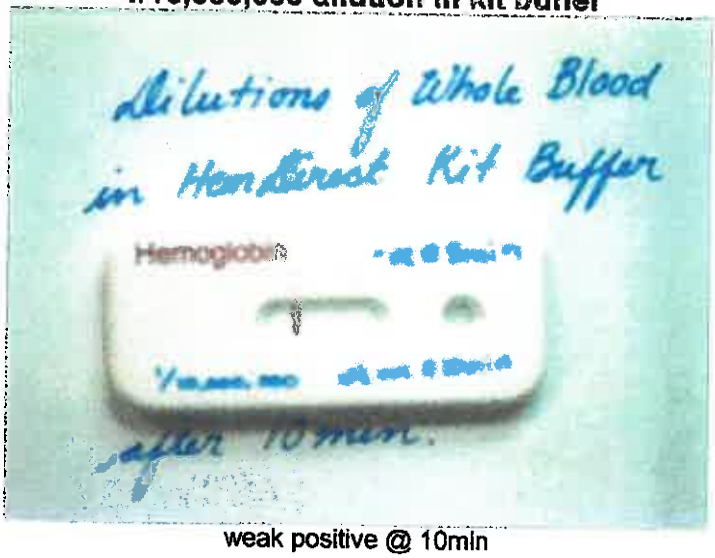
positive @ 10min

1/10,000,000 dilution in kit buffer



negative @ 5min

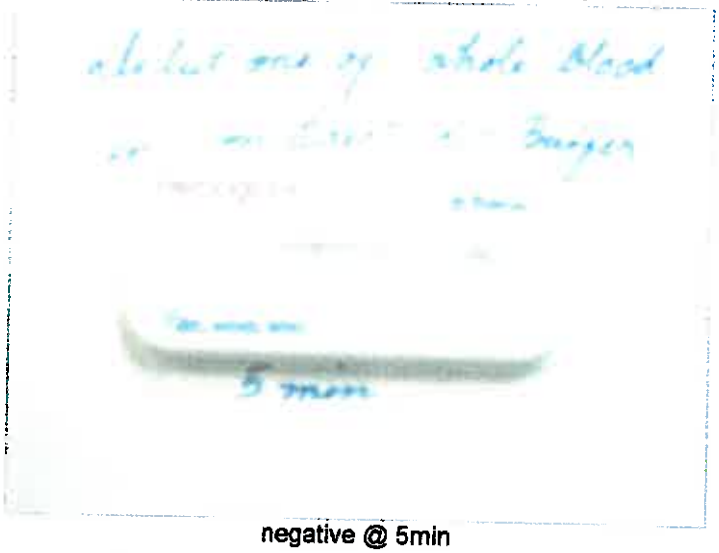
1/10,000,000 dilution in kit buffer



weak positive @ 10min

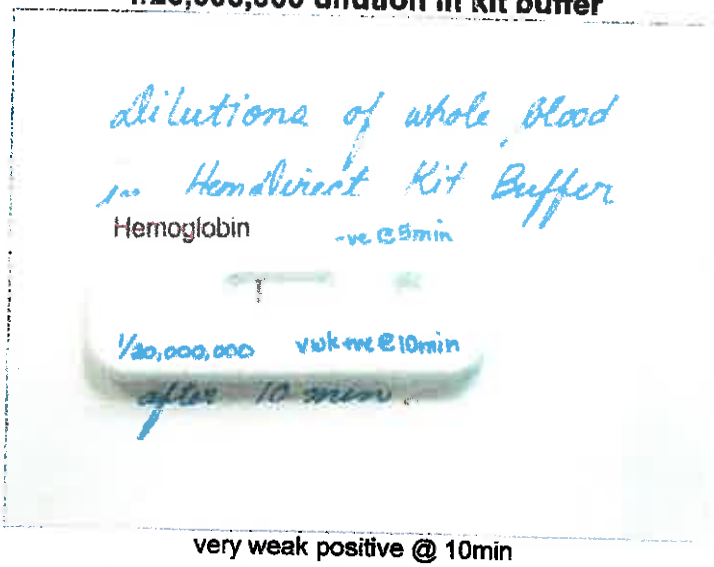
HemDirect Validation - Sensitivity

1/20,000,000 dilution in kit buffer



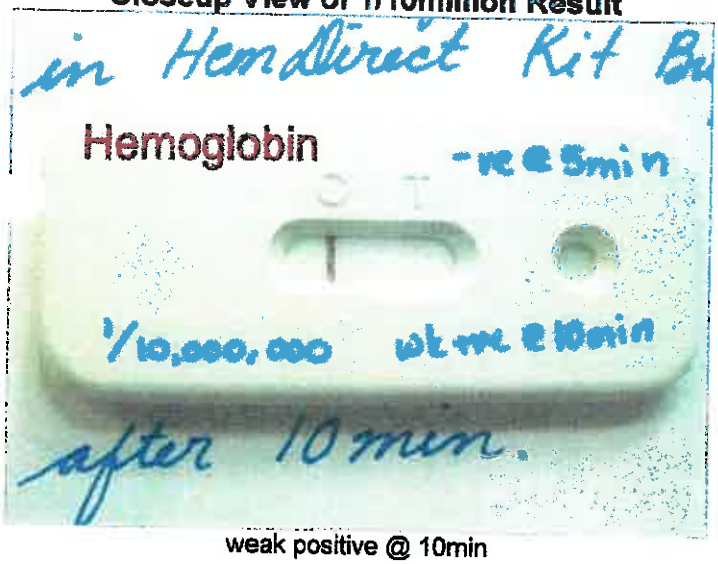
negative @ 5min

1/20,000,000 dilution in kit buffer



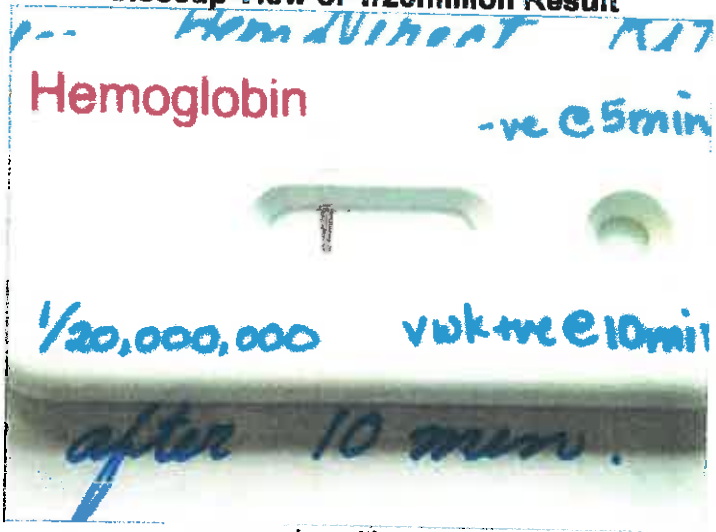
very weak positive @ 10min

Closeup View of 1/10million Result



weak positive @ 10min

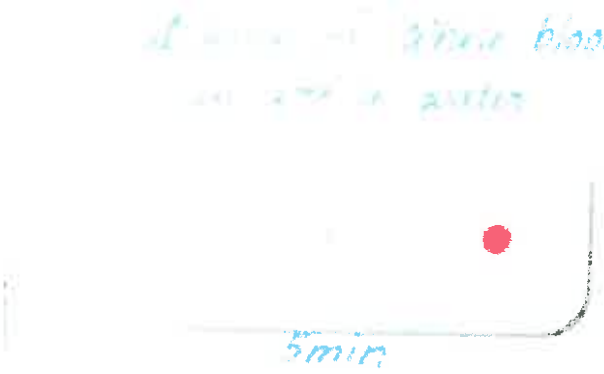
Closeup View of 1/20million Result



very weak positive @ 10min

HemDirect Validation - Sensitivity

1/10 dilution in sterile water



negative @ 5min, example of hook effect

1/100 dilution in sterile water



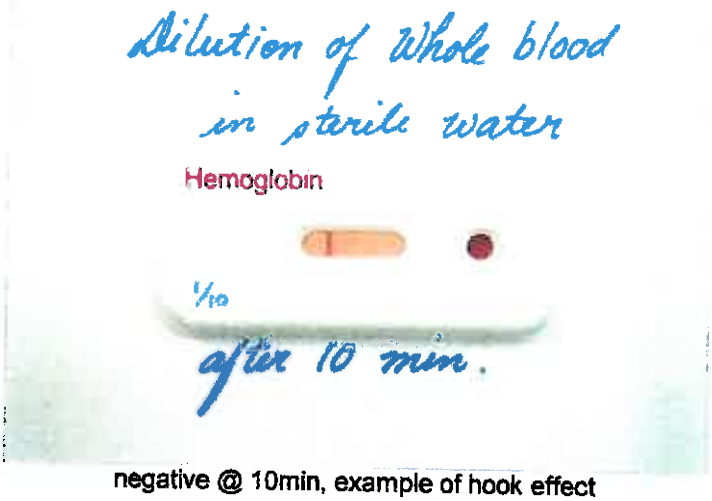
very weak positive @ 5min

1/1,000 dilution in sterile water



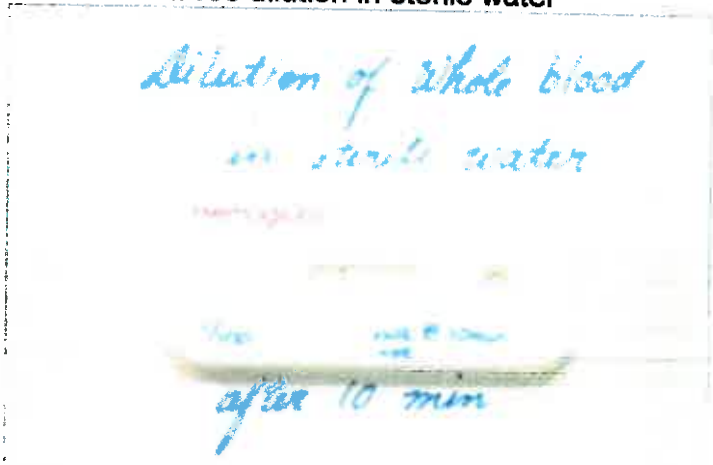
weak positive @ 5min

1/10 dilution in sterile water



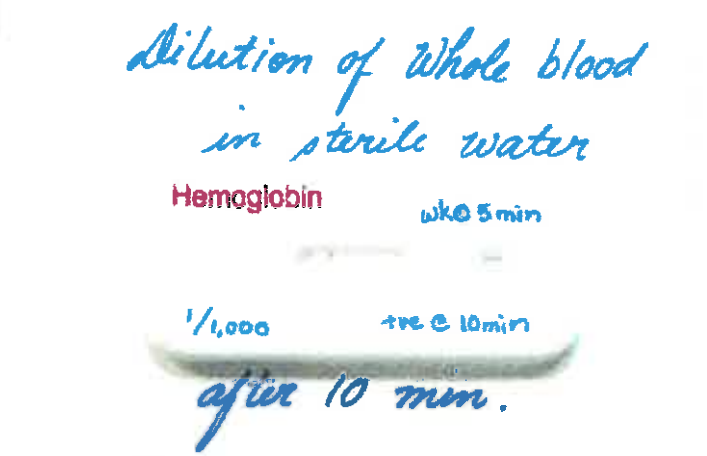
negative @ 10min, example of hook effect

1/100 dilution in sterile water



very weak positive @ 5min

1/1,000 dilution in sterile water



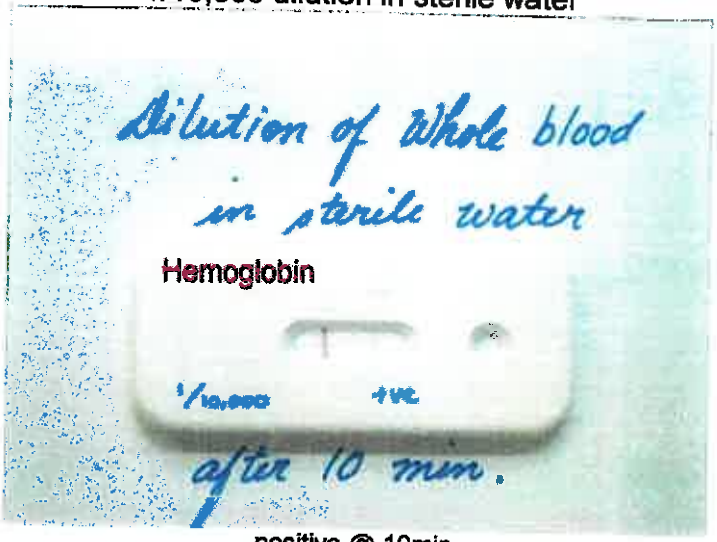
positive @ 10min

HemDirect Validation - Sensitivity

1/10,000 dilution in sterile water

positive @ 5min

1/10,000 dilution in sterile water

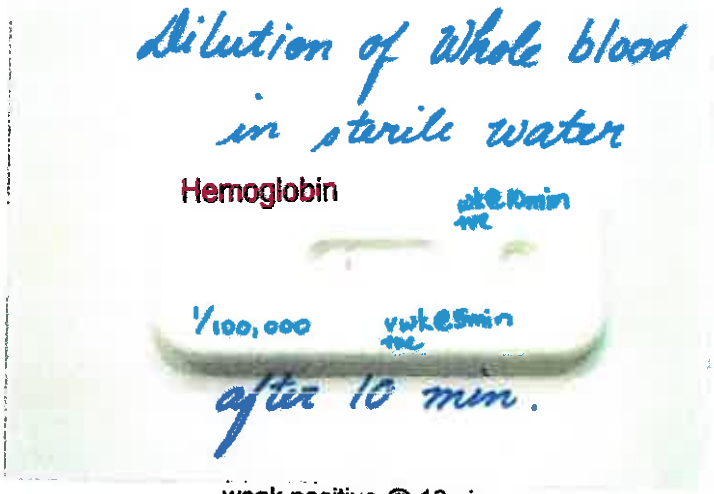


positive @ 10min

1/100,000 dilution in sterile water

very weak positive @ 5min

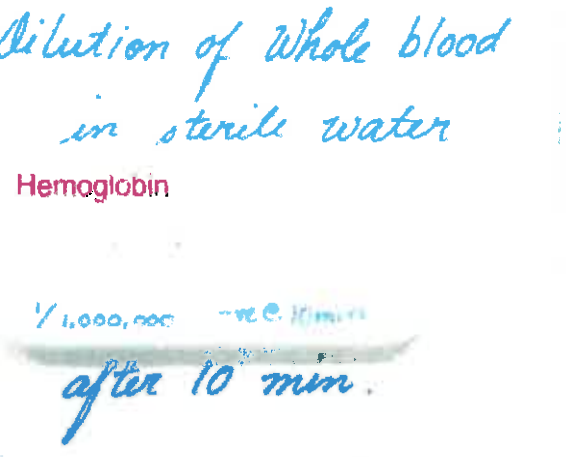
1/100,000 dilution in sterile water



weak positive @ 10min

1/1,000,000 dilution in sterile water

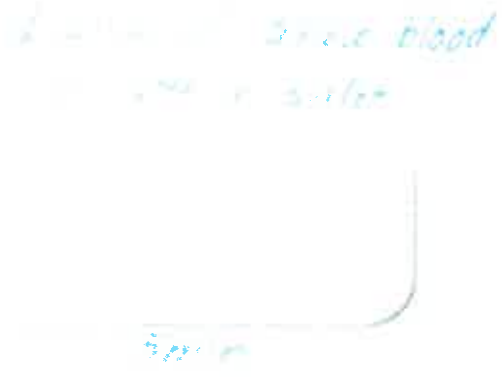
negative @ 5min



negative @ 10min

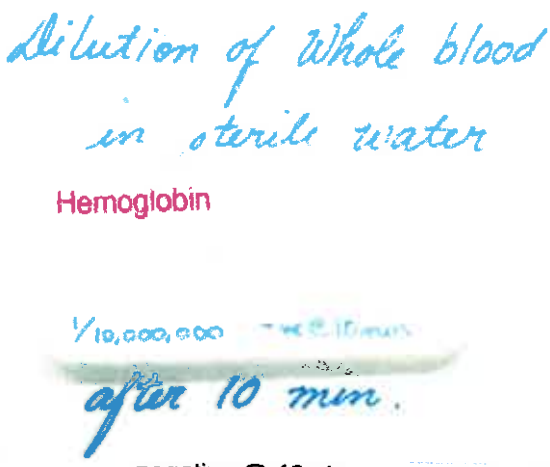
HemDirect Validation - Sensitivity

1/10,000,000 dilution in sterile water



negative @ 10min

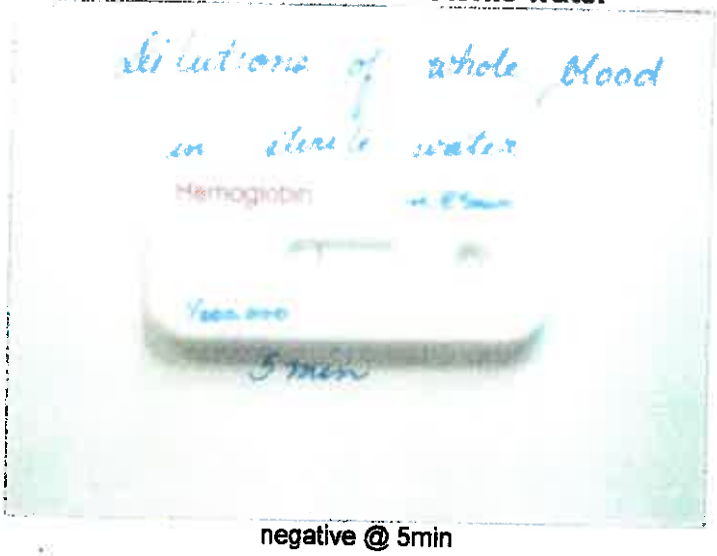
1/10,000,000 dilution in sterile water



negative @ 10min

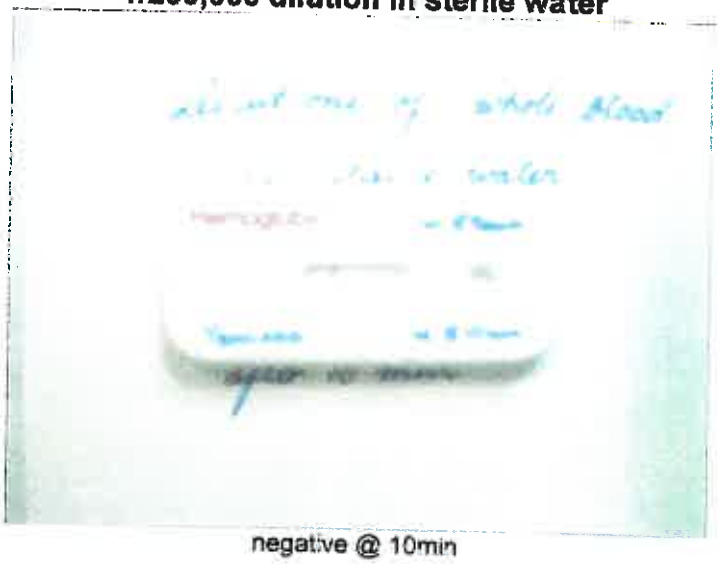
HemDirect Validation - Sensitivity

1/200,000 dilution in sterile water



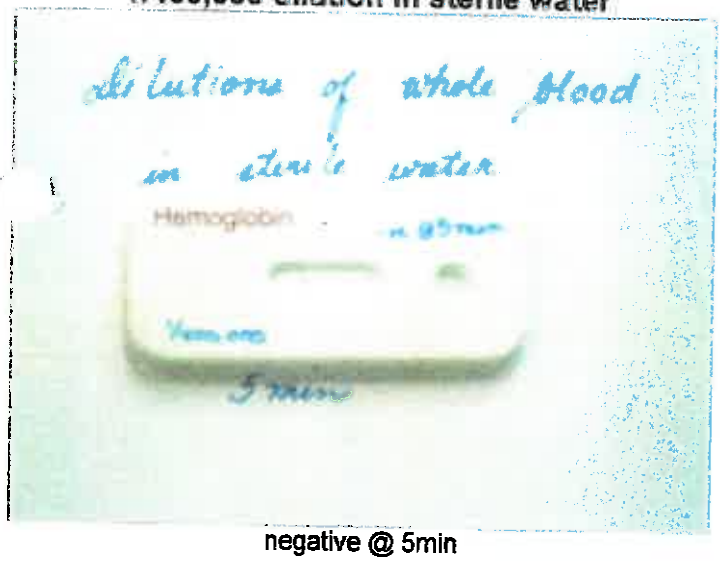
negative @ 5min

1/200,000 dilution in sterile water



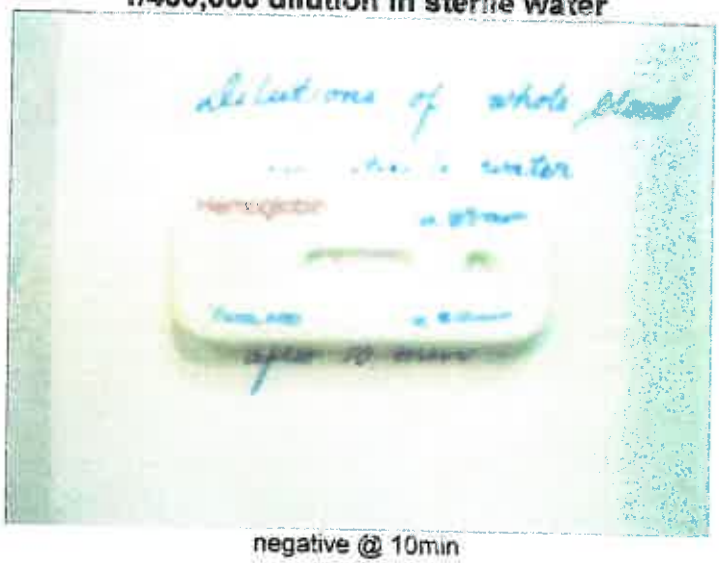
negative @ 10min

1/400,000 dilution in sterile water



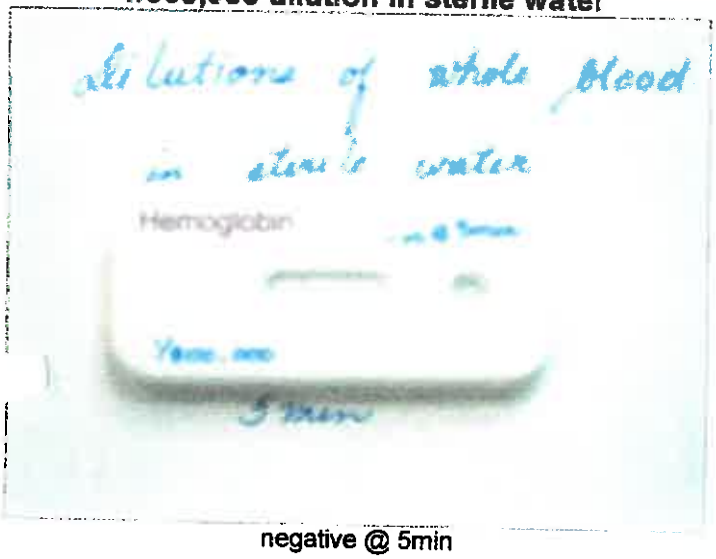
negative @ 5min

1/400,000 dilution in sterile water



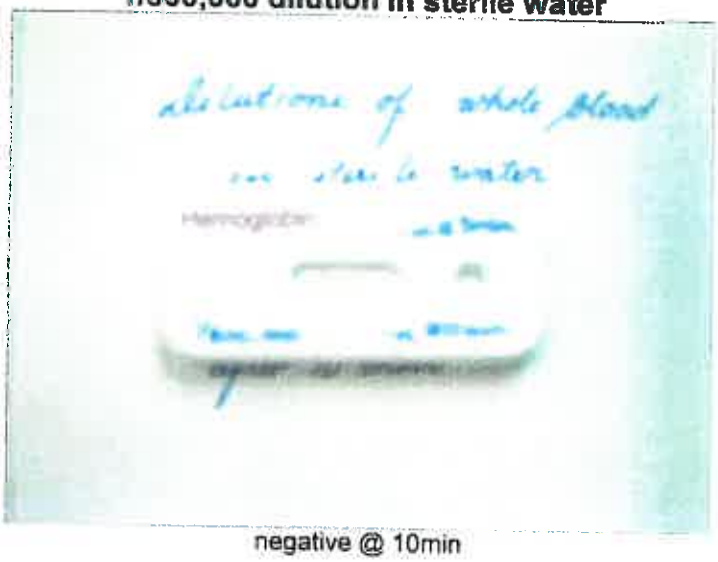
negative @ 10min

1/800,000 dilution in sterile water



negative @ 5min

1/800,000 dilution in sterile water



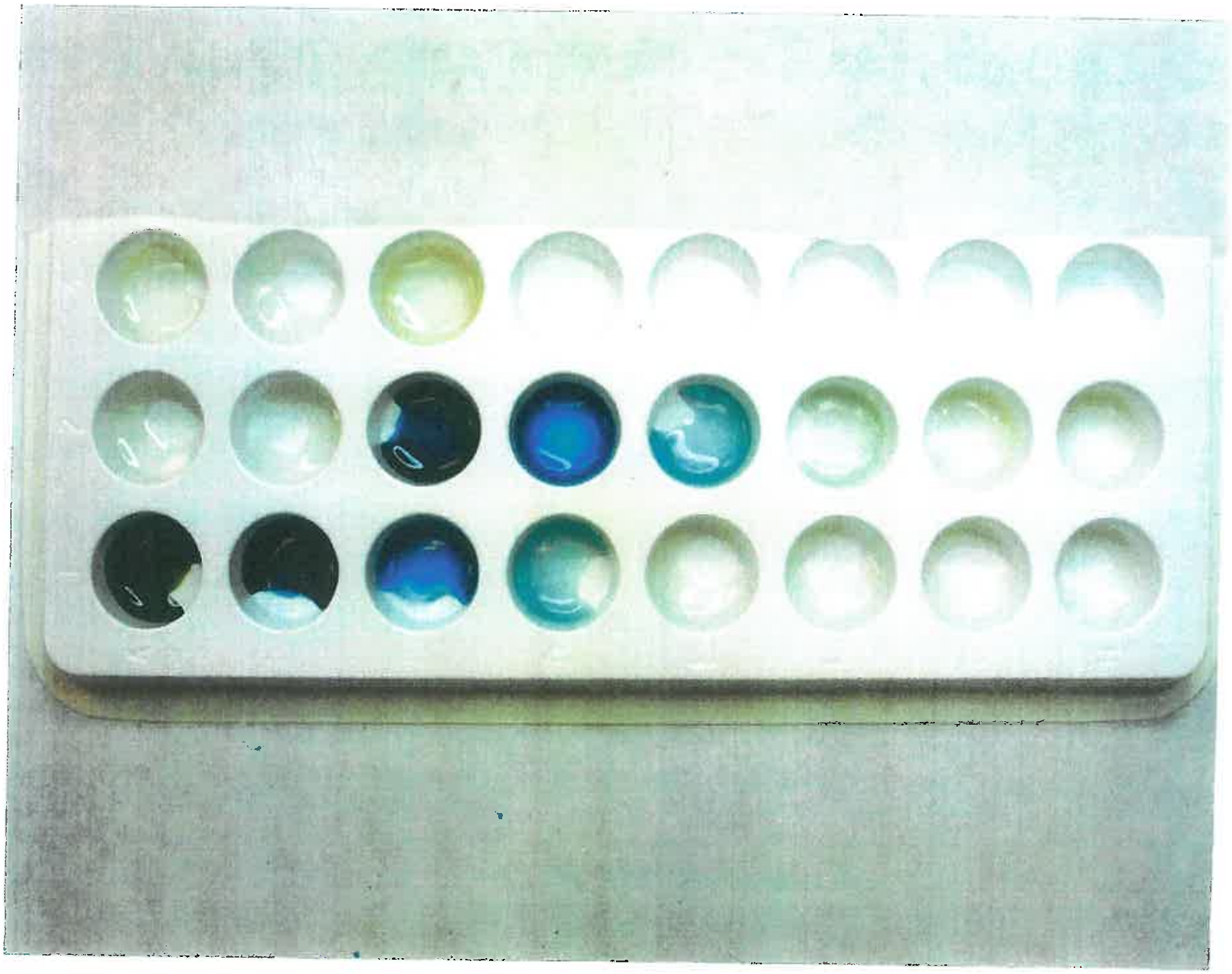
negative @ 10min

HemDirect Validation
Sensitivity
O-tol Titer Comparison

Row	Column 1	Column 2	Column 3
A	1/10 dil'n in water	1/1M dil'n in water	1/20M dil'n in kit buffer
B	1/100 dil'n in water	1/10M dil'n in water	water
C	1/1K dil'n in water	1/100 dil'n in kit buffer	kit buffer
D	1/10K dil'n in water	1/1K dil'n in kit buffer	
E	1/100K dil'n in water	1/10K dil'n in kit buffer	
F	1/200K dil'n in water	1/100K dil'n in kit buffer	
G	1/400K dil'n in water	1/1M dil'n in kit buffer	
H	1/800K dil'n in water	1/10M dil'n in kit buffer	

NOTES:
Sterile Water #3967
O-tol #4017
10% Hydrogen Peroxide #4018
HemDirect Kit Buffer #11492

HE..DIRECT VALIDATION: O- OL TITER COMPARISON



ANTI HUMAN

4420 Lot #726 Host Animal: Rabbit

Freeze Dried Product. Reconstitute with one (1) ml deionized water.
SERI antisera for species determination are quality control tested by both SERI and the manufacturer. Cross-over electrophoresis is utilized to test for species cross-reactivity. The results of sensitivity tests are tabulated below. Titers are for comparison purposes only

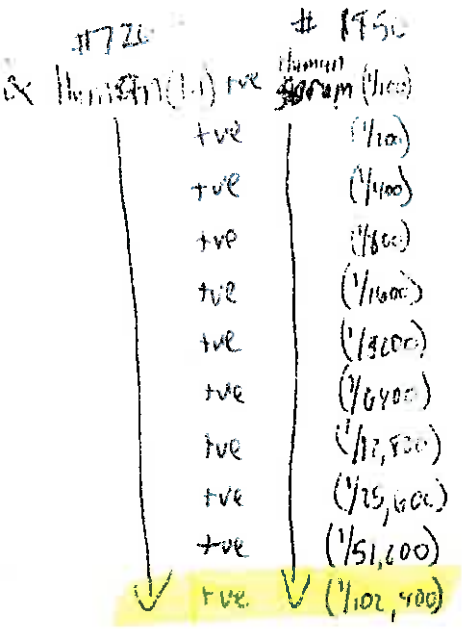
Species Serum	Crossover Result
Bovine	neg
Cat	neg
Chicken	neg
Deer	neg
Dog	neg
Duck	neg
Elk	neg
Goat	neg
Horse	neg

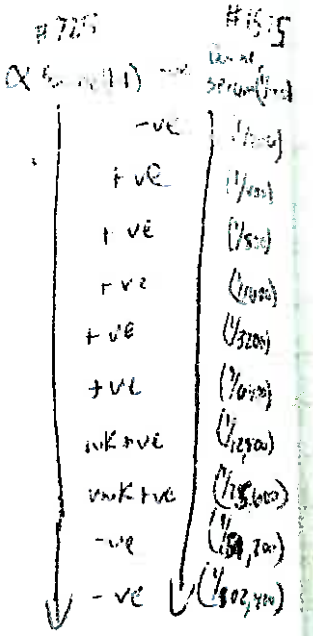
Species Serum	Crossover Result
Human	pos
Monkey	pos
Moose	neg
Mouse	neg
Pigeon	neg
Rabbit	neg
Rat	neg
Sheep	neg
Swine	neg
Turkey	neg

TITER: vs whole serum dilutions	Crossover 1:100K	Diffusion 1:6400

KEY: Blank = Not Tested pos = positive neg = negative wk = weak positive

1379





Note: BCU wants next sample crossover titer is 1/100K. We have not done this in the past. Always have reported 12.5K on the insert. Tube test has been dropped from the insert.

SERI

ANTI HUMAN

A420 Lot #728 Host Animal: Rabbit

Freeze Dried Product. Reconstitute with one (1) ml deionized water.
SERI antisera for species determination are quality control tested by both SERI and the manufacturer. Cross-over electrophoresis is utilized to test for species cross-reactivity. The results of sensitivity tests are tabulated below. Titers are for comparison purposes only.

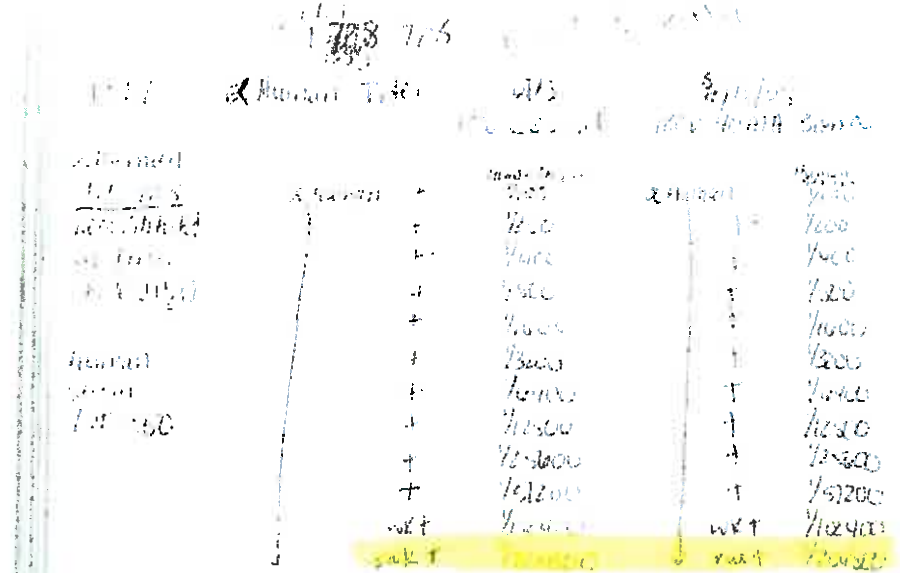
Species Serum	Crossover Result
Bovine	neg
Cat	neg
Chicken	neg
Deer	neg
Dog	neg
Duck	neg
Elk	neg
Goat	neg
Horse	neg

Species Serum	Crossover Result
Human	pos
Monkey	pos
Moose	neg
Mouse	neg
Pigeon	neg
Rabbit	neg
Rat	neg
Sheep	neg
Swine	neg
Turkey	neg

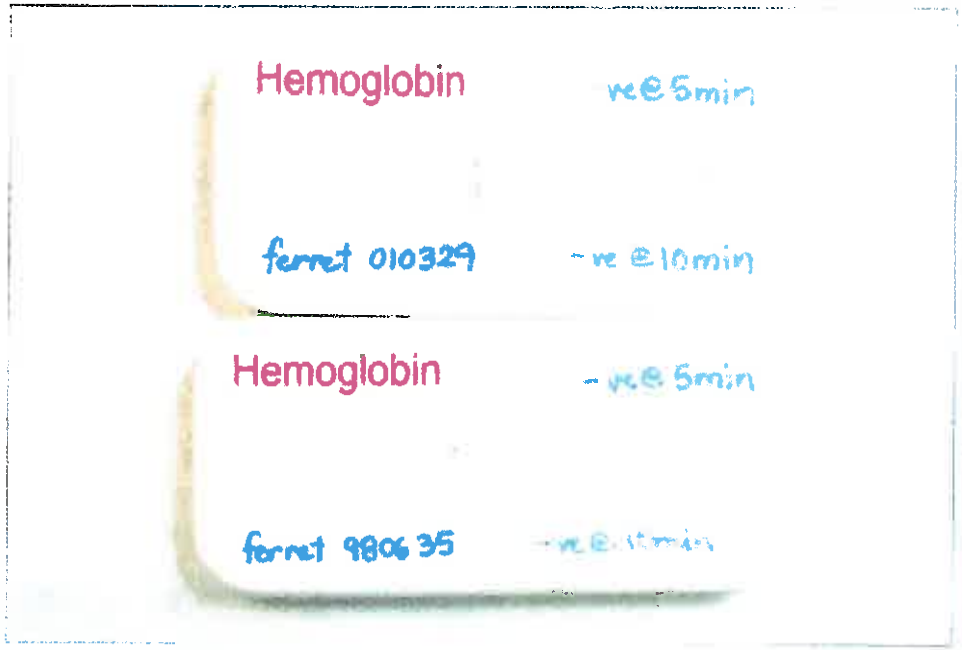
TITER: vs whole serum dilutions — **Crossover** 1/25K — **Gel Diffusion** 1:6400

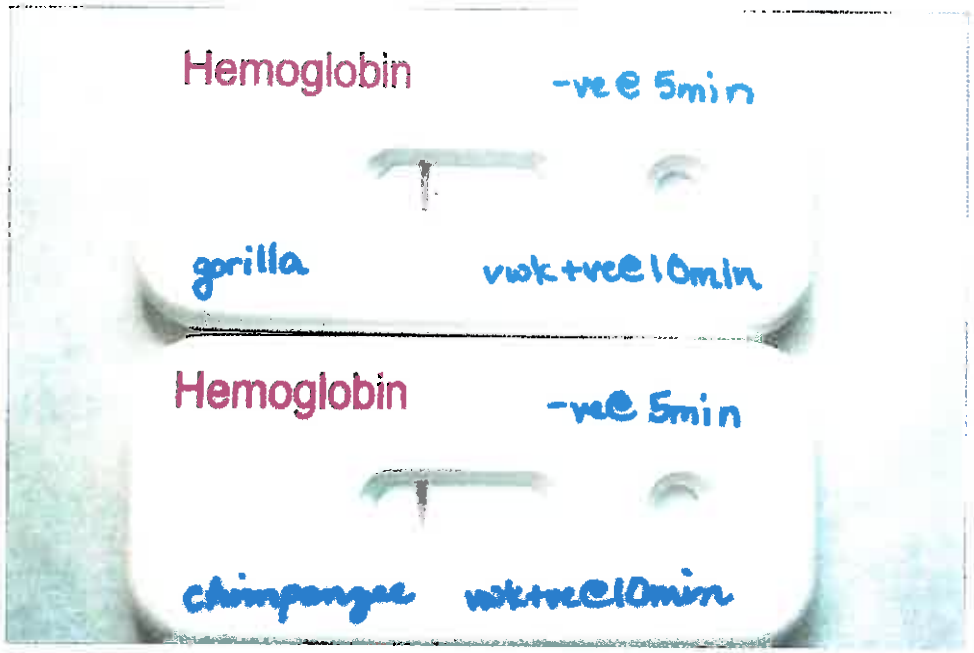
KEY: Blank = Not Tested — pos = positive — neg = negative — wk = weak positive

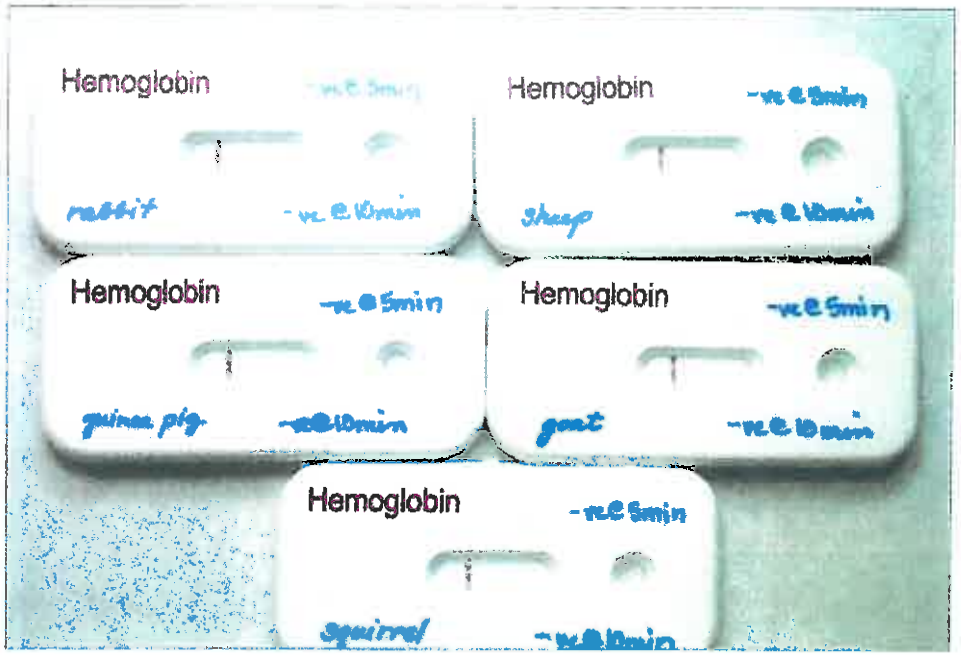
Serological Research Institute, Richmond, CA 94806



HEMDIRECT: SPECIES CROSSREACTIVITY

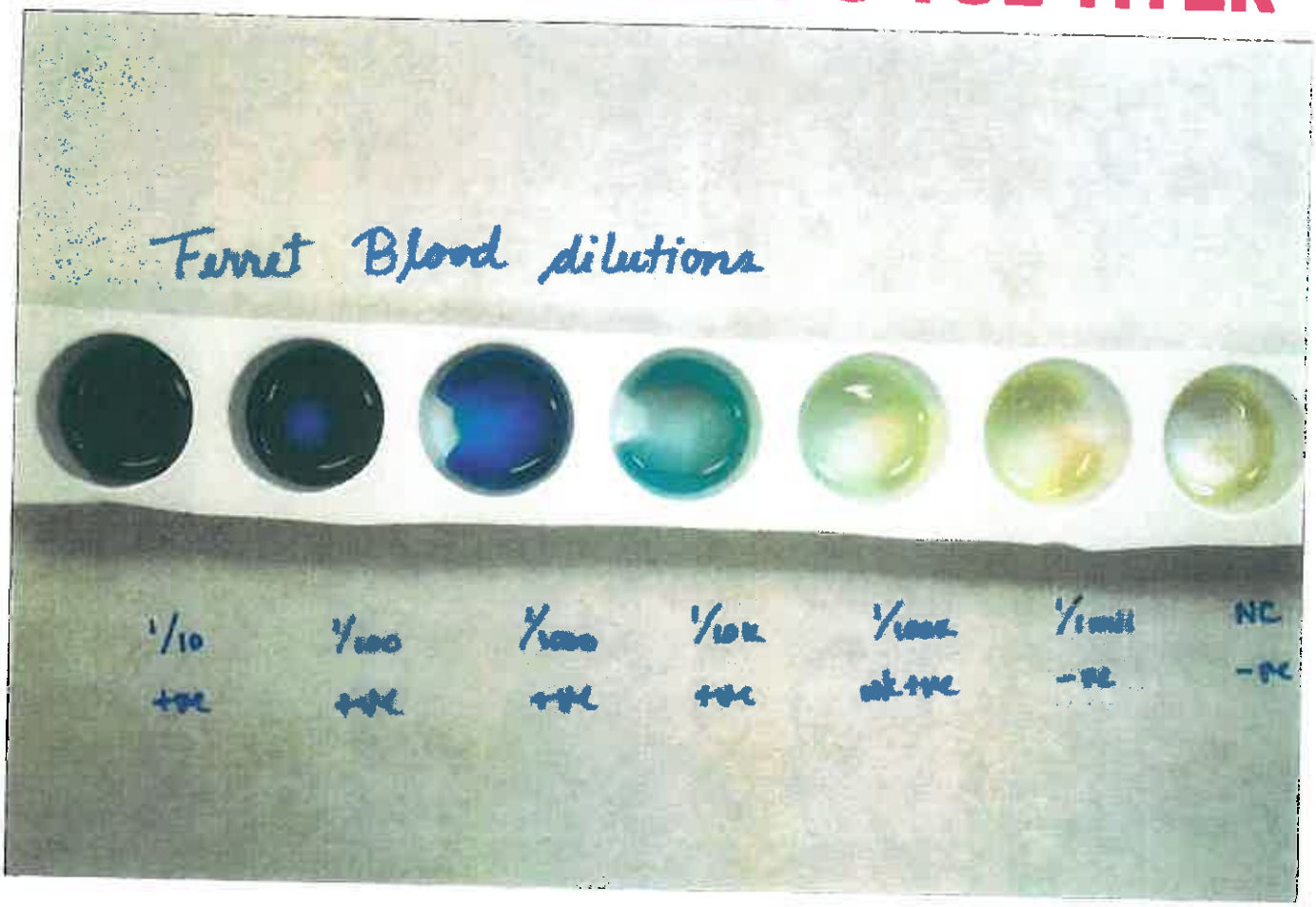






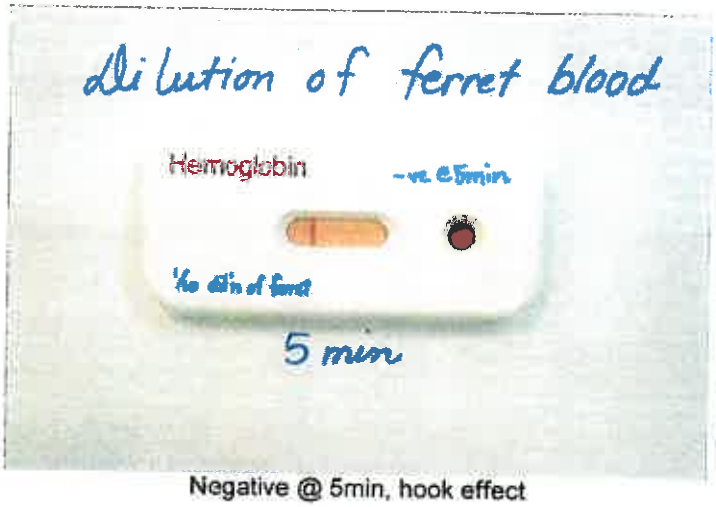
Samples of Animal Blood on slides obtained from Dale Laun, Ohio BCI

HEMDIRECT: FERRET O-TOL TITER



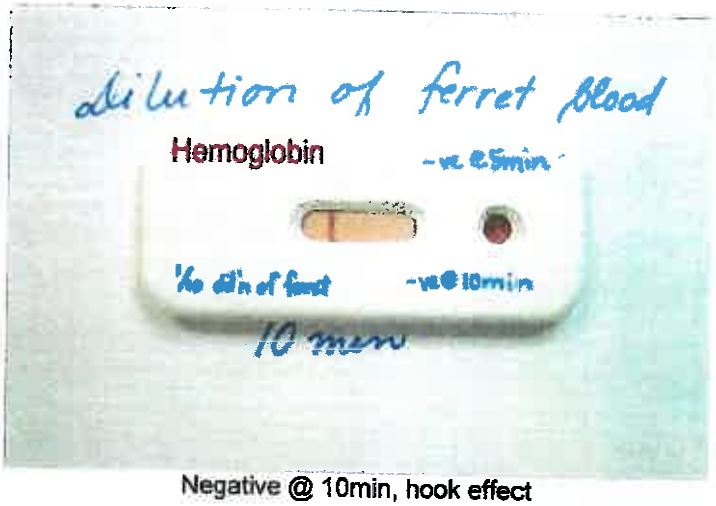
HEMDIRECT FERRET CROSSREACTION

1/10 DILUTION WHOLE FERRET BLOOD



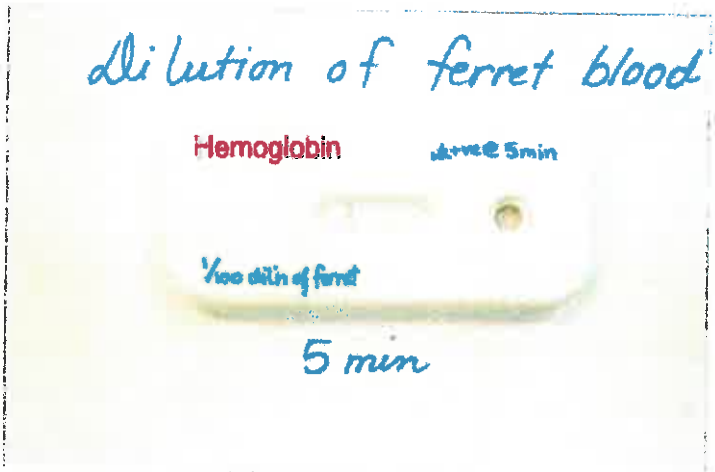
Negative @ 5min, hook effect

1/10 DILUTION WHOLE FERRET BLOOD



Negative @ 10min, hook effect

1/100 DILUTION WHOLE FERRET BLOOD



Weak positive @ 5min

1/100 DILUTION WHOLE FERRET BLOOD



Positive @ 10min

1/1K DILUTION WHOLE FERRET BLOOD



Positive @ 5min

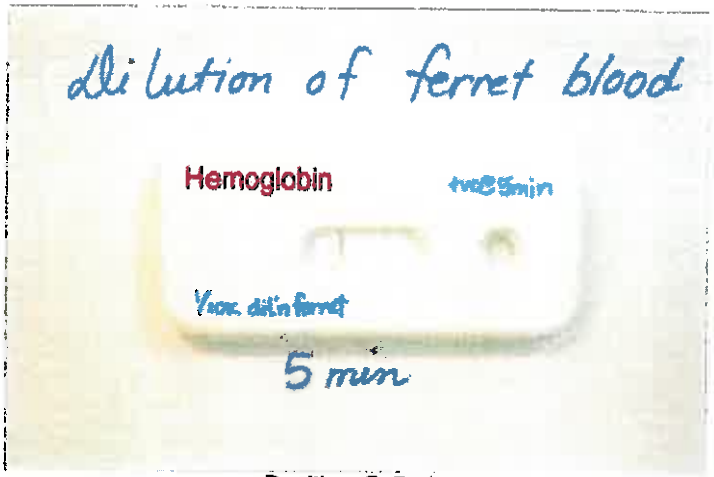
1/1K DILUTION WHOLE FERRET BLOOD



Positive @ 10min

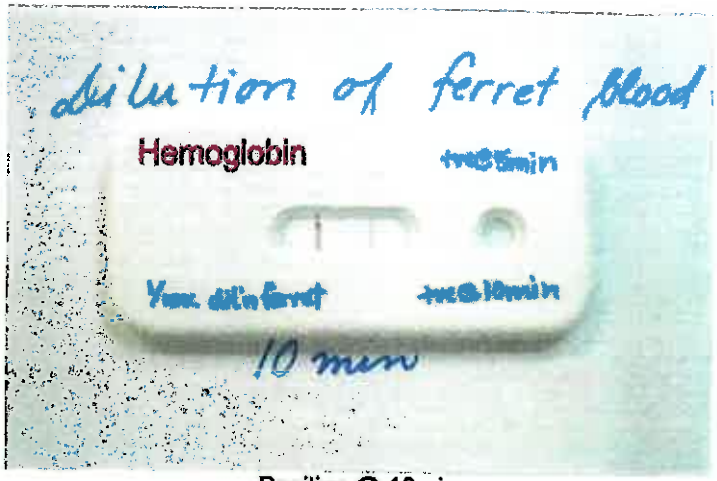
HEMDIRECT FERRET CROSSREACTION

1/10K DILUTION WHOLE FERRET BLOOD



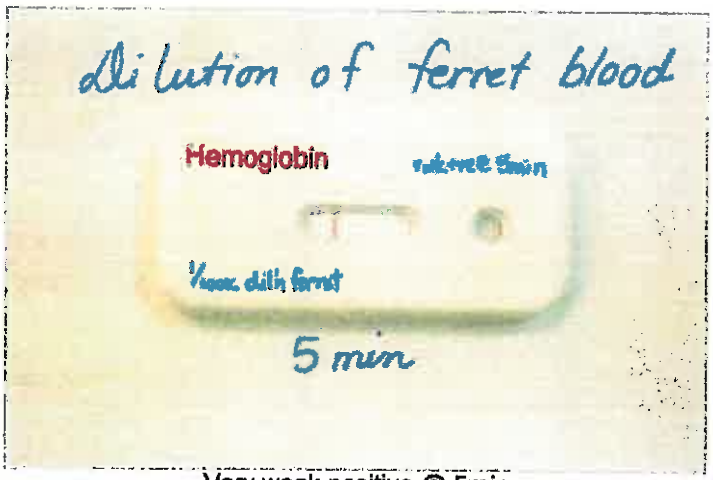
Positive @ 5min

1/10K DILUTION WHOLE FERRET BLOOD



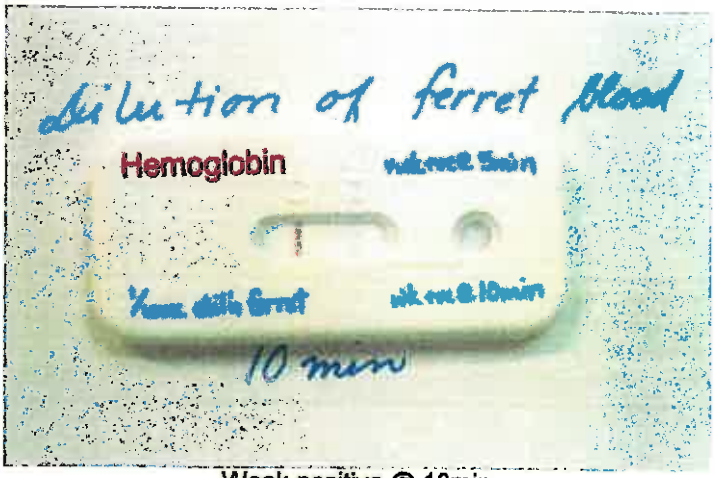
Positive @ 10min

1/100K DILUTION WHOLE FERRET BLOOD



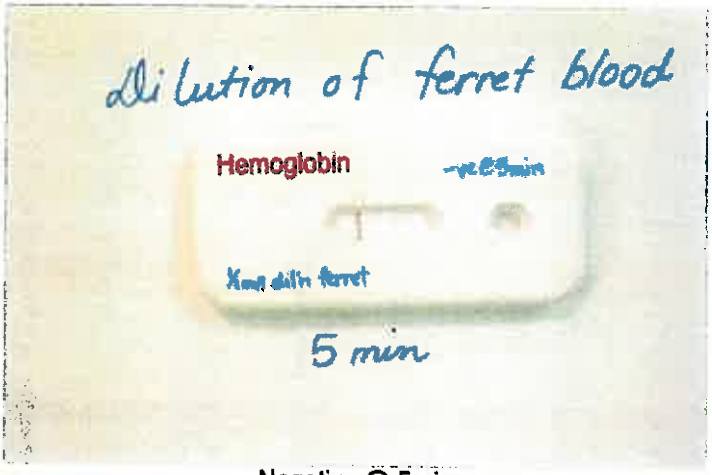
Very weak positive @ 5min

1/100K DILUTION WHOLE FERRET BLOOD



Weak positive @ 10min

1/1MIL DILUTION WHOLE FERRET BLOOD



Negative @ 5min

1/1MIL DILUTION WHOLE FERRET BLOOD



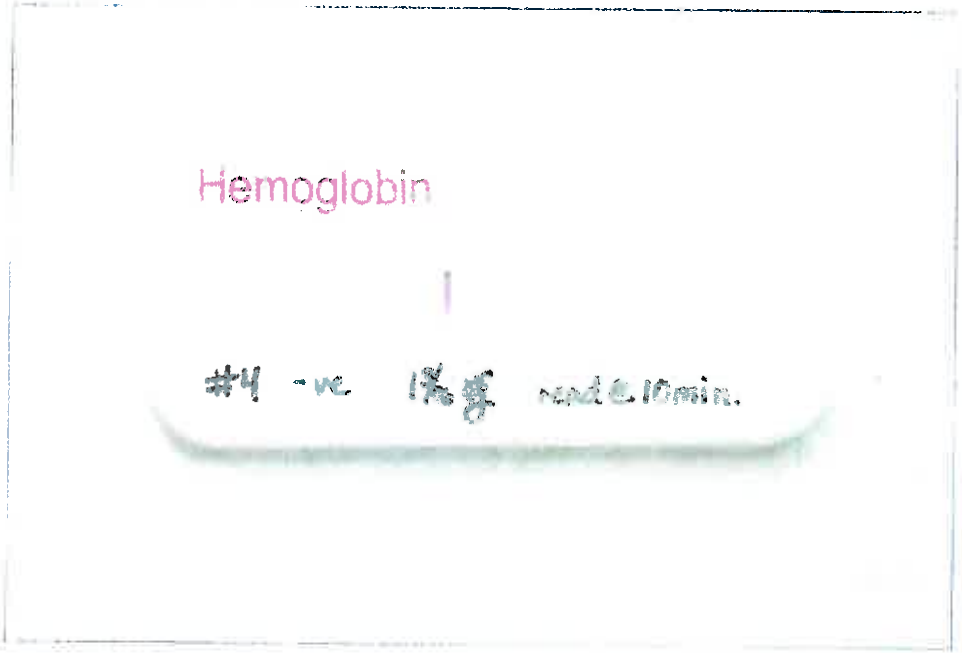
Negative @ 10min

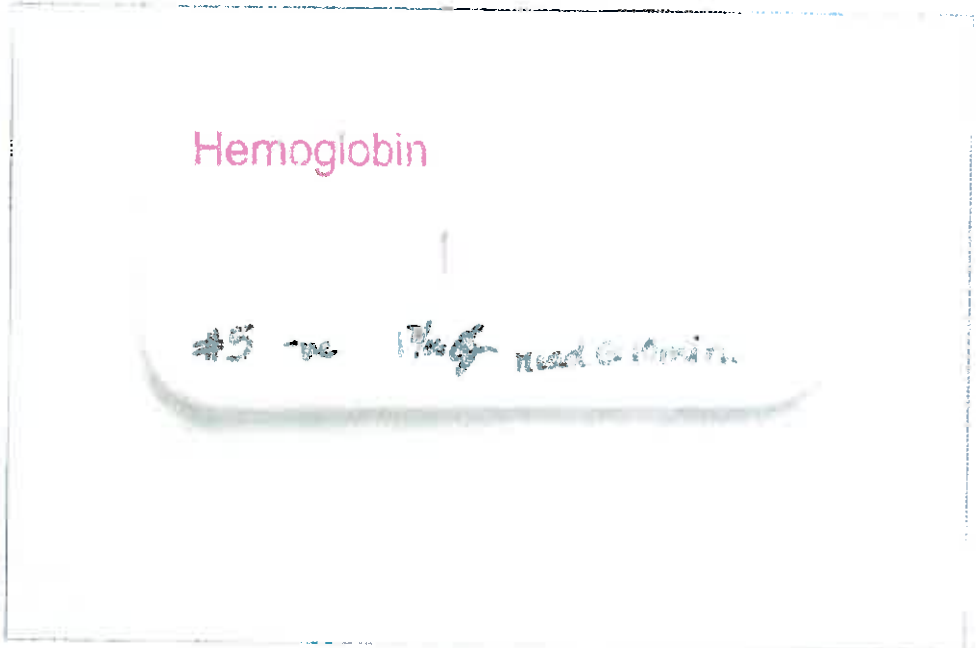
HEMDIRECT FERRET CROSSREACTION

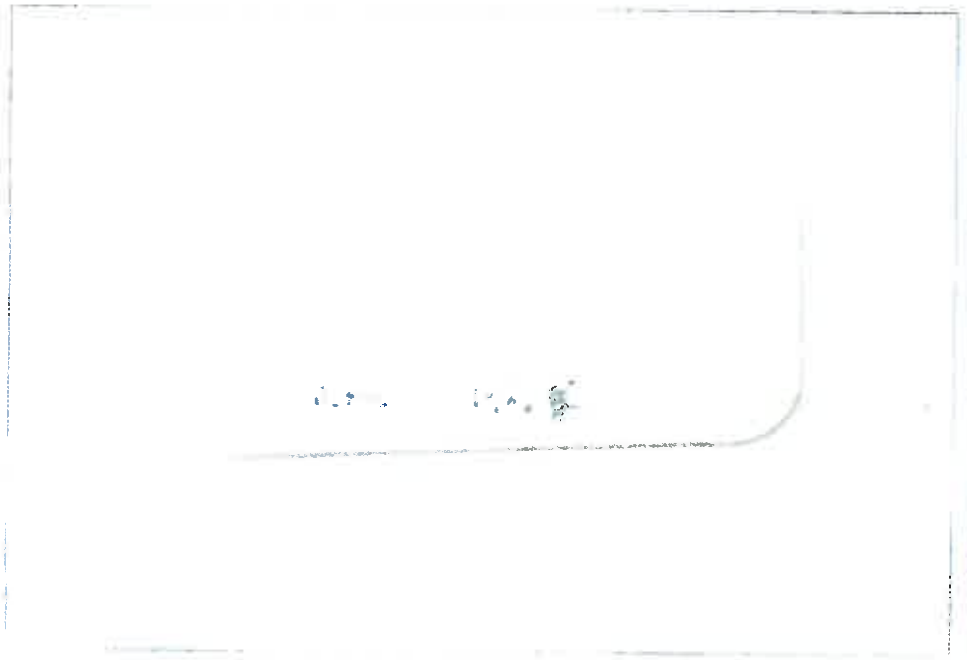
REACTION ENDPOINT AT 1/100K DILUTION

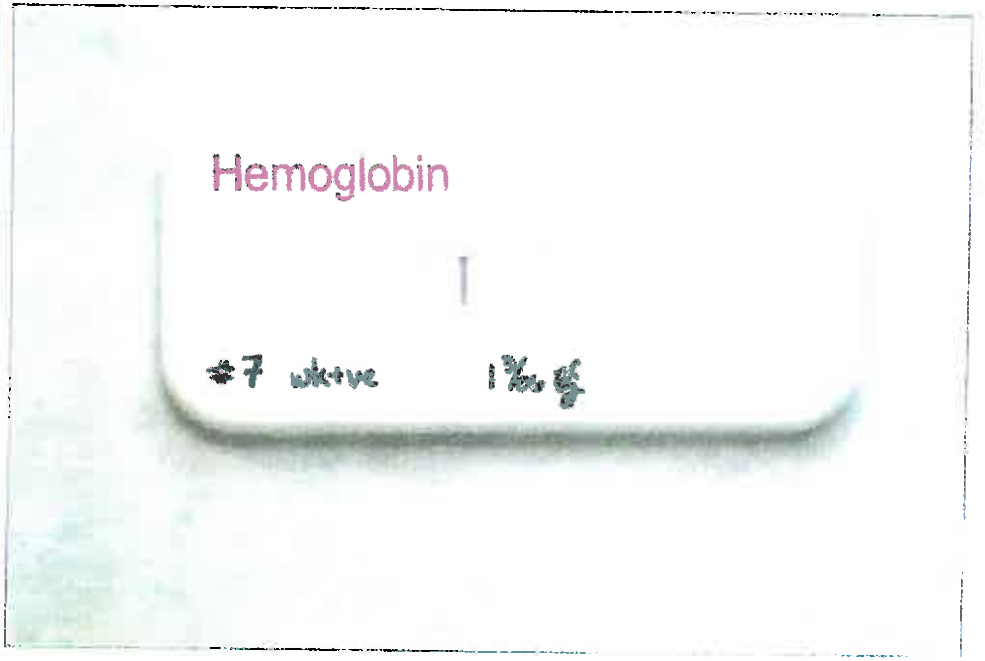


HEMDIRECT VALIDATION









HEMDIRECT VALIDATION









HEMDIRECT VALIDATION



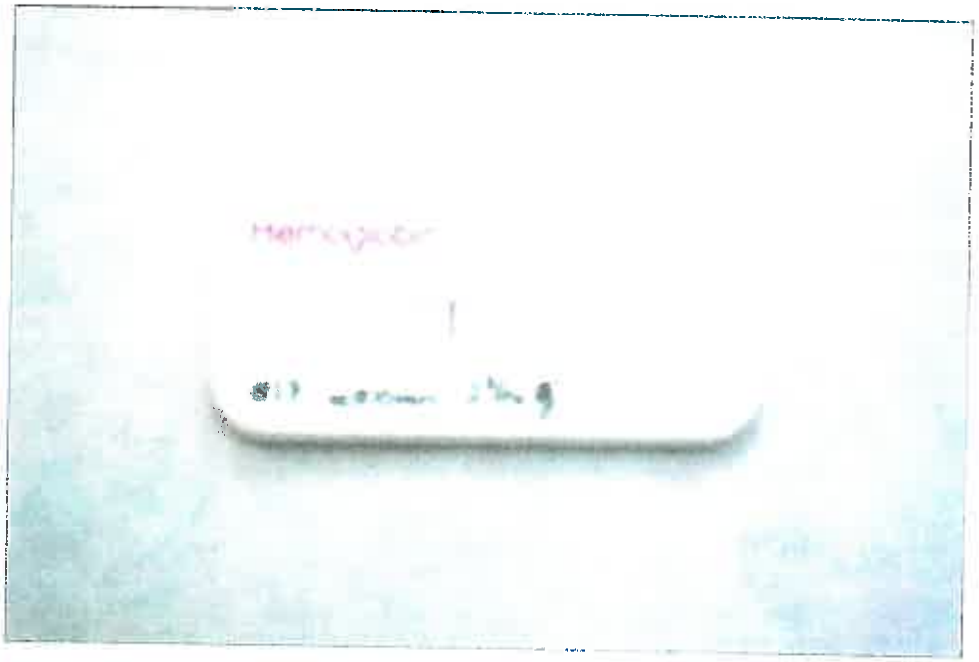






HEMDIRECT VALIDATION









HEMDIRECT VALIDATION

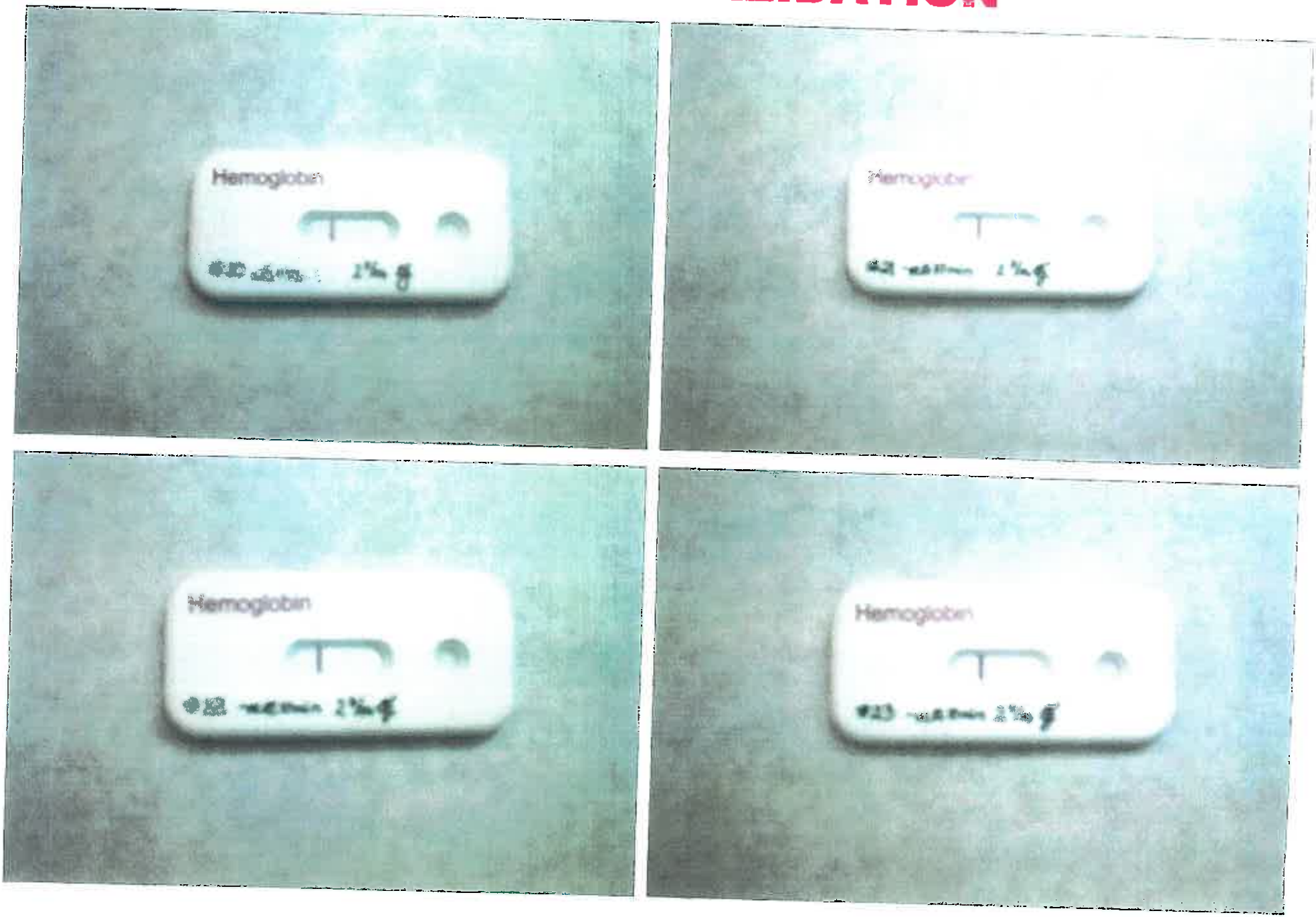


EXHIBIT G

SAN LUIS OBISPO COUNTY SHERIFF

1585 KANSAS AVE.
SAN LUIS OBISPO, CA 93405

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
960610965	565
CASE TYPE	CAD EVENT NUMBER
HOMICIDE	
REPORTING OFFICER	REPORT DATE
SLSO1535 - LIDDELL, SHELBY	04/22/2021

INCIDENT

LOCATION					DATE	TIME
, CA					04/22/2021	00:00
PREMISE NAME						
STATION	BEAT	RESP AREA		JURISDICTION		
ST24				SLSO		

ADDITIONAL INFORMATION

☐ INC SUPP 1

INC SUPP 1

INC SUPP 4

☐ INC SUPP 3

INC SUPP 6

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
FIL	04/20/2021	AA	04/08/2021	SLSO1240 - NICHOLSON, CHAD	04/26/2021

05/05/2021
27:004228

INCIDENT REPORT	SAN LUIS OBISPO COUNTY SHERIFF	CASE NUMBER 960610965	SUP NO 565

PROPERTY

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL					
898	E	40							
SERIAL NUMBER		QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE		
							Y		
DESCRIPTION						CUSTODY STATUS			
PLYWOOD FROM TRAIL POS PRES. BLUESTAR						CHECK-OUT			
COMMENT									

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL					
899	E	40							
SERIAL NUMBER		QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE		
							Y		
DESCRIPTION						CUSTODY STATUS			
SCREWS FROM PLYWOOD						CHECK-OUT			
COMMENT									

ENTRY NO	INVOLVEMENT	TYPE	MAKE	MODEL					
900	E	53							
SERIAL NUMBER		QUANTITY	COLOR	COLOR	OAN	REF NO	EVIDENCE		
							Y		
DESCRIPTION						CUSTODY STATUS			
PHOTOS OF TRAILER SEARCH & BLUESTAR						SUBMITTED			
COMMENT									

NARRATIVE

Case Number: 9606-10965
Date Written: April 23, 2021
Purpose of Report: Document Search of Trailer at 710 White Court, Arroyo Grande & Vehicle Examination

Synopsis: I photographed the search of a travel trailer, California License Plate 1EA9027, at 710 White Court, Arroyo Grande. Additionally, I photographed and assisted in processing a separate trailer, California License Plate 4ML7869, at the Crime Laboratory Annex. BlueStar was applied to the interior floor of this trailer and a positive reaction was observed and photographed.

April 21, 2021

On Wednesday April 21, 2021, at approximately 1430 hours, I arrived at 710 White Court, Arroyo Grande, along with multiple members of the San Luis Obispo Sheriff' s Office to photograph and search two trailers on the property.

One Aljo travel trailer, California License Plate 1EA9027, was located parked in the driveway, in front of the garage. The second trailer, a Haulmark Passport cargo trailer, California License Plate 4ML7869, was parked north of the driveway on a dirt area, adjacent to the garage. I photographed the trailers. The travel trailer was then searched on scene. I photographed items throughout the search.

I cleared the scene at approximately 1535 hours and responded to the Sheriff' s Office Crime Laboratory Annex along with Forensic Specialist J. West.

Sergeant C. Nicholson towed the cargo trailer to the Crime Laboratory Annex where it was then secured.

April 22, 2021

On Thursday April 22, 2021 at approximately 0900 hours, FS. West, Detectives C. Cole, S. Archibald, T. Lopes, M. Terrell, S. Garrett, and I met in the Crime Laboratory Annex to examine and process the white Haulmark Passport cargo trailer, California License Plate 4ML7869.

I photographed the exterior and interior of the trailer. Items were removed from the trailer and examined. I collected photographs throughout the process.

The interior floor and back pulldown hatch of the trailed was processed with BlueStar, a presumptive reagent for the presence of blood. I collected photographs of the BlueStar reactions. One area, on the floor inside the side door entrance to the trailer, had a reaction observed. The area was cut out of the floor (Evidence Item #898) and booked into the Sheriff' s Property Office along with two screws (Evidence Item #899) also removed from that section of floor.

We concluded our examination at approximately 1230 hours.

All photographs were transferred to the Crime Laboratory Archive as well as a compact disc (Evidence Item #900).

Disposition of Evidence:

All evidence was booked in the Sheriff' s Property Office.

Closing Statement

Case Status Exceptionally Cleared.

Forensic Specialist Shelby Liddell, #1535
SBL

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 4:13 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County.

In this regard, I have submitted a copy of Opposition to Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation, and Soil Analysis to be heard on July 7, 2022. In accordance with Section 6255 of the California Government Code, I am requesting

that this court order that the Opposition to Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation, and Soil Analysis be sealed until further order of this Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 23, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/23/2022 4:13 PM
By: Renee Inofuentes, Deputy

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On June 23, 2022, I served the foregoing document(s) described as:

OPPOSITION TO MOTION TO EXCLUDE EVIDENCE RELATED TO 710 WHITE COURT INSPECTION, INVESTIGATION, AND SOIL ANALYSIS & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS
(*People v. Paul Ruben Flores & Ruben Ricardo Flores,* Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 23, 2022, at San Luis Obispo, California.

Sandee Lopez

Sandee Lopez, Legal Clerk

FILED

JUN 23 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **[PROPOSED] ORDER GRANTING EX PARTE APPLICATION TO FILE MOTION TO EXCLUDE DNA EVIDENCE UNDER SEAL** Hon. Jennifer J. O'Keefe

THE COURT MAKES THE FOLLOWING FACTUAL FINDINGS:

1. The Court finds that the documents submitted by Defendant contain information, disclosure of which would violate the defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, which overcomes the right of public access to the documents;

2. Defendant's overriding right to a fair trial and impartial

jury in his information supports sealing the record:

3. A substantial probability exists that Defendant's rights to due process, a fair trial and impartial jury will be prejudiced if the documents are not sealed:

4. The proposed sealing is narrowly tailored: and

5. No less restrictive means exist to protect Defendant's overriding rights to due process, a fair trial and impartial jury.

IT IS HEREBY ORDERED THAT:

1. The following document is sealed and lodged with this Court:

a. Motion to Exclude DNA Evidence.

2. No other sealing is ordered pursuant to Defendant's request; and

3. Deputy District Attorney Christopher Peuvrelle, the San Luis Obispo County District Attorney's Office and Harold Mesick are permitted to view the sealed records.

Dated: 6/23/2022

Judge of the Superior Court

Hon. Jennifer J. O'Keefe

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/08/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **~~[PROPOSED]~~ ORDER GRANTING EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' PRETRIAL MOTIONS UNDER SEAL** Hon. Jennifer J. O'Keefe

THE COURT MAKES THE FOLLOWING FACTUAL FINDINGS:

1. The Court finds that the documents submitted by Defendant contain information, disclosure of which would violate the defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, which overcomes the right of public access to the documents;

2. Defendant's overriding right to a fair trial and impartial

jury in his information supports sealing the record;

3. A substantial probability exists that Defendant's rights to due process, a fair trial and impartial jury will be prejudiced if the documents are not sealed;

4. The proposed sealing is narrowly tailored; and

5. No less restrictive means exist to protect Defendant's overriding rights to due process, a fair trial and impartial jury.

IT IS HEREBY ORDERED THAT:

1. The following documents are sealed and lodged with this Court:

   a. Supplemental Report in Support of Motion to Exclude Dog Testimony;

   b. Notice of Motion and Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation and Soils Analysis.

2. No other sealing is ordered pursuant to Defendant's request; and

3. Deputy District Attorney Christopher Peuvrelle, the San Luis Obispo County District Attorney's Office and Harold Mesick are permitted to view the sealed records.

Dated: June 8, 2022

Jennifer O'Keefe

Judge of the Superior Court

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/24/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **[PROPOSED] ORDER GRANTING EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' OPPOSITION AND PRELIMINARY RESPONSE TO PEOPLE'S MOTION TO ADMIT OTHER ACTS EVIDENCE.UNDER SEAL** Hon. Jennifer J. O'Keefe

THE COURT MAKES THE FOLLOWING FACTUAL FINDINGS:

1. The Court finds that the documents submitted by Defendant contain information, disclosure of which would violate the defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, which

overcomes the right of public access to the documents;

2. Defendant's overriding right to a fair trial and impartial jury in his information supports sealing the record;

3. A substantial probability exists that Defendant's rights to due process, a fair trial and impartial jury will be prejudiced if the documents are not sealed;

4. The proposed sealing is narrowly tailored; and

5. No less restrictive means exist to protect Defendant's overriding rights to due process, a fair trial and impartial jury.

IT IS HEREBY ORDERED THAT:

1. The following document is sealed and lodged with this Court:

   a. Opposition and Preliminary Response to People's Motion to Admit Other Acts Evidence.

2. No other sealing is ordered pursuant to Defendant's request; and

3. Deputy District Attorney Christopher Peuvrelle, the San Luis Obispo County District Attorney's Office and Harold Mesick are permitted to view the sealed records.

Dated: June 24, 2022

Judge of the Superior Court
JENNIFER O'KEEFE

DAN DOW (State Bar No. 237986)
DISTRICT ATTORNEY
Office of the District Attorney
County Government Center
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorneys for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/24/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 ~~[PROPOSED]~~ ORDER SEALING RECORDS

Based upon the Declaration of Eric J. Dobroth, the Court makes the following factual findings:

1. The People's Opposition to Defendant's Motion to Dismiss for "Outrageous Government Conduct" and attached exhibits and declarations contain information that if disclosed to the public would jeopardize Defendant's rights to due process, a fair trial and impartial jury, which overcomes the right of public access to the documents;
2. Defendant's right to a fair trial and impartial jury supports sealing the records;
3. A substantial probability exists that Defendant's rights to due process, a fair trial and impartial jury will be prejudiced if the documents are not sealed;
4. The propose sealing is narrowly tailored; and

5. No less restrictive means exist to protect Defendant's overriding rights to due process, a fair trial and impartial jury.

IT IS HEREBY ORDERED that:

1. The People's Opposition to Defendant's Motion to Dismiss for "Outrageous Government Conduct," including exhibits and declarations attached thereto are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Counsel for the People, Defense Counsel for Paul Ruben Flores and Defense Counsel for Ruben Flores are permitted to view the sealed records.

Dated: **June 24, 2022**

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/24/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B [PROPOSED] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The Statement of the People as to the Cross-Admissibility of Defendants Statements and the Affidavit in support of the Statement of the People as to the Cross-Admissibility of Defendants Statements are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: **June 24, 2022**

Jennifer O'Keefe

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

Dan Dow
District Attorney
State Bar #237986
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Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/24/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B [PROPOSED] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Motion In Limine and the Affidavit in support of the People's Motion In Limine are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: **June 24, 2022**

Jennifer O'Keefe

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/24/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 ~~[PROPOSED]~~ **ORDER GRANTING EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' SUPPLEMENTAL BRIEF REGARDING 1108 AND OTHER PROFFERED EVIDENCE UNDER SEAL** Hon. Jennifer J. O'Keefe

THE COURT MAKES THE FOLLOWING FACTUAL FINDINGS:

1. The Court finds that the documents submitted by Defendant contain information, disclosure of which would violate the defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, which

overcomes the right of public access to the documents;

2. Defendant's overriding right to a fair trial and impartial jury in his information supports sealing the record;

3. A substantial probability exists that Defendant's rights to due process, a fair trial and impartial jury will be prejudiced if the documents are not sealed;

4. The proposed sealing is narrowly tailored; and

5. No less restrictive means exist to protect Defendant's overriding rights to due process, a fair trial and impartial jury.

IT IS HEREBY ORDERED THAT:

1. The following document is sealed and lodged with this Court:

   a. Supplemental Brief Regarding 1108 and Other Proffered Evidence

2. No other sealing is ordered pursuant to Defendant's request; and

3. Deputy District Attorney Christopher Peuvrelle, the San Luis Obispo County District Attorney's Office and Harold Mesick are permitted to view the sealed records.

Dated: June 24, 2022

Judge of the Superior Court
JENNIFER O'KEEFE

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/24/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **~~[PROPOSED]~~ ORDER GRANTING EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' LIST OF WITNESSES THAT MAY BE PROMINENTLY MENTIONED DURING TRIAL UNDER SEAL** Hon. Jennifer J. O'Keefe

THE COURT MAKES THE FOLLOWING FACTUAL FINDINGS:

1. The Court finds that the documents submitted by Defendant contain information, disclosure of which would violate the defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, which

overcomes the right of public access to the documents;

2. Defendant's overriding right to a fair trial and impartial jury in his information supports sealing the record;

3. A substantial probability exists that Defendant's rights to due process, a fair trial and impartial jury will be prejudiced if the documents are not sealed;

4. The proposed sealing is narrowly tailored; and

5. No less restrictive means exist to protect Defendant's overriding rights to due process, a fair trial and impartial jury.

IT IS HEREBY ORDERED THAT:

1. The following document is sealed and lodged with this Court:

   a. List of Witnesses that May be Prominently Mentioned During Trial.

2. No other sealing is ordered pursuant to Defendant's request; and

3. Deputy District Attorney Christopher Peuvrelle, the San Luis Obispo County District Attorney's Office and Harold Mesick are permitted to view the sealed records.

Dated: **June 24, 2022**

Judge of the Superior Court
JENNIFER O'KEEFE

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/24/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES &

RUBEN RICARDO FLORES,

Defendant.

MONTEREY CASE NO. 22CR003712 & 22CR003713

SAN LUIS OBISPO CASE NO.: 21F-02402-A, B

~~[PROPOSED]~~ ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress and the Affidavit in support of the People's People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: **June 24, 2022**

Jennifer O'Keefe

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

MC-510

MEDIA AGENCY *(name)*: FOX NEWS DIGITAL CHANNEL/FREQUENCY NO.: PERSON SUBMITTING REQUEST *(name)*: STEPHANIE PAGONES ADDRESS: 700 FIRST STREET, APT 14Q, HOBOKEN, NJ 07030 TELEPHONE NO.: 646-908-0079	FOR COURT USE ONLY **FILED** JUN 23 2022 CLERK OF THE SUPERIOR COURT DEPUTY K Hansen
Insert name of court and name of judicial district and branch court, if any: Superior Court for California, County of Monterey	
TITLE OF CASE: People v Flores	
NAME OF JUDGE: HON. JENNIFER O'KEEFE	
ORDER ON MEDIA REQUEST TO PERMIT COVERAGE	CASE NUMBER: 22CR003712, 22CR003713

AGENCY MAKING REQUEST *(name)*:

1. a. ☑ No hearing was held.
   b. ☐ Date of hearing: Time: Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ THE COURT FINDS *(findings or a statement of decision are optional)*: ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ denied.
   b. ☑ granted subject to the conditions in rule 1.150, California Rules of Court, AND the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
      (i) ☐ shall not apply to allow coverage of proceedings that are continued.
      (ii) ☐ shall apply to allow coverage of proceedings that are continued.
      (8) ☑ Other *(specify)*:
      See attached order

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☑ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:

7. ☐ Number of pages attached:

Date: 6/22/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE Hon. Jennifer J. O'Keefe

Cal. Rules of Court, rule 1.150
www.courtinfo.ca.gov

CASE NAME:	CASE NUMBER:
People v. Flores	22CR003712, 22CR003713

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

FILED

JUN 24 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K Hansor

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B [redacted] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Opposition to Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation, and Soil Analysis and the Affidavit in support of the Opposition to Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation, and Soil Analysis are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: 6/24/2022

Jennifer O'Keefe
THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

FILED

JUN 24 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES &

RUBEN RICARDO FLORES,

Defendant.

MONTEREY CASE NO. 22CR003712 & 22CR003713
SAN LUIS OBISPO CASE NO.: 21F-02402-A, B

[redacted] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress and the Affidavit in support of the People's People's Reply to Supplemental Brief on Motion to Traverse, Quash, and Suppress are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: 6/24/2022

Jennifer O'Keefe
THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

Dan Dow
District Attorney
State Bar #237986
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County Government Center, Room 450
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Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/24/2022 4:24 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County.

In this regard, I have submitted a copy of People's Supplemental Motion to Admit Evidence Pursuant to Evidence Code Sections 1108/1101(B) to be heard on July 7, 2022. In accordance with Section 6255 of the California Government Code, I am requesting that this

court order that the People's Supplemental Motion to Admit Evidence Pursuant to Evidence Code Sections 1108/1101(B) be sealed until further order of this Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 24, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/24/2022 4:32 PM
By: Renee Inofuentes, Deputy

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On June 24, 2022, I served the foregoing document(s) described as:

PEOPLE'S SUPPLEMENTAL MOTION TO ADMIT EVIDENCE PURSUANT TO EVIDENCE CODE SECTIONS 1108/1101(B) & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS

(*People v. Paul Ruben Flores & Ruben Ricardo Flores,* Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 24, 2022, at San Luis Obispo, California.

Sandee Lopez

Sandee Lopez, Legal Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/27/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial ongoing long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called, all parties present, all prospective jurors in Department 4 and 5.

Jurors previously sworn.

Hardship questionnaires provided to prospective jurors to fill out.

Court and Counsel in chambers to review the hardship forms.

Case called, all parties present, all prospective jurors present.

Jurors to be released for hardship are called and released.

Jurors are admonished and released for break.

Case called, all parties present.

Prospective jurors are present in Department 4 and 5.

The Court pre-instructs the jurors and reads the complaint.

List of prospective witnesses are given.

Voir dire by the Court.

Jurors released for hardship.

Jurors admonished and released for lunch to return at 1:30 pm.

Case called, all parties present, all prospective jurors present in Department 4 and 5.

Jury selection resumes.

Voir dire by the Court continues.

Voir dire by the People.

Voir dire by the Defense.

Jurors admonished and released for break.

Case called, all parties present, all prospective jurors present in Department 4 and 5.

Jury selection resumes.

Voir dire by the Defense continues.

Court in recess to review challenges for cause in chambers.

Jurors released for cause.

Jurors released for peremptory challenges.

New jurors called to fill the jury box.

Voir dire by the Court.

Jurors are admonished and released for the day, ordered to return on June 28, 2022.

Out of the presence of the jurors, the Court and Counsel discuss hardship form received from juror 402.

Juror is released for hardship.

Challenges for prospective jurors stipulated released for cause stated for the record.

Case continued to Tuesday, June 28, 2022 at 08:30 am in Salinas courtroom 4 for Jury Trial ongoing long cause.

Defendant is to remain in custody.

No bail is allowed.

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/28/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

~~[PROPOSED]~~ ORDER GRANTING EX PARTE APPLICATION TO FILE DEFENDANT PAUL FLORES' SUPPLEMENTAL BRIEFING ON NOTICE OF MOTION AND MOTION TO TRAVERSE, QUASH AND SUPPRESS UNDER SEAL

Hon. Jennifer J. O'Keefe

THE COURT MAKES THE FOLLOWING FACTUAL FINDINGS:

1. The Court finds that the documents submitted by Defendant contain information, disclosure of which would violate the defendant's rights to due process, a fair trial and impartial jury under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 15 of the California Constitution, which

overcomes the right of public access to the documents;

2. Defendant's overriding right to a fair trial and impartial jury in his information supports sealing the record;

3. A substantial probability exists that Defendant's rights to due process, a fair trial and impartial jury will be prejudiced if the documents are not sealed;

4. The proposed sealing is narrowly tailored; and

5. No less restrictive means exist to protect Defendant's overriding rights to due process, a fair trial and impartial jury.

IT IS HEREBY ORDERED THAT:

1. The following document is sealed and lodged with this Court:

   a. Supplemental Briefing on Notice of Motion and Motion to Traverse, Quash and Suppress (Pen. Code § 1538.5); Memorandum of Points and Authorities; Declaration of Counsel

2. No other sealing is ordered pursuant to Defendant's request; and

3. Deputy District Attorney Christopher Peuvrelle, the San Luis Obispo County District Attorney's Office and Harold Mesick are permitted to view the sealed records.

Dated: June 28, 2022

Judge of the Superior Court
JENNIFER O'KEEFE

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 06/28/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
vs.
PAUL RUBEN FLORES &
RUBEN RICARDO FLORES,
Defendant.

MONTEREY CASE NO. 22CR003712 & 22CR003713
SAN LUIS OBISPO CASE NO.: 21F-02402-A, B

[PROPOSED] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Opposition to Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation, and Soil Analysis and the Affidavit in support of the Opposition to Motion to Exclude Evidence Related to 710 White Court Inspection, Investigation, and Soil Analysis are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: June 28, 2022

Jennifer O'Keefe

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 6/28/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Defense Investigator Ramona Messina is present.

Prospective jurors present in department 4 and 1.

Juror 127 released hardship.

Roll call taken.

Voir dire of new jurors by the People.

Voir dire of new jurors by the Defense.

Jurors admonished and released for 15 minute break.

Cause called. Appearances as heretofore stated. Defendant present with Counsel. Jury present and seated in jury box.

Voir dire by the Defense continues.

Peremptory challenges and jurors excused for cause; incorporated as part of the record.

New jurors called to the box.

Voir dire by the People.

Voir dire by the Defense.

Outside of the presence of the prospective jurors, the Court and Counsel discuss challenges.

Cause called. Appearances as heretofore stated. Defendant present with Counsel. Jury present and seated in jury box.

Peremptory challenges and jurors excused for cause; incorporated as part of the record.

Jurors are admonished and released for lunch break to return at 1:30 pm.

Out of the presence of the prospective jury group, Jurors 100 and 211 are ordered to remain in the courtroom.

Jurors did not appear when called on June 27, 2022.

Jurors appeared late today and are admonished regarding jury service and released from service at this time.

Juror 362 is excused for hardship.

Jurors released by stipulation for cause are stated for the record.

Discussions regarding juror 124 are had between the Court and Counsel.

Defense requests to re-open the peremptory.

The People object.

Case called, all parties present, prospective jurors are not present in court.

Arguments regarding juror 124 are presented by the parties.

The Court will re-open the peremptory as to juror 124.

Case called, all parties present, prospective jurors present in court.

Peremptory challenges and jurors excused for cause; incorporated as part of the record.

The following twelve persons are sworn to try this case: 1. 209 ; 2. 160; 3.273; 4. 171; 5. 174; 6. 202; 7. 231; 8. 46; 9. 268; 10. 161; 11. 86; 12.132

12 Alternate prospective jurors called to the box.

Voir dire by the Court.

Voir dire by the People.

Voir dire by the Defense.

Prospective jurors examined as a group and individually by court/people/Counsel, and are released for hardship.

Jurors are admonished and released for break.

Cause called. Appearances as heretofore stated. Defendant present with Counsel. Jury present and seated in jury box.

The parties have stipulated to alternate jurors: 285, 310, 368, 327, 382, 411, 344, 345.

Alternate jurors sworn: 285, 310, 368, 327, 382, 411, 344, 345.

Remaining jurors are thanked and released.

Jurors are provided with trial schedule.

Jurors and alternates for this panel are ordered to return on July 18, 2022 at 08:30 am.

Out of the presence of the jurors, the Court and Counsel discuss the trial schedule.

Jury trial vacated for June 29, June 30, July 1, 2022.

Matter continued to July 6, 2022 at 08:30 am in Department 4 for Jury trial motions in limine.

Defendant is to remain in custody.

No bail is allowed.

JEFFRY C. RADDING
Attorney at Law - SBN 91835
1035 Walnut Street
San Luis Obispo, CA 93401
tel: (805) 546-8541

Attorney for: Susan Flores, subpoenaed witness

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 6/30/2022 1:49 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

SALINAS BRANCH

People of the State of California,

Plaintiff,

vs.

Paul Ruben Flores,

Defendant.

Case no. 22CR003712

MOTION OF SUBPOENAED WITNESS SUSAN FLORES TO QUASH THE PEOPLE'S SUBPOENA TO TESTIFY AT THE TRIAL; MEMORANDUM OF LAW; DECLARATION OF JEFFRY C. RADDING

Date: July 11, 2022
Time: 8:30 a.m.
Dept: 4

To: The District Attorney for San Luis Obispo County, and to counsel of record for defendant Paul Ruben Flores:

PLEASE TAKE NOTICE that on July 11, 2022 at 8:30 a.m. in Department 4 of the above-named court, Susan Flores, a witness subpoenaed by the People, will move the court for an order quashing the prosecution's subpoena for her to appear as a trial witness.

The motion will be made on the grounds identified in the Memorandum of Law, below, on the declaration of counsel submitted herewith, and upon such evidence and argument as is presented at the hearing of the motion.

Respectfully submitted,

Dated: July 11, 2022

JEFFRY C. RADDING
Attorney for Susan Flores

MEMORANDUM OF LAW

I

THE PEOPLE'S SUBPOENA OF SUSAN FLORES OUGHT TO BE QUASHED

In a case bearing intense community (if not national) notoriety, Paul Ruben Flores ("Paul") is accused of murdering Kristin Smart, a Cal Poly student, over twenty-five years ago. Paul's father, Ruben Ricardo Flores ("Ruben"), is accused of being an accessory after the fact of the alleged homicide. Trial is now pending.

The petitioner herein, Susan Flores, is the mother of Paul Flores. The People have served Ms. Flores with a subpoena to appear as a trial witness. Through counsel and agreement with the People, on the subpoena Ms. Flores remains on call to appear as a witness.

Ms. Flores seeks the subpoena to be quashed as it is her intent to exercise the Fifth Amendment privilege not to testify. Ms. Flores also seeks a prompt hearing and decision on the issue, as she will remain subject to the court's exclusion order and unable to attend her son's murder trial until it is resolved. It is her desire and intent to attend the trial and support her son.

In July 2021, the San Luis Obispo Superior Court conducted the preliminary hearing in this matter. For that hearing, the People subpoenaed Ms. Flores as a witness. In response, Ms. Flores brought a motion to quash on the same grounds that are currently advanced. The motion was granted; accordingly, Ms. Flores was not called to the stand and was permitted to attend the preliminary hearing proceedings notwithstanding the witness exclusion order.

In the course of the San Luis Obispo County Sheriff's investigation leading to the current prosecution, Ms. Flores has always been considered as potentially subject to being charged in the case and was the subject of the ongoing investigation. Ms. Flores has been the object of search warrants and telephone intercept warrants directly related to this case and as recently as early 2021, near to when Paul Flores and Ruben Flores were arrested. On April 14, 2021, upon the arrest of Paul Flores and his father, in response to a question at a press conference District Attorney Dan Dow stated,

> "So the evidence is that, the question is are we going to be charging Susan Flores or any other family members. At this point, the evidence implicates Paul Flores in murder and Ruben Flores to accessory to murder. We don't have evidence sufficient to charge anyone else at this time, but as I said the investigation is ongoing. If it were to lead to other suspects, we will follow the evidence when that becomes available."

Ms. Flores's fifth amendment privilege clearly is implicated. On the advice of counsel, Ms. Flores intends to exercise her constitutional privilege.

This case involves an alleged homicide and an alleged accessory to a homicide. The jeopardy of any "other suspects" necessarily will be related to or dependent upon the charges now pending and to the facts underlying those charges. Any accessory charge is directly dependent upon the murder charge. (*See* Calcrim 440: "*To prove that the defendant is guilty of (being an accessory to a felony) the People must prove that: 1. Another person, whom I will call the perpetrator, committed a felony* ...") Accordingly, with respect to any person deemed to be or potentially included in the category of "other suspects," testimony *in any way relevant* to the pending charges triggers fifth amendment privileges.

The People have expressed an intent not to ask Ms. Flores questions that would implicate her Fifth Amendment privilege. That, however, is not possible. In the presenting circumstances, the scope of the privilege is broad and comprehensive: *all questions that would be relevant to the pending charges* implicate the privilege because any question relevant to the charged offenses also represents a relevant (if not necessary) evidentiary predicate to any charges the People may decide to bring against Ms. Flores. Any questions, therefore, that the People characterize as being "outside the privilege" necessarily are *irrelevant* to the pending charges and therefore inadmissible. "No evidence is admissible except relevant evidence." **Evidence Code §350.**

The People previously have indicated the desire and intent to ask Ms. Flores about (1) statements made by Paul Flores in 1996, as well as his ostensible omissions in statements made to her, and (2) the timeline of Memorial Day weekend in 1996 and Ms. Flores' observations of Paul Flores and/or Ruben Flores over that period. Any answers to those questions reflect potential knowledge on the part of Ms. Flores that the People could use against her in any subsequent criminal prosecution. They also place Ms. Flores in locations or with persons that could have evidentiary value in the event of any potential future prosecution the People might decide to pursue against Ms. Flores for any offense related to the charges pending against Paul Flores and Ruben Flores. Again, if the People's intended questions are not relevant to those charges, the responses would be inadmissible in the trial and no basis would exist for even calling Ms. Flores as a witness.

Underscoring Ms. Flores' status as a potential "other suspect" is the fact that the family of Ms. Kristin Smart has initiated a civil suit against Ms. Flores accusing her of

conduct that potentially could subject her to prosecution as an accessory to Kristin Smart being murdered, as alleged. (*Stan Smart and Denise Smart v. Ruben Flores, Susan Flores, and Mike McConville, San Luis Obispo Superior Court case no. 21CV-0230.*) That case is currently stayed pending conclusion of the criminal action against Paul Flores and Ruben Flores. The Smart family and the People clearly identify Ms.Flores as a possible "other suspect." That's no secret.

Because of this, the People's subpoena of Susan Flores ought to be quashed. Ms. Flores has a right not to testify and answer questions that represent a potential or a perceived link in the chain of criminal jeopardy. On the other hand, there are in fact no questions whatsoever that can be posed of Ms. Flores that fall outside the scope of the privileges the Fifth Amendment confers and the answers to which would constitute evidence relevant to the pending charges. (Even offering testimony that Paul Flores is her son is a link Ms. Flores has no obligation to provide and every right not to.) As a trial witness, all prosecution inquiries would seek information legally irrelevant to the pending charges. The "*Power to quash subpoenas in criminal cases, where the witness could offer no relevant testimony, was established by case law before the 1976 amendments to the Code of Civil Procedure.* (See In re Finn (1960) 54 Cal. 2d 807, 813; People v. Rhone (1968) 267 C.A.2d 652, 657.)" **Fabricant v. Superior Court (1980) 104 C.A.3d 905, 915.** That power remains.

II

A PROMPT DECISION ON THIS MOTION IS NECESSARY

Ms. Flores' son, Paul, is being prosecuted for murder. Ms. Flores has every interest and desire to be present as her son sits in the dock. While designated a subpoenaed witness, though, she will be unable to do so. If the motion to quash is not addressed until such time as the People intend to call her to the stand, Ms. Flores will be unable to attend her son's case. If the motion is not considered until later in the proceedings and the subpoena ultimately quashed, Ms. Flores will have been needlessly and unfairly excluded from the courtroom, for no reason.

Respectfully submitted,

Dated: June 15, 2021

JEFFRY C. RADDING
Attorney for Susan Flores

Declaration of Jeffry C. Radding

I, Jeffry C. Radding, declare:

(1) I represent the interests of Susan Flores with respect to the prosecution against her son, Paul Flores, and against her son's father, Ruben Flores, now pending in the Monterey County Superior Court, case no. 22CR003712, as well as in other matters related to the events and circumstances underlying the case. I have done so for some twenty years.

(2) In July 2021, the San Luis Obispo Superior Court conducted the preliminary hearing in this matter. For that hearing, the People subpoenaed Ms. Flores as a witness. In response, Ms. Flores brought a motion to quash on the same grounds that are currently advanced. The motion was granted; accordingly, Ms. Flores was not called to the stand and was permitted to attend the preliminary hearing proceedings notwithstanding the witness exclusion order.

(3) I also represent Ms. Flores in San Luis Obispo Superior Court case no. 21CV-0230, a civil case in which Stan Smart and Denise Smart are suing Susan Flores as well as Ruben Flores and Mike McConville accusing them of being accessories to the crimes alleged in the pending case captioned above. By court order, the civil case is now stayed until the conclusion of the criminal proceedings.

(4) Upon the arrest of Paul Flores and Ruben Flores in April of 2021, District Attorney Dan Dow conducted a press conference on April 14th of that year. That press conference was broadcast and remains accessible and viewable online in its entirety at https://www.facebook.com/watch/live/?v=824873421720742&ref=watch_permalink). In response to a question at a press conference District Attorney Dan Dow stated,

"So the evidence is that, the question is are we going to be charging Susan Flores or any other family members. At this point, the evidence implicates Paul Flores in murder and Ruben Flores to accessory to murder. We don't have evidence sufficient to charge anyone else at this time, but as I said the investigation is ongoing. If it were to lead to other suspects, we will follow the evidence when that becomes available."

(5) I have advised Ms. Flores to exercise her constitutional prerogatives and decline to testify. Ms. Flores intends to follow my advice.

(6) DDA Peuvrelle and I have met and conferred about the issues this motion raises, including fifth amendment privileges, District Attorney Dow's press conference, my advice to Ms. Flores to exercise her constitutional privilege, the exclusion of prospective witnesses from the courtroom, Ms. Flores' interest in attending the prosecution proceedings against her son, and the need to address these issues at the outset of the evidentiary proceedings. Included in our discussions was DDA Peuvrelle's expectation to question Ms. Flores on topics he felt did not involve fifth amendment privileges and my assessment that such an approach was not possible for the reasons set forth in this motion. Ultimately, DDA Peuvrelle and I agreed the best approach was to submit the matter to the court for determination, resulting in this motion.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 30, 2022

JEFFRY C. RADDING

11/17/2021 10:48 AM

JEFFRY C. RADDING
Attorney at Law - SBN 91835
1035 Walnut Street
San Luis Obispo, CA 93401
tel: (805) 546-8541

Electronically
FILED: 11/17/2021
San Luis Obispo Superior Court
By: Miller, Victoria

Attorney for: Susan Flores and Mike McConville, defendants

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

STAN SMART and DENISE SMART, Plaintiff, *vs.* RUBEN FLORES, SUSAN FLORES, MIKE McCONVILLE, and Does 3 to 10, Defendants.	Case no. 21CV-0230 STIPULATION AND ORDER FOR STAY OF PROCEEDINGS

Whereas, in this action plaintiffs Stan Smart and Denise Smart have sued defendants Ruben Flores, Susan Flores, and Mike McConville for intentional infliction of emotional distress; and,

Whereas, in this action, plaintiffs Stan Smart and Denise Smart allege, inter alia, that defendants Ruben Flores, Susan Flores, and Mike McConville, "removed the remains of Kristin Smart to avoid having those remains at 710 White Court in the event

EXH "H"

of an additional search of the property," and that they did so, "knowing that Plaintffs' daughter had been killed by Paul Flores and with knowledge that Defendant Ruben Flores had previously transported the body of Kristin Smart from the Cal Poly dorm room of Paul Flores to the initial burial site at the home of Defendant Ruben Flores;" and

Whereas, defendant Ruben Flores currently is being prosecuted in San Luis Obispo Superior Court case no. 21F-02402 for an alleged violation of Penal Code §32, accused of being an accessory-after-the-fact of an alleged homicide of Kristin Smart for which Paul Flores is being prosecuted in the same case, the same alleged events upon which Plaintiffs here base their action; and,

Whereas, defendant Ruben Flores has a constitutional right not to testify about matters related to the criminal prosecution; and,

Whereas, it is recognized that the pendency of criminal and civil proceedings impose an unfair dilemma on a defendant subject to both actions and a detriment to the exercise of a constitutional right, in that there exists (1) the impossibility of anticipating the full scope of evidence which provides prosecutors with some "link in the chain" needed for the criminal case, Hoffman v. United States (1951) 341 U.S. 479, 486, and; (2) disadvantages in the civil action the defendant will suffer by asserting the Fifth Amendment. *See, e.g.,* London v. Patterson (9th Cir. 1972) 463 F.2d 95, 97-98, cert. denied, 411 U.S. 906); and,

Whereas, also pending in the San Luis Obispo Superior Court are related lawsuits involving the many of the same underlying evidence and circumstances and many of the same parties, case no. CV02-0315 (*Stan Smart and Denise Smart v Paul Flores*) and case no. CV05-0355 (*Dennis Mahon v. Mike McConville and Susan Flores*

/ Mike McConville and Susan Flores v. Dennis Mahon, Denise Smart, and Stan Smart), which have been consolidated for the limited purpose of addressing a common discovery issue involving the investigation records of the San Luis Obispo County Sheriff's Department; and,

Whereas, as a result of the objection of the San Luis Obispo County Sheriff's Department to releasing its records as the investigation remained active, case nos. CV02-0315 and CV05-0355 have been stayed by court order, with the stay order subject to annual review of the status of the investigation; and,

Whereas, the annual review of the stay order relative to case nos. CV02-0315 and CV05-0355 was most recently undertaken on July 28, 2021 and was renewed for another year, per stipulation of all parties, and scheduled for a further annual review on July 27, 2022 at 9:00 a.m. in Department 2 of the San Luis Obispo Superior Court;

Therefore, the parties hereto stipulate as follows:

(1) Based on the pendency of the criminal proceedings in case no. 21F-02402 relative to defendant Ruben Flores, and based upon the discovery stay orders issued relative to case nos. CV02-0315 and CV05-0355, all proceedings in the above-captioned matter shall be stayed.

(2) The matter shall be set for a Case Management Conference in conjunction with the scheduled annual review of the stay orders issued relative to case nos. CV02-0315 and CV05-0355, on July 27, 2022 at 9:00 a.m. in Department 2.

(3) The stay orders issued hereunder in the above-captioned case shall expire upon the occurrence of the following events: (a) the dissolution of the stay order relative

to case nos. CV02-0315 and CV05-0355, *and* (b) either the dismissal of case no. 21F-02402 as to Ruben Flores or, if a conviction occurs, upon the sentencing of Ruben Flores.

(4) For good cause, and prior to the expiration of the stay orders to be issued hereunder, any party may petition to terminate the stay order issued hereunder or to extend its duration.

DATED: ~~August~~ Nov. 10, 2021

JAMES R. MURPHY, Jr.
Attorney for Stan Smart and Denise Smart
Plaintiffs

DATED: ~~August~~ Nov. 16, 2021

JEFFRY C. RADDING
Attorney for Susan Flores and Mike McConville
Defendants

DATED: ~~August~~ Nov. 15, 2021

HAROLD MESICK
Attorney for Ruben Flores
Defendant

ORDER FOR STAY OF PROCEEDINGS

The Court having considered the stipulation of the parties, and good cause appearing therefor,

IT IS ORDERED as follows:

(1) Based on the pendency of the criminal proceedings in case no. 21F-02402 relative to defendant Ruben Flores and based upon the discovery stay orders issued relative to case nos. CV02-0315 and CV05-0355, all proceedings in the above-captioned matter are stayed.

(2) The matter is set for a Case Management Conference in conjunction with the scheduled annual review of the stay orders relative to case nos. CV02-0315 and CV05-0355, on July 27, 2022 at 9:00 a.m. in Department 2. All other currently scheduled court dates are vacated.

(3) The stay orders issued herein shall expire upon the occurrence of the following events: (a) the dissolution of the stay order relative to case nos. CV02-0315 and CV05-0355, *and* (b) either the dismissal of case no. 21F-02402 as to defendant Ruben Flores or, if convicted, upon the sentencing of Ruben Flores.

(4) For good cause, and prior to the expiration of the stay order issued herein, any party may petition to terminate the stay order or to extend its duration.

DATED: November 17, 2021

RITA COYNE FEDERMAN
Judge of the Superior Court

PROOF OF SERVICE
(C.C.P §1010 et seq., §2015.5)

I, the undersigned, say that I am a citizen of the United States, over eighteen (18) years of age, and not a party to the within entitled action. I am employed by Jeffry C. Radding, Attorney at Law, 1035 Walnut Street, San Luis Obispo, California.

On June 30, 2022 I served the foregoing documents:

Motion of Susan Flores to Quash Subpoena

on the following interested parties:

Chris Peuvrelle
Deputy District Attorney
Office of the SLO County District Attorney
1035 Palm Street, 4th Floor
San Luis Obispo, CA 93408
Cpeuvrelle@co.slo.ca.us

Robert Sanger
Attorney at Law
Sanger Swysen & Dunkle
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101-7149
(*Attorney for Paul Flores*)
rswanger@sangerswysen.com

Harold Mesick
Attorney at Law
1303 Higuera Street
P.O. Box 23
San Luis Obispo, CA 93406
(*Attorney for Ruben Flores*)
haroldmesick@gmail.com

(x) **(By Mail - Deposit)** By placing a true copy thereof in a sealed envelope, with postage prepaid, and by placing said envelope in the United States mail, at San Luis Obispo, CA.

(x) **(By eMail)** To the addresses above indicated.

I declare under penalty of perjury that the foregoing is true and correct, and that this was executed in San Luis Obispo, California on June 30, 2022.

JEFFRY C. RADDING

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/5/2022 12:35 PM
By: Oscar Luna, Deputy

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	CASE NO. 22CR003712 22CR003713 PEOPLE'S MOTION TO INTRODUCE PHOTOGRAPH OF PAUL FLORES AS A CERTIFIED PHOTOGRAPH Date: July 8, 2022 Time: 8:30 AM Dept. 4

STATEMENTS OF FACTS

On May 27,1996, a Monday, Ruben Flores drove Paul Flores to the Arroyo Grande police station to handle a warrant that was outstanding for his DUI arrest from February 1996. At the station, a photograph was taken of Paul Flores. Paul Flores is holding up a piece of paper referencing the case number, as well as the date of the photograph. Officer Beau Pryor took the photograph. In April of 2021, retired Chief of Police Beau Pryor died.

At some point, the negative for the photograph was given to the law office of attorney Jim Murphy. Printed copies of the photograph were retained by AGPD. In 2021 Detective Cole obtained the negative and took it to a photography shop for enlargement. On May 25, 2021, AGPD Detective Mike Smiley chronicled the history of documentation regarding the

booking photograph and original report, as well as agency certification pursuant to California Evidence Code section 1531. On June 23, 2021, the Arroyo Grande Police Department issued a letter certification for the photograph and accompanying documents. (Attachment 1) The enlarged photograph was identified and introduced at Preliminary Hearing.

I.

THE BOOKING PHOTOGRAPH IS ADMISSIBLE AS A CERTIFIED GOVERNMENT DOCUMENT UNDER EVIDENCE CODE SECTION 1531

California Evidence Code section 1531 states ".. whenever a copy of a writing is attested or certified, the attestation or certificate must state in substance that the copy is a correct copy of the original, or of a specified part thereof..."

In this case, the Arroyo Grande Police Department has certified the booking photo of Paul Flores taken on May 27, 1996. (See Attachment 1)

II.

THE PHOTOGRAPH EXHIBITS CERTAIN INDICIA OF RELIABILITY IN ADDITION TO ITS CERTIFICATION

Paul Flores is recognizable in the photograph. Additionally, he admits to going to the Arroyo Grande Police Department on Monday (May 27, 1996) to post his bail and get his paperwork. (See Page 22, lines 10-22 of Attachment 2 Interview with Mike Kennedy and Robert Cudworth). Additionally, the photograph printout itself has a date stamp of May 27, 1996. Lastly, Paul Flores is holding a placard containing the actual report number as cross-referenced in the certification paperwork, as well as the date of May 27, 1996. Even without the certification, the photograph is self-authenticating that it was taken on May 27, 1996.

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III.

CONCLUSION

Given the certification and documentation provided by AG PD, as well as the admission of defendant Paul Flores and other indicia of reliability, the booking photograph is admissible.

Date: July 5, 2022

Respectfully Submitted,
Dan Dow
District Attorney

By: _____

Christopher Peuvrelle
Deputy District Attorney

ATTACHMENT 1

ARROYO GRANDE POLICE DEPARTMENT

200 N. HALCYON ROAD
ARROYO GRANDE, CA 93420
(805) 473-5100

INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
2100740	
CASE TYPE	CAD EVENT NUMBER
AOA	2105006746
REPORTING OFFICER	REPORT DATE
P071 - SMILEY, MICHAEL	05/25/2021

INCIDENT

LOCATION				OCCURRED	DATE	TIME	DAY
200 N HALCYON RD , ARROYO GRANDE, CA 93420				ON OR FROM	05/25/2021	13:27	TUE
PREMISE NAME			JURISDICTION				
ARROYO GRANDE PD AGPD STATION 46			AGPD	TO	05/25/2021	13:27	TUE
BEAT	DIVISION	UNIT	SHIFT				
46-3	SUPPORT	INVESTIGATIONS	INVESTIGATIONS	REPORTED	05/25/2021	13:27	TUE

NATURE OF INCIDENT

☐ ALCOHOL RELATED	☐ SENIOR CITIZEN	☐ HATE / BIAS	☐ ARSON
☐ CHILD ABUSE	☐ GANG RELATED	☐ OFFICER ASSAULT	
☐ DRUG RELATED	☐ DOMESTIC VIOLENCE	☐ JUVENILE	

RELATED CASE NUMBERS

SYNOPSIS

Assist the District Attorney's Office with a records request.

COPY
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This copy consisting of 6 page(s) is furnished for the exclusive use of: DA and is not to be duplicated, copied or furnished to any other person or agency except as provided by law, without the permission of the Arroyo Grande Police Department.

Michael T. Martinez, Chief of Police

By: JL Date: 6-23-21

ADDITIONAL INFORMATION

☐ DUI TC ☐ PRCS AB109 ☐ SOCIALLY DISPLACED

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
CLOSED	05/25/2021	DOC	05/25/2021	P085 - CASTILLO, JASON	06/02/2021

06/25/2021
60:016073

INCIDENT REPORT	ARROYO GRANDE POLICE DEPARTMENT	CASE NUMBER 2100740

OTHERS

ENTRY NO	INVOLVEMENT	NAME LAST, FIRST, MIDDLE
1	SJ	FERDOLAGE, JOHN

HOME ADDRESS	MAILING ADDRESS
200 N HALCYON RD ARROYO GRANDE, CA 93420	

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(805) 473-5100			

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
		M										

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL ID	ID	ID

COMMENT

ENTRY NO	INVOLVEMENT	NAME LAST, FIRST, MIDDLE
2	SJ	BOESE, KIMBERLY ANNE

HOME ADDRESS	MAILING ADDRESS
661 TIERRA ST ARROYO GRANDE, CA 93420	

EMPLOYER	EMPLOYER ADDRESS	OCCUPATION
		COUNSELOR

HOME PHONE	CELL PHONE	OTHER PHONE	EMPLOYER PHONE
(805) 348-1850		(805) 348-1850	

DOB	AGE	SEX	RACE	ETH	HEIGHT	WEIGHT	HAIR	EYES	POB	RESIDENCY	CITIZEN	GANG IDENTIFICATION
02/21/1961	60	F	W	N	507	140	BLN	BRO				

DL NUMBER	DL ST	SSN	FBI ID	STATE ID	LOCAL ID	ID	ID
N7161991	CA						

COMMENT

ARTICLE

ENTRY NO	REF NO	INVOLVEMENT	CATEGORY	DESCRIPTION
1		E	MISCELLANEOUS	POLICE REPORT

SERIAL NUMBER	OAN	QUANTITY	DENOMINATION	CASH AMOUNT

TYPE	BRAND	MODEL	SIZE	GENDER	COLOR 1	COLOR 2
-	-					

VALUE STOLEN	DATE STOLEN	JURISDICTION STOLEN

VALUE RECOVERED	DATE RECOVERED	JURISDICTION RECOVERED	RECOVER LOCATION	RECOVERED BY NAME

EVIDENCE	CUSTODY STATUS	WET	DATE/TIME TAKEN	RECOVERED BY PIN	SOURCE	DESCRIPTION
Y	CUSTODY	N				

LOCATION OF DNA SAMPLE

COMMENT

ARTICLE

ENTRY NO	REF NO	INVOLVEMENT	CATEGORY	DESCRIPTION
2		E	MISCELLANEOUS	BOOKING PHOTO

SERIAL NUMBER	OAN	QUANTITY	DENOMINATION	CASH AMOUNT

TYPE	BRAND	MODEL	SIZE	GENDER	COLOR 1	COLOR 2
-	-					

VALUE STOLEN	DATE STOLEN	JURISDICTION STOLEN

VALUE RECOVERED	DATE RECOVERED	JURISDICTION RECOVERED	RECOVER LOCATION	RECOVERED BY NAME

EVIDENCE	CUSTODY STATUS	WET	DATE/TIME TAKEN	RECOVERED BY PIN	SOURCE	DESCRIPTION
Y	CUSTODY	N				

LOCATION OF DNA SAMPLE

COMMENT

ARTICLE

ENTRY NO	REF NO	INVOLVEMENT	CATEGORY	DESCRIPTION

06/25/2021
60:016074

INCIDENT REPORT	ARROYO GRANDE POLICE DEPARTMENT	CASE NUMBER 2100740

3	E	MISCELLANEOUS	FINGERPRINT CARDS

SERIAL NUMBER	OAN	QUANTITY	DENOMINATION	CASH AMOUNT

TYPE	BRAND	MODEL	SIZE	GENDER	COLOR 1	COLOR 2
-	-					

VALUE STOLEN	DATE STOLEN	JURISDICTION STOLEN

VALUE RECOVERED	DATE RECOVERED	JURISDICTION RECOVERED	RECOVER LOCATION	RECOVERED BY NAME

EVIDENCE	CUSTODY STATUS	WET	DATE/TIME TAKEN	RECOVERED BY PIN	SOURCE	DESCRIPTION
Y	CUSTODY	N				

LOCATION OF DNA SAMPLE

COMMENT

MEDIA LIST REPORT

	TITLE	MEDIA DATE	ENTERED DATE
	ATTACHMENT	06/04/2021 03:11	06/04/2021 03:11
	CONTEXT: INCIDENT		

06/25/2021
60:016075

NARRATIVE

NARRATIVE:

On 5-25-2021, I was contacted by Clint Cole, a Senior Deputy for the San Luis Obispo County Sheriff's Office. requesting assistance in certifying an old Arroyo Grande Police Department report and booking photograph. Deputy Cole told me these were records retained by the Sheriff's Office. Deputy Cole arrived after our conversation and provided the report and photograph to AGPD Records/Property Clerk Tierza Little, who immediately walked them back to me at my desk.

I examined the nine page document first:

The first page I recognized as an Arroyo Grande Police Department report written in an old computer software report writing system that was discontinued as I was beginning my employment. The arrest number #13113 and DR#960933 (case number) were consistent with the numbering we used at the time for arrest/booking numbers and report/case numbers. I recognized the reporting officer listed as Beau D Pryor, who was an officer at the time and who I worked with throughout most of my career. I recognized the initials/signature as belonging to John Ferdolage P007, who was a retired Commander and Reserve Police Officer when I began my career. I recognized the red stamp as consistent with our records stamp applied to any copy of a report that is provided to another agency, a stamp which is still utilized today, although updated. The Police Chief's name, Lester F. Terborch Jr., was the Chief of Police when I began my career and was the Chief of Police at the time of the original report (5-27-1996) and copy (11-24-1998). The records clerk who signed and dated the red stamp for the outgoing copy was identified as Kimberly Boese from her signature. The red stamp indicated we provided a nine page copy of the report to the SLOSO (San Luis Obispo Sheriff's Office) on 11-24-1998. Written in the same blue ink as Boese's handwriting is "attn: Steve Crawford" who I am unfamiliar with but who was likely working for the Sheriff's Office at the time.

The second page I recognized as an Arroyo Grande Police Department Warrant Arrest form AG-76. The form was completed with the arrestee listed as Paul Ruben Flores with the case number 96-0933. As a young officer, I completed this form numerous times when I arrested individuals with warrants. The AG-76 form was discontinued several years after I began my employment. I noticed the form listed the arresting officer as Beau D. Pryor and the supervisor was the initials of John Ferdolage. Due to my long working relationship with Beau Pryor, 18 years, I immediately recognized the handwriting as belonging to him.

The third page I recognized as an Arroyo Grande Police Department Court Calendar / Release form (AG-35) used after booking to set a court date and release the individual on bail or own recognizance. The form was completed with the defendant listed as Paul Ruben Flores with the case number 96-0933. As a young officer, I completed this form numerous times when I arrested individuals with warrants. The AG-35 form was discontinued several years after I began my employment. Again, I recognized the handwriting as belonging to Beau Pryor.

The fourth page I recognized as a warrant abstract, which details the information on the warrant and lists Paul Ruben Flores as the wanted person. The case #96-0933 is in the upper right corner.

The fifth page I recognize as a San Luis Obispo County Municipal Court Warrant Return document used by the Arroyo Grande Police Department, AG-44. The form was completed with the defendant listed as Paul Ruben Flores. As a young officer, I completed this form numerous times when I arrested individuals with warrants. The AG-44 form was discontinued several years after I began my

06/25/2021
60:016076

employment and is now an electronic document. Again, I recognized the handwriting and his signature as belonging to Beau Pryor.

Pages six through nine I recognize a printouts from the California Law Enforcement Telecommunications System (CLETS). These are standard printouts that were (and still are) included with arrest reports, including a printout of the suspect/arrestee's driver's license information. The driver's license printout lists Paul Ruben Flores. In the upper right corner, the handwritten case number is 96-0933.

I examined the 3x5 color photograph:

I recognized the background of the photograph as the Arroyo Grande Police Department custody area where we would book arrestees before releasing them from the station, instead of transporting them to the San Luis Obispo County Jail for booking. I am familiar with this area as I booked numerous arrestee's in this area. We would complete the booking paper work, roll inked fingerprints and take the arrestee's photograph (later digital images). This area of the police department now serves as part of our property and evidence room. Also shown in the photograph is a white male adult, holding a card listing the name Flores, Paul R. #13113 (arrest/booking number) and the date 5-27-96. In the lower right corner of the photograph, is the date imprinted by the camera, 5-27-1996. In the upper right corner, C6380 is handwritten in black marker. I was unable to determine what this number was used for. I recognize this photograph as a standard booking photograph that would have been taken at the Arroyo Grande Police Department.

Records/Property Clerk Little told me she conducted an exhaustive records search at our police department for the original arrest report and booking photograph. She was unable to locate either and said they were likely purged as well as all the records from that time except for major felonies, such as homicides, to which we still retain the records for.

Records/Property Clerk Little did discover several boxes in storage containing old fingerprint cards. She provided me with two fingerprint cards, stapled together with an old rusty staple. Both cards list Paul Ruben Flores as the subject, DOB: 10-22-1976, dated 5-27-1996 with the case#96-0933 (96-933). Both cards have the signature of Beau D. Pryor, which I recognize as his signature.

I was unable to contact Beau D. Pryor, Retired Chief of Police due to his recent death, 4-21-2021.

I contacted John Ferdolage, retired Arroyo Grande Police Department Commander. Cmdr. Ferdolage said he recognized the forms as forms that would have been used at that time and authenticated his intials/signature. Cmdr. Ferdolage did not have an independent recollection of the arrest/booking.

I contacted Kimberly Boese, former Arroyo Grande Police Department Records Clerk. Boese said she recognized the stamp on the front of the documents and authenticated the signature as hers. Boese did not have an independent recollection of the arrest/booking.

In investigating and evaluating the copy of the report and the photograph, I concluded that they are consistent with a warrant arrest report and booking photograph that would have been completed/taken at the Arroyo Grande Police Department during the time listed by Beau Pryor. I have verified the signatures on the documents as authentic. This report should be certified as authentic copies of the originals, in accordance with Evidence Code 1531.

06/25/2021
60:016077

The police report, photograph and fingerprints were booked into evidence. A letter certifying their authenticity per Evidence Code 1531 was completed and attached to this report.

CASE DISPOSITION:

Cleared by exception.

06/25/2021
60:016078

ARROYO GRANDE POLICE DEPARTMENT

200 N. HALCYON ROAD
ARROYO GRANDE, CA 93420
(805) 473-5100

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	SUPPLEMENT NUMBER
2100740	1
CASE TYPE	CAD EVENT NUMBER
AOA	
REPORTING OFFICER	REPORT DATE
C096/C096 - LITTLE, TIERZA	06/23/2021

INCIDENT

LOCATION	DATE	TIME
200 N HALCYON RD , ARROYO GRANDE, CA 93420 US SAN LUIS OBISPO	06/23/2021	11:05
PREMISE NAME		

BEAT	DIVISION	UNIT	SHIFT	JURISDICTION
46-2	SUPPORT	RECORDS	SQUAD A	AGPD

ADDITIONAL INFORMATION

☐ DUI TC ☐ PRCS AB109

MEDIA LIST REPORT

	TITLE	MEDIA DATE	ENTERED DATE
1	DISCOVERY	06/23/2021 11:33	06/23/2021 11:33
	CONTEXT: INCIDENT		
1	COPY OF ITEM 2 AND CERT LETTER	06/23/2021 11:31	06/23/2021 11:31
	CONTEXT: INCIDENT		

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and is not to be duplicated, copied or furnished to any other person or agency except as provided by law, without the permission of the Arroyo Grande Police Department.

Michael T. Martinez, Chief of Police

By: [illegible] Date: 6.23.21

STATUS

CASE STATUS	CASE STATUS DATE	DISPOSITION	DISPOSITION DATE	APPROVAL	APPROVAL DATE
CLOSED	06/26/2021	DOC	05/25/2021	P071 - SMILEY, MICHAEL	06/23/2021

06/25/2021
60:016079

NARRATIVE

NARRATIVE:

On 6/22/2021, I received a discovery request from the San Luis Obispo County District Attorney's Office, requesting copies of Item #1, #2 and #3. Furthermore, the DA requested a certified copy of Item #2 (Booking Photo).

On 6/23/2021, I checked-out Item #1, #2 and #3 from property and evidence. I made photo copies of each item, per the DA's discovery request. I placed all three items back into it's original envelope and sealed it with evidence tape. I signed the evidence tape with my initials and date. All three items were checked back into property and evidence. All three items stayed in my possession the entire time they were checked-out.

While the items were checked-out to me, I made a color copy of Item #2 and provided the copy to our Custodian of Records, Commander Zak Ayala, along with a certification letter, in which he signed.

I scanned both documents, along with the discovery request, and attached them to the media section of this supplement. The originals were sent to the DA's office.

CASE DISPOSITION:

Closed. Documentation only.

06/25/2021
60:016080

Arroyo Grande Police Department

Arrest Report

AR# 13113
DR# 960933
IN# 114836

Report Date: 05-27-96 Report ID: 114836.A45

Offenses
Warrant/Traffic FTA

Arrestee: FLORES, PAUL RUBEN
AKA:
Age: 19 DOB: 10-22-76 ADULT
Race: H Eth. H Hair: BLN Ht: 510
Sex: M Eyes: GRN Wt: 165

Occ. on: MON, 05-27-96 at 23:05
or Btwn: , at

HP# 473-4694 WP#
SS# 546-97-5858 Hold for:
DL# A7119112 Booked: AGPD

If Juvenile:
Par. Notified:
Detained? N
Adult at interview:
Detention appr. by:
Prints? Y Photos? Y

Birthplace: CALIF.
Residence Addr: 710 WHITE CT
Residence City: ARROYO GRANDE, CA.
Occupation/Grade: STUDENT
Employer/School: CAL POLY

Loc. of Arrest: AGPD
Loc. of Crime: 200 N HALCYON RD (ARRO
Means: OTHER
Motive: OTHER
Distinguishing Characteristics:
Clothing Worn:
Driving (direction):
Driving (at or between):
Connecting Reports, People etc.:
Emergency Contact and Phone No.:
Case Clearance/Disposition: 2 Arrest

ARRESTED
Date: 05-27-96
Time: 23:05

BOOKED
Date: 05-27-96
Time: 23:05

ADDITIONAL PEOPLE INVOLVED

CODES: S=Suspect, V=Victim, W=Witness, C=Complainant, F=Father, M=Mother

The Details are as follows:

SEE TO WARRANT/ARREST FORM ATTACHED TO THIS REPORT.

Rights (if applicable) read by: P#

Supervisor P# Reporting Officer(s) P#. Assmt. Rep. Off. Signature

PRYOR, BEAU D P045 PATROL

Assigned to: P# Assmt 5-28-96 Date/Time Reproduced Div/Clk To Whom

__Charged as Arr. __Refer to Social Agency __Prior Record __Action suspended. __Refer other Law Enf.
__Denies __Admits __Charge changed to _____ AP&P notified_____

06/25/2021
60:016081

ARROYO GRANDE POLICE DEPARTMENT

WARRANT ARREST / DETENTION

ARRESTEE: FLORES, PAUL RUBEN CASE# 96-0933

PC for CONTACT: The above subject was contacted by me at 200 N. HALCYON, A.G.P.D.

The subject came to my attention when HE CAME INTO THE A.G.P.D. TO TURN HIMSELF IN FOR AN OUTSTANDING ARREST WARRANT. I ARRESTED FLORES FOR WARRANT # M242916.

SUMMARY: The subject was placed under arrest per the attached warrant.

DISPOSITION: The subject was transported to the Arroyo Grande Police Department where he/she was detained and later released on:

☐ Cash Bail Amount _____

☒ Bail Bond #R25-10329997

☐ Citation Release Cite# _____

☐ Other _____

Court Appearance: Date 07.11.96 Time 8:00 AM Loc. SB.M.C.

☐ Subject unable to post bail and transported to the San Luis Obispo County Jail for booking.

Arresting Officer: BRIAN D. PRYOR Date 05.27.96

Supervisor: Date: 5-27-96

AG-76

06/25/2021
60:016082

M242916 — COURT CASE NO.
ARROYO GRANDE P.D. — AGENCY
V.C. 40515 FOR V.C. 14601.2(a) — VIOLATIONS
96-0933 — AGENCY CASE NO.
A.G.P.D. / PRYOR — ARRESTING AGENCY/OFFICER
CITATION NO./DATE
$ 1,500 — BAIL AMOUNT

PAUL RUBEN FLORES — DEFENDANT
710 WHITE CT. — ADDRESS
ARROYO GRANDE, CA. 93420

COURT APPEARANCE / CALENDAR INFORMATION

___ San Luis Obispo Branch, Government Center, 1050 Monterey St., Dept. I, Room 132
X Grover City Branch, 214 South 16th Street
___ Paso Robles Branch, 549 10th Street

Other:

07-11-96 AT 8:00 A.M. — DATE AND TIME FOR APPEARANCE
ARRAIGNMENT — PROCEEDINGS

X COURT APPEARANCE IS MANDATORY

___ BAIL MAY BE POSTED FOR FORFEITURE IN LIEU OF APPEARANCE

BAIL DEPOSIT INFORMATION

$ — Cash Bail Amount
Received From
Address
OFFICER

$1,500 #RZ5-10329997 — Bail Bond Amount & Bond Number
A ACTION — Bonding Company
P.O. BOX 924 PISMO BEACH 93448 — Address
05-27-96 @ 2330 HRS. — DATE and TIME

RELEASE ON PROMISE TO APPEAR/OWN RECOGNIZANCE (853.6, 1318 P.C.)

___ I hereby request that bail be forfeited and the case closed without appearance.

___ I promise I will not leave the State of California without the permission of the Court and that if I fail to appear and am apprehended outside of the State of California, I waive extradition.

___ For release on my own recognizance, I hereby agree that I will personally appear on the above date and time, and will appear personally at all times and places ordered by the Court. I understand the Court may revoke this order and require that I give bail or other assurance of my appearance.

___ I understand that if I willingly fail to appear as promised, such failure to appear is a separate violation for which I may be punished by up to 6 months in jail and/or up to a $1,000.00 fine regardless of the disposition of this charge, and in the case of a felony, by up to three years in State Prison or up to one year in the County Jail, or up to a $10,000 fine, or both.

By initialing the boxes to the left of each statement above, I acknowledge that I understand the contents thereof and agree to the provisions thereof.

Signature of the Defendant

Signature of the Officer

Date and Time

Distribution: Court – Original & 1 Copy

AG-35

06/25/2021
60:016083

96-0933

FROM: SBCL ISN: 1960 DATE: 05/27/96 TIME: 23:04:04 RESPONSE MSG
TO: AGPD OSN: 570 DATE: 05/27/96 TIME: 23:04:05 RCVR LID: SWARD

-- ABSTRACT -- DATE 05/27/96 TIME 2306

SAN LUIS OBISPO WARRANTS CTL BUR HOLDS THE FOLLOWING WARRANT:

NAME	FLORES, PAUL RUBEN
DESCRIPTION	10-22-76 W M 510 170 BLN GRN
ADDRESS	710 WHITECOURT; ARROYO GRANDE, CA
WARRANT #	M242916
CHARGE(S)	40515 VC FOR 14601.2(A) VC NO CITE OUT
WARRANT TYPE	MISDEMEANOR
BAIL	$1,500.00
ISSUE DATE	05-14-96
COURT / RESP AGY	GROVER CITY MC PISMO BEACH PD
MAGISTRATE	CHIDLAW
NIGHT SERVICE?	NO
BAIL FORFEIT?	MANDATORY APPEARANCE REQUIRED
INITIATING AGENCY	ARROYO GRANDE PD
WARRANT CTL #	F4621483-001
ISSUING AGENCY	PBPD

REFER TO: SAN LUIS OBISPO WARRANTS CTL BUR

06/25/2021
60:016084

SAN LUIS OBISPO COUNTY MUNICIPAL COURT

FOR COURT USE ONLY

- ☐ San Luis Obispo Branch, County Government Center, 1050 Monterey Street, Room 220, San Luis Obispo, CA 93408
- ☒ Grover City Branch, 214 South 16th Street, Grover City, CA 93433
- ☐ Paso Robles Branch, 549 10th Street, Paso Robles, CA 93446

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs.

FLORES, PAUL RUBEN, Defendant.

CASE NUMBER: M242916

RETURN OF PEACE OFFICER

I hereby certify that I received the warrant issued on 05.14.96 calling for the arrest of the above-named defendant. I further certify that I arrested said defendant on 05.27.96 and

(Applicable Item Checked)

☐ bringing said defendant before a magistrate of the _____ Court of _____ Judicial District, on _____ in the County of _____

☒ booking said defendant at the ARROYO GRANDE POLICE DEPT. Jail, on 05.27.96 in the County of SAN LUIS OBISPO

BEAU PRYOR / PEACE OFFICER
Name and Title of Peace Officer

Dated: 05.27.96

By _____
Officer or Deputy

P.C. §§ 821,822,848

APPEARANCE DATE ON ADMISSION TO BAIL

Bail and penalty assessment posted and defendant notified to appear in the above-entitled Court on 07.11.96 at 8:00 A.M.

Dated: 05.27.96

BEAU PRYOR
Officer in Charge of Jail

P.C. §§ 1269, 1295

CERTIFICATE OF A MAGISTRATE OF ANOTHER COURT

I hereby certify that the defendant named in the above warrant was this day brought before me and I ordered that the said defendant be admitted to bail in the sum of $ _____ including penalty assessment.

(Applicable Item Checked)

Bail Given

☐ Bail and penalty assessment having been given by _____, whose address is _____, the said defendant was ordered to appear in the above-entitled court on _____ at _____ M., and said defendant is hereby ordered released.

Bail Not Given

☐ Bail not having been given, the said defendant is hereby remanded to the custody of the _____ for appearance in the above-entitled court on _____ at _____ M.

Dated: _____

_____
Signature of Magistrate

at _____, California.

_____
Title and Court

2510-150 [9006]

P.C. §§ 821, 824, 1269, 1269a, 1269b

3C-44

06/25/2021
60:016085

FROM: SBCL ISN: 2045 DATE: 05/28/96 TIME: 00:09:40 RESPONSE MSG 96-0933
TO: AGPD OSN: 599 DATE: 05/28/96 TIME: 00:09:40 RCVR LID: SWARD

NW01 WCN F4621483 001 WARRANT NOW CLEARED

06/25/2021
60:016089

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Michael L. Manning, Chief of Police

By: JL Date: 6-23-21

06/25/2021
60:016090

ARROYO GRANDE POLICE DEPARTMENT

June 23, 2021

San Luis Obispo County
District Attorney's Office
Attn: DDA Chris Peuvrelle
1035 Palm Street
San Luis Obispo, CA 93408

Subject: Certified Copy of Item #2(Booking Photo) from AGPD# 2100740

To Whom It May Concern,

I, Zak Ayala, the undersigned, say:

1. I am the duly authorized Custodian of Records of the Arroyo Grande Police Department:
2. I have the authority to certify copies of these records;
3. (Check the appropriate boxes)
   a. (X) The copies transmitted herewith are true and accurate copies of the original documents.
   b. ( ) No copies are transmitted herewith because the Arroyo Grande Police Department has none of the records described in the attached subpoena.
   c. ( ) No copies or records are transmitted herewith because they are protected under one or more of the sections listed in #3(a) above.
   d. ( ) Without a court order (which is signed by a judge), we are unable to release anything further.

The records referred to above were prepared by the personnel of the Arroyo Grande Police Department in the ordinary course of business, executed on June 23, 2021.

I declare under penalty of perjury that the above is true and correct.

MICHAEL T. MARTINEZ
CHIEF OF POLICE

Zak Ayala
Support Services Commander

200 North Halcyon Road, Arroyo Grande, CA 93420 • Phone (805) 473-5120 • FAX (805) 473-2198
Website: www.agpe.org

06/25/2021
60:016091



06/25/2021
60:016092



ARROYO GRANDE POLICE DEPARTMENT
200 North Halcyon Road
Arroyo Grande, California 93420

TYPE OR PRINT ALL INFORMATION IN BLACK

FBI LEAVE BLANK

LAST NAME NAM FLORES, FIRST NAME PAUL MIDDLE NAME RUBEN

ALIASES

CONTRIBUTOR ORI CA0400100 PD. ARROYO GRANDE, CA

DATE OF BIRTH DOB Month Day Year 10/22/76

SIGNATURE OF PERSON FINGERPRINTED X

THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES

DATE ARRESTED OR RECEIVED DOA 05/27/96

SEX M | RACE H | HGT. 510 | WGT. 165 | EYES GRN | HAIR BLO | PLACE OF BIRTH POB CALIFORNIA

DATE 5-27-96

SIGNATURE OF OFFICIAL TAKING FINGERPRINTS

YOUR NO. OCA 960933

LEAVE BLANK

CHARGE WAR

FBI NO. FBI

CLASS

SID NO. SID

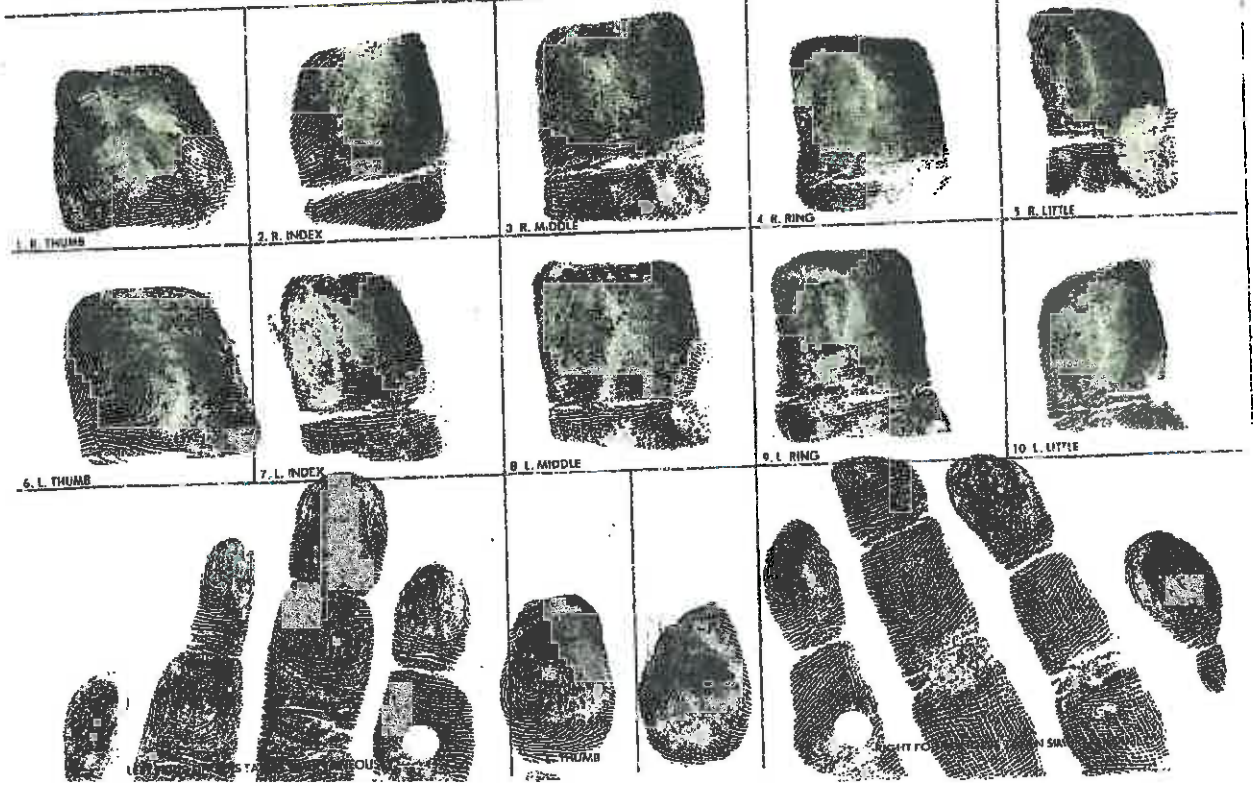
REF.

SOCIAL SECURITY NO. SOC 546-97-5858

NCIC CLASS - FPC

FINAL DISPOSITION

CAUTION



06/25/2021
60:016093

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20537

	YES	NO
PALM PRINTS TAKEN?		X
PHOTO AVAILABLE?	X	

IF ARREST FINGERPRINTS SENT FBI PREVIOUSLY AND FBI NO. UNKNOWN
FURNISH ARREST NO. _____ DATE _____

STATUTE CITATION (SEE INSTRUCTIONS NO 9) CIT
1.
2.
3.

ARREST DISPOSITION (SEE INSTRUCTION NO 5) ADN

EMPLOYER: (IF U S GOVERNMENT INDICATE SPECIFIC AGENCY
IF MILITARY, LIST BRANCH OF SERVICE AND SERIAL NO.)
CAL POLY STATE UNIVERSITY

OCCUPATION STUDENT

RESIDENCE OF PERSON FINGERPRINTED ~~X-C WORCE~~ PISMO BEACH

SCARS, MARKS, TATTOOS, AND AMPUTATIONS SMT

BASIS FOR CAUTION ICO

DATE OF OFFENSE DOO 05/27/98

SKIN TONE SKN

MISC NO (MNU) DL#IA7119112

ADDITIONAL INFORMATION

INSTRUCTIONS

1. UNLESS OTHERWISE PROVIDED BY REGULATION IN YOUR STATE FINGERPRINTS ARE TO BE SUBMITTED DIRECTLY TO FBI IDENTIFICATION DIVISION FORWARD IMMEDIATELY FOR MOST EFFECTIVE SERVICE
2. FINGERPRINTS SHOULD BE SUBMITTED BY ARRESTING AGENCY ONLY (MULTIPLE PRINTS ON SAME CHARGE SHOULD NOT BE SUBMITTED BY OTHER AGENCIES SUCH AS JAILS, RECEIVING AGENCIES ETC) REQUESTS COPIES OF FBI IDENTIFICATION RECORD FOR ALL OTHER INTERESTED AGENCIES IN BLOCK BELOW, GIVE COMPLETE MAILING ADDRESS INCLUDING ZIP CODE
3. TYPE OR PRINT ALL INFORMATION.
4. NOTE AMPUTATIONS IN PROPER FINGER BLOCKS
5. LIST FINAL DISPOSITION IN BLOCK ON FRONT SIDE IF NOT NOW AVAILABLE, SUBMIT LATER ON FBI FORM R 84 FOR COMPLETION OF RECORD IF FINAL DISPOSITION NOT AVAILABLE SHOW PRE-TRIAL OR ARRESTING AGENCY DISPOSITION e g , RELEASED, NO FORMAL CHARGE, BAIL TURNED OVER TO, IN THE ARREST DISPOSITION BLOCK PROVIDED ON THIS SIDE
6. MAKE CERTAIN ALL IMPRESSIONS ARE LEGIBLE FULLY ROLLED AND CLASSIFIABLE
7. CAUTION - CHECK BOX ON FRONT IF CAUTION STATEMENT INDICATED BASIS FOR CAUTION (ICO) MUST GIVE REASON FOR CAUTION, e g , ARMED AND DANGEROUS, SUICIDAL ETC
8. MISCELLANEOUS NUMBER (MNU) - SHOULD INCLUDE SUCH NUMBERS AS MILITARY SERVICE, PASSPORT AND-OR VETERANS ADMINISTRATION (IDENTIFY TYPE OF NUMBER)
9. PROVIDE STATUTE CITATION, IDENTIFYING SPECIFIC STATUTE (example - FL for PENAL LAW) AND CRIMINAL CODE CITATION INCLUDING ANY SUB SECTIONS.
10. ALL INFORMATION REQUESTED IS ESSENTIAL.
11. PRIVACY ACT OF 1974 (P L 93-579) REQUIRES THAT FEDERAL, STATE, OR LOCAL AGENCIES INFORM INDIVIDUALS WHOSE SOCIAL SECURITY NUMBER IS REQUESTED WHETHER SUCH DISCLOSURE IS MANDATORY OR VOLUNTARY, BASIS OF AUTHORITY FOR SUCH SOLICITATION, AND USES WHICH WILL BE MADE OF IT

REPLY DESIRED? YES [ ] NO [ ]
(REPLY WILL BE SENT IN ALL CASES IF SUBJECT FOUND TO BE WANTED)

IF COLLECT WIRE OR COLLECT TELEPHONE REPLY DESIRED, INDICATE HERE: (WIRE SENT ON ALL UNKNOWN DECEASED)

WIRE REPLY [ ] TELEPHONE REPLY [ ] TELEPHONE NO. AND AREA CODE

SEND COPY TO NAME, ORI NUMBER AND ADDRESS

LEAVE BLANK

FD-249 (REV. 12-29-82)

☆U.S G P O 1986 — 155-394



06/25/2021
60:016094

ARROYO GRANDE POLICE DEPARTMENT

I.O.NO. 114836.A45 CR: 96-933

LAST NAME	FIRST NAME	MIDDLE NAME	BIRTH DATE	BOOKING NO.	DATE
Flores,	Paul	Ruben	10-22-76	13113	5-27-96

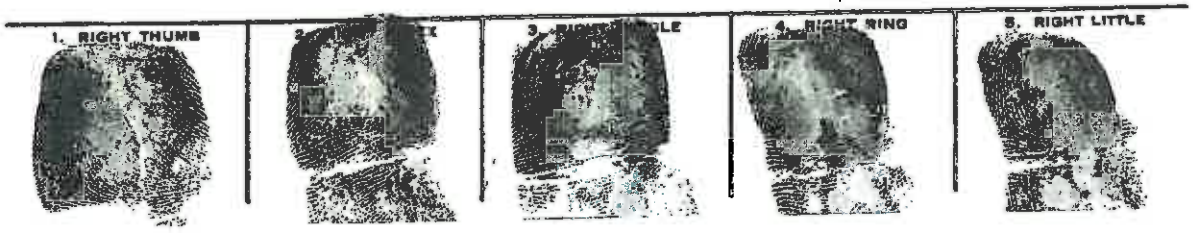
SIGNATURE OF PERSON FINGERPRINTED

X Paul Flores

SIGNATURE OF OFFICIAL TAKING FINGERPRINTS

Dan D. Hayes





06/25/2021
60:016095

ARROYO GRANDE POLICE DEPARTMENT
200 North Halcyon Road
Arroyo Grande, California 93420

06/25/2021
60:016096

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Michael T. Martinez, Chief of Police

By: JL Date: 6-23-21

06/25/2021
60:016097

ATTACHMENT 2

PEOPLE V. PAUL RUBEN FLORES & RUBEN RICARDO FLORES

CASE NO. 21F-02402-A, B

DA CASE NO. 079-662557 & 079-663275

ITEM 41 – INTERVIEW WITH PAUL FLORES – 5/30/96

K = DETECTIVE MIKE KENNEDY, SAN LUIS OBISPO SHERIFF'S DEPARTMENT

H = OFFICER ROBERT CUDWORTH, CAL POLY POLICE DEPARTMENT

F = PAUL RUBEN FLORES, DEFENDANT

[TRANSCRIBED BY SL ON 7/5/22]

[START TIME 00:00:00]

K OH GOD, LET ME UNPLUG MY PHONE. THAT'S GONNA BE THE FIRST THING. THAT WAY WE DON'T UH -- I KNOW THE PHONE'S GONNA CONTINUE TO RING. IT'S RUN ALL DAY. WHEW -- UH THANKS FOR COMING DOWN. THIS IS -- IT'S NOT A CRIMINAL MATTER. [UNINTELLIGIBLE]

F RIGHT

K BECAUSE YOU'RE THE LAST PERSON -- UH, WE APPRECIATE YOU COMING DOWN --

F YEAH NO PROBLEM.

K IT'S VOLUNTARY

F YEAH, I UNDERSTAND. YEAH.

K OKAY. UHM, LET'S GO OVER AGAIN. UH, WHAT I WANT YOU TO DO FOR ME THOUGH UH – IS DO SOMETHING A LITTLE DIFFERENT. . UH, WHAT I WANT YOU TO DO IS START BACKWARDS FROM THE LAST TIME YOU SAW ROXY AND TAKE ME BACK DOWN TO WHEN YOU WERE WALKING IN FRONT OF THE HEALTH CENTER. SO IT'S JUST GONNA -- IT'S GONNA TAKE A LITTLE THOUGHT PROCESS, SO JUST KINDA GO THROUGH IT FOR ME.

F OH, REVERSE?

K YEAH. WHAT I WANT YOU TO DO IS DO IT BACKWARDS.

F OH. OKAY.

K SO OPEN WITH THE LAST TIME YOU SAW ROXY -- UH, AT THAT POINT UH DESCRIBE WHAT YOU DID, GOING BACKWARDS.

F OKAY

K DOWN TO THE HEALTH CENTER

F OKAY UHM, SHE WALKED THAT WAY, I WALKED THAT WAY. THAT'S THE LAST TIME I SAW HER.THEN THE OTHER GIRL LEFT AT THE -- AT THE CORNER OVER THERE AND THEN UH -- AND -- AND A COUPLE TIMES LIKE ON THE WAY, MAYBE PROBABLY TWICE YOU KNOW, I WENT LIKE THAT, JUST GAVE HER KINDA LIKE A HUG, 'CAUSE SHE WAS FREEZIN'. I — I — I REMEMBER THAT. AND THEN I THOUGHT -- I REMEMBER ONE TIME OVER THE -- IT PROBABLY WAS ABOUT THE HEALTH CENTER, LIKE I TOLD UH -- BECAUSE UH -- BECAUSE ROXY WAS WALKING REAL SLOW AND SO THEN UH -- I -- I TOLD THE OTHER GIRL THAT SHE CAN GO IF SHE WANTED TO. I REMEMBER SAYING THAT TO HER. AND THEN UH -- BE -- ' CAUSE I WAS LIKE -- AND THEN UH -- AND I DON'T EVEN REMEMBER WHAT WE WERE TALKIN' ABOUT DURING THE WHOLE TIME. WE WERE JUST—

K OKAY

F WE WERE JUST WALKING.

K OKAY. HOW -- HOW MUCH DID YOU HAVE TO DRINK THAT NIGHT PAUL?

F TOO MUCH

K OKAY, WELL WHAT'S THAT?

F I DON'T – I – I – I'M NOT QUITE SURE. I JUST WOUND UP THROWING UP LATER ON. SO—

K ALRIGHT. OKAY. WHAT TIME WAS THAT? WHEN DID YOU GET SICK?

F OOH – OOH – OOH – RIGHT WHEN WE GOT BACK, PRETTY WELL MUCH.

K OKAY. CAN YOU REMEMBER WHAT TIME THAT WAS? DID YOU LOOK AT A CLOCK OR --?

F NUH-UH. I DIDN'T EVEN—

K OKAY, CAN YOU MAKE A GUESS AS TO WHAT TIME IT WAS?

F NO, I – I DON'T EVEN KNOW WHAT TIME I LEFT THERE OR NOTHIN'.

K OKAY. UH—

F IT WASN'T LIKE I WAS LIKE DOIN' GALLONS OR NOTHIN' – IT WAS JUST LIKE A LITTLE TINY BIT, SO THEN –

K WELL IF – IF YOU GET SICK UH—

F JUST LIKE – YEAH.

K YOU KNOW LIKE TOO MUCH FOR YOU IS – IS MANY WAY TOO MUCH FOR ME OR IT'S UH --

F OH--

K [UNINTELLIGIBLE] SO WHAT I'M TRYING TO DO IS KINDA GET AN IDEA.

F SO OH -- BE -- BE -- BECAUSE THEN WHAT HAPPENED IS LIKE RIGHT BEFORE I WENT I HAD TWO BEERS LIKE THAT (SNAPS FINGERS) AND THEN --

K OKAY.

F AND THEN LIKE JUST FROM WALKING JUST LIKE -- JUST -- BUT -- BUT THEN UH, I WENT TO SLEEP. AND THEN UH --

K HOW DID YOU -- UH, LET'S GO BACK TO THE PARTY AND KINDA GO IN FORWARD MOTION HERE, UH FROM THE POINT THAT YOU WERE LEAVING THE PARTY UH AND YOU JOINED UP WITH ROXY AND THE OTHER PEOPLE.

F I -- I DON'T -- I DON'T KNOW HOW WE WOUND UP WALKING TOGETHER.

K OKAY.

F BECAUSE THE PARTY WAS JUST PRETTY WELL ENDING –

K UH-HUH.

F I THINK SO. THEN THE PEOPLE WALKING THAT WAY WALKED THAT WAY -- YOU KNOW. PEOPLE WALKING THE OTHER WAY WALKED THE OTHER WAY.

K OKAY. ALRIGHT. UHM -- OKAY. SO, UH OTHER THAN THE TWO [2] HUGS, DID YOU HAVE ANY PHYSICAL CONTACT?

F NAH-UH.

K WITH ROXY?

F NOPE. NEVER GAVE HER A KISS, NOTHIN' OR—

K OKAY, OKAY. ALRIGHT. OKAY.

F YEAH UH -- IT WAS THE NAME THAT SHE WAS USING AT THE PARTY WAS ROXY. BE -- BECAUSE AFTER -- AFTER YOU LEFT I WAS THINKING YOU KNOW -- CHRISTINE, CHRISTINE AND THEN -- AND I WAS LIKE -- THEN I'M ALL -- I'M ALL -- I NEVER EVEN HEARD THAT NAME BEFORE. THEN -- THEN I SAW THAT THE PAPERS IN THE RESIDENCE HALL YESTERDAY TALKIN' ABOUT ROXY. SO -- SO THAT'S THE NAME SHE WAS GOING BY YESTERDAY OR THE FRIDAY.

K KAY. WHAT DID UH, WHAT DID SHE SAY, UH, DO YOU REMEMBER ANY OF THE CONVERSATIONS YOU HAD WALKIN' UP THE HILL?

F NO, SHE WAS JUST -- SAID SHE WAS -- THE ONLY THING I REMEMBER WAS SHE WAS SAYING SHE WAS FREEZING. THAT'S --

K OKAY. WAS THEY ANY TALK OF UH -- YOU KNOW -- GETTIN' TOGETHER --

F NO, NO, NO.

K ANYTHING OF THAT NATURE?

F NOTHIN' AT ALL LIKE THAT.

K YOU SURE?

F I'M POSITIVE.

K OKAY.

F I'D REMEMBER THAT.

K NOTHIN' OTHER THAN THE TWO HUGS, UH THAT UH [UNINTELLIGIBLE] CLAIM SHE WAS COLD.

F YEAH YEAH.

K [UNINTELLIGIBLE] PHYSICAL CONTACT.

F YEAH, YEAH, THAT'S THE ONLY THING SHE SAID TO ME – LIKE I TALKED TO HER ONE TIME AT THE PARTY AND SHE SAID HI I'M ROXY – YOU KNOW – UHM, HOW DO YOU LIKE ME OR SOMETHING LIKE THAT. BUT SHE – SHE KEPT GET – SHE KEPT WALKIN' UP LIKE EVERY SINGLE GUY AT THE PARTY SAYIN' THAT.

K OKAY.

F AT – AT THE TIME -- YOU KNOW – THIS ONE GUY HE'LL START TALKING TO HER AND SHE DID IT TO HIM LIKE THREE TIMES.

K OKAY. HOW WOULD YOU DESCRIBE THAT BEHAVIOR?

F LIKE -- KINDA LIKE -- OVER FLIRTA -- FLIRTATIOUS I GUESS -- YOU KNOW -- JUST LIKE UH -- IT WAS LIKE I WOULDN'T -- EVEN IF THE GIRL WANTED ME, I WOULDN'T BECAUSE -- BECAUSE YOU DON'T KNOW WHAT YOU CAN EVER GET – YOU KNOW -- YOU CAN --

K AS FAR AS--?

F DISEASES.

K OH

F YOU KNOW -- BE -- BECAUSE IT'S LIKE UH -- BECAUSE YOU DON'T -- BECAUSE IF A PERSON'S -- IF YOU DON'T EVEN KNOW THE PERSON, LIKE THAT, THEN [UNINTELLIGIBLE[YOU KNOW THE WAY THAT THEY'RE ACTING YOU JUST GO HEY, YOU KNOW, SHE'S WALKING UP TO EVERYONE LIKE SAYING STUFF TO 'EM AND THEN [UNINTELLIGIBLE] THERE WAS A FEW PEOPLE AT THE PARTY THAT WERE COMPLAINING OR LIKE THEY'RE MAKING JOKES ABOUT IT. KINDA LIKE THAT, SO I [UNINTELLIGIBLE]

K OKAY

F [UNINTELLIGIBLE]

K OKAY. GOOD, UH, YOU HAVE A NICKNAME FOR AROUND THE HALL?

F HALL?

K AROUND THE – AROUND THE HALL, DO YOU HAVE A NICKNAME THAT PEOPLE CALL YOU?

F NAH-UH.

K OKAY. WE – WE'VE FOUND SEVERAL PEOPLE WHO HAVE SAID THAT YOU DO HAVE A NICKNAME.

F BIG P – I DON'T KNOW – THAT – THAT'S MY [UNINTELLIGIBLE] ON THE DOOR OR SOME [UNINTELLIGIBLE] PEOPLE CALL ME [UNINTELLIGIBLE] I GUESS LIKE THAT OR [UNINTELLIGIBLE] PAULINO.

K OKAY. ANYTHING ELSE?

F NO.

K HA -- HA -- HAS ANYBODY KIDDED ABOUT ANY NAMES OR RHYMING NAMES OR ANYTHING OF THAT NATURE?

F PAULIE SHORT. THERE WE GO--

K PAULIE SHORT. OKAY.

F [UNINTELLIGIBLE]

K UHM, NO I WAS THINKING OF UH -- THE PHRASE THAT WE HEARD WAS "CHESTER THE MOLESTER".

F WHAT?! NO. NAH-UH.

K NOBODY'S EVER CALLED YOU THAT?

F NEVER!

K EVER?

F NEVER EVER.

K OKAY. OKAY. UHM, SO THAT'S NOT SOMETHING THAT ANYBODY'S EVEN IN JEST CALLED YOU?

F NAH, I'VE NEVER EVEN HEARD THAT.

K OKAY

F THE ONLY OTHER KIND OF NICKNAMES I'VE HEARD OTHER PEOPLE GET CALLED IS SPANKY 'CAUSE SOME GUY GOT CAUGHT IN HIS ROOM AND THAT'S ABOUT THE ONLY KIND OF NICKNAMES WE EVEN HAVE IN THE HALL. THAT'S ABOUT IT.

K OKAY

F CHESTER THE MOLESTER?

K THAT WAS IT.

F NAH. NO ONE HAS EVER CALLED ME THAT -- THE ONLY – THING THEY CALL ME JUST PAULIE SHORE AND PAULO [UNINTELLIGIBLE].

K ALRIGHT. NOW IT'S IMPORTANT PAUL –

F OH AND UHM, THE OTHER ONE THEY CALLED ME -- THAT LADY -- THE LADY GUY --UH, THE SINGER PERSON. RUE PAUL. THAT'S THE ONLY OTHER ONE THEY CALLED ME.

K OH YEAH. THAT -- THAT'S A GUY. YEAH.

F YEAH A GUY

K WELL I WOULDN'T CONCIDER THAT TOO MUCH OF A COMPLIMENT.

F YEAH [UNINTELLIGIBLE]

K OKAY.

F YEAH THAT'S—

K BUT YOU'VE NEVER HEARD CHESTER THE MOLESTER GETTING AROUND -- THAT'S--?

F NEVER.

K OKAY. ALRIGHT. WELL, OKAY -- UH, WHEN WE HEARD THAT NAME AND THIS INDIVIDUAL WHO TOLD US THAT, UH THEY CAME UP WITH THAT NAME ON THEIR OWN. WE DIDN'T PROMPT 'EM ON THAT. THAT'S WHAT THEY TOLD US.

F UH-HUH

K SO IT'S VERY IMPORTANT THAT YOU REALIZE -- YOU KNOW -- HOW IMPORTANT THAT THIS INVESTIGATION IS.

F YEAH

K YOU – YOU -- YOU'RE GRASPING THIS? THAT THIS IS -- THIS IS VERY SERIOUS BUSINESS WITH A MISSING WOMAN AND THAT SORT OF THING?

F YEAH

K YOU'RE -- YOU'RE AWARE OF ALL THIS?

F I'M AWARE OF THIS.

K OKAY. THIS IS -- THIS IS UH -- I DON'T WANT TO USE THE WORD DEADLY SERIOUS, BUT IT IS AS SERIOUS AS YOU CAN GET.

F UH-HUH.

K ALRIGHT? SHE HASN'T SURFACED. WE HAVEN'T HAD ANY SIGHTINGS OF HER. UH, AT THIS POINT, YOU 'RE THE LAST PERSON THAT SAW HER.

F YEAH. YEAH, THAT'S SERIOUS.

K OKAY. SO IT'S -- IT'S MOST IMPORTANT. IT IS -- I -- I CAN'T IMPRESS UPON YOU HOW IMPORTANT IT IS THAT YOU BE COMPLETELY HONEST HERE --

F UH-HUH.

K AS FAR AS SOME OF THESE NICKNAMES OR THAT SORT OF THING. IF YOU – IF YOU -- IF ANYBODY'S EVER USED THAT OR YOU -- IF YOU'RE AWARE OF IT, LET US KNOW NOW.

F UH--

K OKAY.

F NO. NEVER HEARD ANYONE USE THAT.

K OKAY. ALRIGHT. OKAY, UH -- IN THIS INVESTIGATION WHAT WE'VE DONE IS WE'VE GONE BACK AND WE'VE INTERVIEWED UH TWENTY -- TWENTY-FIVE MEN. OKAY?

F UH-HUH.

K UHM, THEY DESCRIBE UH RO -- UH ROXY OR KRISTIN AS A RATHER PROMISCUOUS INDIVIDUAL.

F YEAH.

K OKAY?

F [UNINTELLIGIBLE]

K UH, IT GOES ALONG WITH WHAT YOU WERE SAYING AT THE PARTY.

F UH-HUH.

K OKAY. UH, SO NOW HERE -- HERE WE HAVE -- LOOK AT THIS FROM OUR POINT OF VIEW FOR A MOMENT. HERE WE HAVE SOMEBODY THAT IS UH -- HAS A NICKNAME OF CHESTER THE MOLESTER.

F YEAH.

K OKAY.

F YEAH. OKAY.

K OKAY, WE'RE GOING FROM MY POINT OF VIEW --

F RIGHT. I KNOW.

K OKAY, SO HERE WE HAVE A GUY NAMED CHESTER THE MOLESTER AND HE'S LAST SEEN WALKING UP THE HILL WITH A WOMAN THAT IS VERY PROMISCUOUS.

F UH-HUH.

K OKAY. UH, AND I'M PUTTING IT KINDLY FROM WHAT SOME OF THESE OTHER PEOPLE HAVE SAID. UH, WE BELIEVE THAT UH ROXY WAS UH -- UH INTIMATE WITH A NUMBER OF INDIVIDUALS UH, AND --

F WHILE AT THE PARTY?

K NOT AT THE PARTY –

F OH

K BUT OVER THE COURSE OF THE LAST SEVERAL WEEKS THAT WE'VE BEEN ABLE TO ESTABLISH.

F OH

K ALRIGHT? SO NOW WE'VE GOT A GUY NAMED CHESTER THE MOLESTER. WE HAVE THIS MASSIVELY PROMISCUOUS INDIVIDUAL AND YOU'RE CLAIMING THAT THERE WAS NOTHING THAT WENT ON.

F NOTHING

K ABSOLUTELY NOTHING?

F ABSOLUTELY NOTHING. NO KISS.

K OKAY

F JUST THE CH -- JUST THE HUGS WHEN SHE WAS SAYING SHE WAS FREEZING.

K OKAY. UHM, WHEN YOU GOT BACK TO YOUR RESIDENCE HALL --

F UH-HUMM.

K UH, WHO WAS THERE? ANYBODY SEE YOU COME INTO THE RESIDENCE HALL?

F NAH-UH. I SAW SOMEONE WHEN I WENT TO THE BATHROOM. IT'S LIKE UH -- I DON'T RE -- EVEN RECALL WHO IT WAS.

K OKAY.

C THIS WAS WHEN YOU WERE GETTING SICK? WHEN YOU WENT TO THE BATHROOM?

F YEAH -- YES.

K OKAY, YOU NEED TO THINK ABOUT THAT PAUL.

F YEAH.

K WE NEED TO FIND THAT PERSON.

F YEAH. THAT WOULD BE MY ALIBI.

K THIS PERSON IS GONNA BE AN ALIBI, IF IT COMES DOWN TO THAT. I'M NOT SAYING YOU NEED ANALIBI, BUT THIS PERSON'S GONNA PUT YOU IN THE HALL. OKAY?

F YEAH

K UH, DON'T GO OUT AND MAKE THIS UP. DON'T GO OUT AND --

F RIGHT

K AND [UNINTELLIGIBLE] SOMEBODY—

F RIGHT

K TO LIE FOR YOU. OKAY? WHAT WE NEED IS WE NEED THE NAME OF THAT INDIVIDUAL.

F RIGHT

K OKAY. SO THINK ABOUT IT. RACK YOUR BRAIN --

F YEAH

K UH, DON'T HAVE ANY ALCOHOL [UNINTELLIGIBLE] THINKING ABOUT IT.

F RIGHT

K JUST THINK ABOUT IT STRAIGHT. UHM, WE NEED TO FIND THAT PERSON.

F RIGHT

K WHAT ABOUT YOUR ROOMMATE?

F UHM, HE WAS AT HIS GIRLFRIENDS.

K OKAY. UH, SO THAT NIGHT THIS PERSON IN THE HALLWAY SAW YOU WHEN YOU WERE GOING TOTHE BATHROOM?

F HE – [UNINTELLIGIBLE] I SAW SOME – UH, AND THEN LATER ON -- OH, IT'S PROBABLY MAYBE -- IWANT TO SAY MAYBE FIVE [5:00] O'CLOCK IN THE MORNING OR SOMETHING LIKE THAT.

K OKAY

F IT'S LIKE -- 'CAUSE I HAD SOME BAD TASTE IN MY MOUTH SO I WENT AND TOOK A SHOWER.

K OKAY.

F THEN -- THEN WHEN I WAS TAKING THE SHOWER, SOM -- SOMEONE WAS IN THERE I KNOW.

K OKAY.

F SO IF YOU FIND OUT –

K DID YOU SEE THAT PERSON OR DID THAT PERSON SEE YOU?

F NO, NO. YEAH, WELL -- (UNINTELLIGIBLE) TAKING A SHOWER. SO –

K OKAY

F SO I GUESS LIKE SOMEONE WAS IN THERE WHILE I WAS TAKING MY SHOWER, 'CAUSE I HEARD -- HEARD THE BATHROOM DOORCLOSE –

K OKAY

F FROM -- FROM ONE OF THE LITTLE STALLS. SO -- SO SOMEONE HEARD THE SHOWER GOING.

K ALRIGHT

F I WOULD HAVE TO SAY

K OKAY. UHM, ALRIGHT. SO THAT'S FIVE [5:00] O'CLOCK IN THE MORNING?

F YEAH, IT WAS JUST PRIOR TO—

K WHAT -- WHAT I'M LOOKING FOR AND THAT'S--

F YEAH

K WHAT'S THE TIME FRAME HERE? WE'RE -- WE'RE ENDING AT FIVE [5:00] O'CLOCK WHEN YOU'RE TAKING A SHOWER -- WHAT TIME--?

F YEAH, I KNOW.

K WHAT TIME DID YOU GET HOME? THAT'S WHAT WE'RE -- THAT'S WHAT WE'RE AFTER.

F YEAH. YEAH, BUT EVEN FIVE [5:00] O'CLOCK, THAT WOULD BE -- YOU KNOW -- EVEN IF IT -- IF I GOT IN AT THREE [3:00], THAT'S TWO HOURS THAT NO ONE SAW ME LIKE – YOU KNOW.

K OKAY. ALRIGHT. UHM, ALRIGHT.

F (UNINTELLIGIBLE) WELL --- WELL I -- I CAN'T REMEMBER WHO I -- I EVEN SAW. IT'S LIKE -- 'CAUSE I SEE EVERYONE EVERY SINGLE TIME. SO IT'S LIKE TRYING TO REMEMBER (UNINTELLIGIBLE) WITH IT.

K HAVE YOU HAD UH -- HAVE YOU HAD SEX IN YOUR ROOM WITH ANY WOMEN OVER THE LAST --

F NO.

K COUPLE WEEKS?

F NEVER. NOT EVEN ALL YEAR LONG.

K ALL YEAR LONG. OKAY. UH, DO YOU HAVE A GIRLFRIEND?

K OKAY. UH, YOU HAVEN'T BEEN INTIMATE WITH ANYBODY, A FEMALE SINCE WHEN? HAS IT BEEN BEFORE THE SCHOOL YEAR STARTED?

F YES.

K OKAY.

F WELL -- WELL, EXCEPT FOR ONE TIME DURING CHRISTMAS BREAK, BUT THAT'S ABOUT IT.

K OKAY. THAT'S FINE. OKAY. GOOD.

F BUT THE -- THE ONLY THING I'VE DONE WAS KISS GIRLS. THAT'S IT.

K OKAY. NEVER HAD SEX WITH WOMEN?

F RIGHT.

K OKAY. ALRIGHT. UHM, DID YOU -- DID YOU FIND UH ROXY ATTRACTIVE?

F NAH-UH. NOT --

K HOW COME?

F SHE WAS DRUNK. IT'S LIKE -- WELL, IT'S LIKE UH, SHE -- SHE WAS TALLER THAN ME. I -- I DON'T KNOW, IT'S JUST LIKE SOME PEOPLE -- [UNINTELLIGIBLE] SOME OTHER GIRL I WAS TALKING TO THERE. SO IT'S JUST -- I -- I DON'T KNOW SOME PEOPLE [UNINTELLIGIBLE] BUT -- BUT LIKE IF SOMEONE'S PROMISCUOUS I DON'T -- I DON'T -- I DON'T FIND THEM ATTRACTIVE, 'CAUSE --

K OKAY. UH, ALRIGHT. OKAY. DO YOU HAVE ANYTHING TO ADD, AS FAR AS YOUR TIMES FRAMES, UH --

F I CAN'T THINK OF ANYTHING.

K WHO SAW YOU, UH -- HOW'D YOU -- HOW DID YOU GET TO THE PARTY? LET'S GO BACK TO THAT.

F I WALKED THERE.

K OKAY, WITH WHO?

F MYSELF.

K OKAY, SO YOU DIDN'T GO WITH ANYBODY?

F RIGHT.--

K HOW -- HOW DID YOU HEAR ABOUT THE PARTY?

F I DIDN'T EVEN HEAR ABOUT THE PARTY.

K OKAY. HOW DID YOU END UP THERE?

F OKAY, I WAS WALKING TO MY SISTERS, SO I WENT -- BECAUSE SHE LIVES IN THE -- UH, OVER THERE BY UH -- DOWN BY TACO BELL. I WAS WALKING THERE AND THEN LIKE UH -- I SAW THE PARTY SO THEN I WOUND UP STOPPING BY AND THEN --

K OKAY, DID YOU KNOW ANYBODY AT THE PARTY?

F UHM, I -- I WENT THERE -- I WAS AT A PARTY THERE UH PROBABLY ABOUT TWO MONTHS AGO OR SO.

K UH-HUMM. OKAY.

F YEAH, IT WAS ABOUT TWO MONTHS AGO I WAS THERE, BUT I DIDN'T PARTY. SO THEN I SAW THAT THEY WERE HAVING A PARTY, SO THEN I JUST LIKE POPPED IN AND I NEVER MADE IT TO MY SISTER'S.

K OKAY. DID YOU SEE YOUR SISTER THAT NIGHT?

F NO.

K SO YOU WERE WALKING TO YOUR SISTER'S?

F YEAH.

K OKAY. WHERE DOES SHE LIVE? DO YOU REMEMBER THE ADDRESS OR THE PHONE NUMBER?

F OH, SHE LIVES RIGHT BY UH -- JACK IN THE BOX.

K OKAY.

F YEAH, I -- I DIDN'T TELL HER I WAS COMING OVER, 'CAUSE THERE WAS NOTHING -- LIKE THE HALLS WERE DEAD. PEOPLE WERE JUST LIKE STUDYING, SO THEN EVERY -- SOMETIMES I JUST GO LIKE WELL OVER THERE LIKE I WAS JUST LIKE -- KINDA LIKE A LITTLE JOG [UNINTELLIGIBLE].

K ALRIGHT. UH --

F I'VE DONE THAT BEFORE -- LIKE ON FRIDAY [UNINTELLIGIBLE].

K OKAY. SO YOU JUST DECIDED TO GO SEE YOUR SISTER?

F YEAH.

K DID YOU CALL HER BEFORE YOU WENT OVER?

F NO.

K OKAY, WHAT'S HER PHONE NUMBER?

F FIVE FOUR FOUR NINE SIX THREE [544-4963].

K OKAY. UM, WOULD IT BE OKAY IF WE CALLED HER?

F YEAH, THAT'S FINE.

K OKAY WHAT'S HER NAME?

F UM, ERMELINDA.

K ERMELINDA. OKAY. VERY GOOD. UH, DOES SHE WORK? SHE A STUDENT?

F UM, SH-SH-SHE GOES HERE.

C SHE A CAL POLY [UNINTELLIGIBLE]-

K CAL POLY STUDENT.

F RIGHT.

K ALRIGHT. OKAY, UM, 'KAY NOW YOU'RE BEING COMPLETELY HONEST WITH US?

F COMPLETELY HONEST.

K UH, YOU'RE NOT HOLDING ANYTHING BACK?

F NOTHIN'.

K OKAY, SO BASICALLY YOU HELPED THIS GAL UP THE, UH, WALK. UH, AND YOU SAW HER HEADING OFF TOWARDS MUIR AND THAT'S THE LAST [UNINTELLIGIBLE] -

F W-WELL LIKE NOT – I – I DIDN'T GO UP THE WALKWAY UP THE STAIRS. I DIDN'T EVEN GO THAT DIRECTION.

K OKAY.

F I JUST WENT TO AS FAR AS I NEEDED TO GO TO-

K W-W-WHERE WAS THAT? HOW -- HOW DID YOU ENTER THE HALL THAT NIGHT? HOW DID YOU ENTER SANTA LUCIA HALL THAT NIGHT?

F S--- I'M PRETTY SURE I WENT RIGHT THROUGH THE FRONT. YEAH.

K FRONT DOOR?

F YEAH.

K 'KAY. WAS THE DOOR LOCKED?

F YEAH, I HAVE A KEY WITH ME.

K OKAY. ALRIGHT. UHM, AND WHEN YOU SAW ROXY WALKING, WHERE WAS THE LAST PLACE THAT YOU SAW HER?

F THE LAST TIME I SAW HER WAS ABOUT -- IT'S LIKE RIGHT THERE RIGHT BY, UM-

K SEQUOIA?

F IT WAS [UNINTELLIGIBLE] IS – LIKE ONE OF THOSE ON THE CORNER RIGHT THERE?

K MM-HM

F YEAH, THAT ONE.

K OKAY.

F I SAW HER LIKE RIGHT BY THERE.

K OKAY. AND WH – WHERE WAS SHE GOING? WA -- WAS SHE WALKING, WAS SHE STANDING STILL, WAS SHE LAYING DOWN?

F SHE WAS WALKING.

K OKAY. AND SHE WAS HEADING IN WHAT DIRECTION?

F SHE WAS HEADING UP TOWARDS THE PARKING LOT TOWARDS THAT DIRECTION.

K TOWARDS MUIR? UH-

F YEAH-

K WHICH IS THE NEXT RESIDENCE HALL-

F [UNINTELLIGIBLE] OH, IS THAT -- THAT'S MUIR?

K THAT'S MUIR.

F [UNINTELLIGIBLE].

K OKAY.

K OKAY. YOU DIDN'T KNOW WHERE MUIR WAS?

F I WASN'T QUITE SURE IF IT'S THAT ONE OR IF THERE'S AN OTHER ONE RIGHT THERE BY [UNINTELLIGIBLE] THAT'S ANOTHER RED BRICK ONE [UNINTELLIGIBLE] -

K THAT'S FREMONT. RIGHT.

F NO. NO, NOT THAT ONE. THE OTH-

K [UNINTELLIGIBLE].

F OH, [UNINTELLIGIBLE] THAT'S – OKAY-

K 'KAY-

F OKAYS THAT'S WHAT I WAS THINKING OF.

K UM, I'M GONNA DRAW A REAL QUICK MAP HERE.

F YEAH. WHAT, UM, I JUST DIDN'T KNOW [UNINTELLIGIBLE].

K [UNINTELLIGIBLE] SO HERE'S, UH, GRAND AVENUE COMING IN, UH, AND PERIMETER CURVES DOWN THIS WAY. THE -- THE REC CENTER WOULD BE OVER HERE. UH, RIGHT ON THE CORNER HERE IS SEQUOIA. OKAY? UM --

F WAIT HERE'S GRAND?

C MM-HM.

K THIS IS GRAND.

F OKAY HERE'S SEQUOIA --

K THIS IS [UNINTELLIGIBLE] --

F OKAY [UNINTELLIGIBLE] --

K SO, THE -- THE FIRST WOMAN LEFT -- THERE'S A -- YOU KNOW THERE'S SIDEWALK THAT RUNS THIS WAY AND SIDEWALK THAT RUNS THIS WAY.

F YEAH. YEAH [UNINTELLIGIBLE] --

K THE FIRST WOMAN LEFT FROM THIS LOCATION-

F OR IT'S EITHER THIS CORNER OR THIS CORNER? I DON'T REMEMBER WHICH ONE IT WAS.

K ALRIGHT. AND THEN YOU AND ROXY WALKED DOWN THE SIDEWALK THIS WAY-

F [UNINTELLIGIBLE] AND RIGHT HERE WHERE IT HAS LIKE THE -- THE GOLD THING, WHATEVER --

K RIGHT-

F LIKE A LITTLE THING.

K RIGHT.

F HERE'S WHERE -- HERE WAS THE -- THE -- YEAH. HERE WAS THE LAST TIME AND THEN SHE WAS ABOUT RIGHT HERE.

K SO SHE WAS --

F THE LAST TIME I SAW HER --

K RIGHT OFF THE END OF, UH, SEQUOIA HALL?

F YEAH.

K ALRIGHT. OKAY. UH, AND SHE WAS WALKING IN THIS DIRECTION?

F YES.

K ALRIGHT. OKAY.

F YEAH.

K 'KAY, NOW YOU'RE SURE ABOUT ALL THIS?

F YES.

K ALRIGHT. OKAY. UM, OKAY FIVE THIRTY NINETY-SIX [5-30-96]. AND IT'S ABOUT -- WHAT IS IT -- UH, SEVENTEEN FORTY [17:40] HOURS. I'M GONNA PUT MY INITIALS ON HERE. WANT YOU -- WANT YOU TO PUT YOUR INITIALS RIGHT NEXT TO MINE THERE. GREAT. THANKS PAUL.

F OKAY.

K ALRIGHT. UM, WAS SHE SAYING ANYTHING WHEN SHE WALKED AWAY?

F NO. IT'S LIKE WE DIDN'T EVEN HAVE ANY -- I DON'T EVEN REMEMBER ANY CONVERSATION WITH HER FOR THIS WHOLE ENTIRE TIME.

K OKAY. YOU WERE REALLY FEELING THE EFFECTS OF ALCOHOL?

F YEAH. I -- I WAS PRETTY WELL --

K OKAY, DO YOU REMEMBER WHAT YOU DRANK?

F ME?

K YEAH.

F OH, I DRANK UM --

K YOU'RE NOT GONNA GET IN TROUBLE BY TELLING ME WHAT YOU DRANK.

F OKAY, I DRANK A SUP -- A SUPERO, SUPARO -- THE JAPANESE ONE [UNINTELLIGIBLE].

K [UNINTELLIGIBLE].

F THE, UH, THEN I HAD, UM –

K SAPPORO.

F OH, THEN I HAD TWO MICKEY'S.

K OKAY. BIG ONES? REGULAR SIZE?

F UH, TWENTY-TWOS.

K OKAY.

F [UNINTELLIGIBLE] A TWENTY-TWO AND THEN I HAD UM -- I HAD SOME BEERS -- I DON'T EVEN KNOW HOW MANY CUPS OF BEER I HAD.

K OKAY. ALRIGHT. 'KAY SO, YOU HAD TWENTY-TWO, FORTY-FOUR AND SAPPORO'S PROBABLY ABOUT TWENTY OUNCES, SO YOU'RE TALKING SIXTY-FOUR OUNCES OF BEER.

F YEAH.

K UM, HOW'S YOUR BLADDER CONTROL? UH, YOU HAVE TO DRINK THAT MUCH BEER, A GUY WOULD HAVE TO PISS QUITE A BIT WOULDN'T YA?

F LIKE UM -- I DIDN'T PISS -- I PISSED UH -- PROBABLY THE FIRST THREE BEERS I PEED TWICE.

K OKAY. AND THAT WAS AT THE HOUSE? WAS IT OUTSIDE, INSIDE?

F OH, [UNINTELLIGIBLE] IT WAS BEFORE I GOT TO THE HOUSE.

K OKAY, SO WHERE'D YOU HAVE THOSE BEERS AT? IN THE RESIDENCE HALL?

F OH, YEAH.

K ARE YOU SURE?

F YES.

K 'KAY, YOU GOT A SURPRISED LOOK ON YOUR FACE --

F YEAH—

K THERE—

F YEAH. IT WAS – IT WAS THAT I DIDN'T - I DIDN'T WANNA -- BUT YOU KNOW -- SAY I HAD BEERS IN THERE BUT ---

K OKAY. NO, IT'S ALRIGHT.

F OKAY.

K THAT'S -- WE'RE NOT DEALING WITH HOUSING HERE. WE'RE --

F YEAH --

K SO YOU WERE DRINKING -- LET'S SEE, YOU WERE DRINKING IN THE RESIDENCE HALLS --

F UH-HUH.

K OKAY, AND THEN UH -- SO YOU HAD THE SAPPORO AND THE TWO MICKEYS --

F UH-HUH

K IN THE RESIDENCE HALL?

F RIGHT.

K OKAY. AND THEN YOU LEFT THE RESIDENCE HALL AND YOU WERE GOING WHERE?

F IT WAS – I WAS GOING TO MY SISTER'S.

K OKAY. SO, WERE YOU FEELING THE EFFECTS OF THE ALCOHOL?

F NO, WAIT -- WAIT. UHM, I WENT TO – WENT TO -- I THINK [UNINTELLIGIBLE] I HAD THE MICKEYS AND SAPPORO -- THE -- THE -- AT THE RESIDENT HALL. UH, THE OTHER MICKEY I TOOK WITH ME.

K OKAY, SO YOU WERE – YOU WERE CARRYING AN ALCOHOLIC BEVERAGE AS YOU -- YOU WERE WALKING--

F RIGHT—

K DOWN THE HILL?

F RIGHT.

K OKAY. 'KAY. UHM, DO YOU -- DO YOU DRINK ON A REGULAR BASIS PAUL?

F UM, MIGHT DRINK ONCE A WEEK, MAYBE ONCE EVERY OTHER WEEK.

K OKAY. OKAY. HAVE YOU EVER GOTTEN INTO TROUBLE WITH --

F YES.

K WITH -- AS FAR AS WHAT?

F D-U-I.

K OKAY. AND WHEN -- WHEN WAS THAT?

F UHM, THAT WAS IN FEBRUARY -- THAT'S WHY LIKE I WENT TO GO HAND YOU THE PAPERWORK, BE -- BECAUSE UH – BE-BECAUSE LIKE UH, I -- I DIDN'T DRIVE. I DROVE WITHOUT A LICENSE, SO THEN S-SO—

K OH—

F SO -- SO -- SO I MISSED MY COURT DATE --

K [UNINTELLIGIBLE]—

F LIKE THAT -- SO THEN UH, ON SUNDAY NIGHT I WENT TO -- NO, MONDAY NIGHT I WENT TO THE ARROYO GRANDE POLICE STATION TO HAVE THEM – TO -- TO POST MY BAIL.

K POST YOUR BAIL.

F YEAH, SO –

K [UNINTELLIGIBLE] --

F SO THAT'S WHY WHEN I [UNINTELLIGIBLE] --

K [UNINTELLIGIBLE].

F YEAH.

K OKAY.

F SO -- SO I SAW YOU ON TUESDAY –

K RIGHT.

F SO -- SO THEN THAT'S WHY I'M ALL -- I GOT MY PAPERWORK.

K YOU THOUGHT I'D COME AFTER –

F YEAH.

K THAT SITUATION. OKAY. OKAY, SO ANYWAY THEN YOU GOT UH – YOU'VE HAD TWO BEERS IN THE RESIDENCE HALL. YOU'RE CARRYING ONE MICKEY WITH YA AND –

F YEAH—

K YOU GO OFF TO SEE YOUR SISTER?

F RIGHT.

K OKAY. WERE YOU FEELING THE EFFECTS OF THE ALCOHOL AT THAT TIME?

F YEAH, I WAS BUZZED PRETTY GOOD. THAT'S WHY I DIDN'T EVEN DRINK THE OTHER ONE. I JUST WENT -- I JUST WENT AND BROUGHT IT WITH ME.

K OKAY. AND UM, DOES YOUR SISTER DRINK?

F YES. WELL NOT -- I DON'T KNOW -- NOT TOO OFTEN REALLY.

K OKAY. SO, WHAT WOULD YOUR SISTER'S REACTION BE IF YOU SHOWED UP AT HER HOUSE, UH, AFTER, UH, DRINKING THAT MUCH BEER AND HAVING ANOTHER BEER WITH YOU, JUST, UH, SEVERAL WEEKS AFTER YOU WERE ARRESTED FOR D-U-I?

F OH NO, IT WAS ALL THE WAY BACK IN FEBRUARY I GOT A D-U-I.

K OKAY. WELL, HOW DO YOU THINK YOUR SISTER WOULD FEEL ABOUT THAT?

F I GUESS SHE -- I -- I -- I WOULD THINK SHE WOULD FEEL OKAY.

K OKAY. OKAY. DON'T YOU THINK, UH --HAS ANYBODY SUGGESTED TO YOU THAT PERHAPS MAYBE YOU SHOULDN'T DRINK? YOU'RE UNDERAGE. YOU KNOW YOU'VE LOST YOUR LICENSE. YOU KNOW YOU GOT THIS D-U-I.

F YEAH.

K 'KAY. HAS ANYBODY SUGGESTED TO YOU THAT YOU DO THAT, NOT DRINK?

F YEAH.

K OKAY. OKAY. UM --

F YEAH I'M IN, UH –

K I -- I -- I'M – I'M CONFUSED HERE PAUL. HERE -- HERE IT IS, WE'RE TALKING A FRIDAY NIGHT, SCHOOL'S OVER, IT'S UH -- NEXT WEEK IS DEAD WEEK. UH, YOU'RE SITTIN' IN THE RESIDENCE HALLS. YOU HAVE, UH, TWO PRETTY GOOD SIZE BEERS.

F UH-HUH.

K UM, AND THEN YOU'RE FEELING THE EFFECTS OF THE ALCOHOL. UH, YOU PUT ANOTHER BEER IN YOUR POCKET AND HEAD OVER TO YOUR SISTER'S HOUSE.

F WELL IT'S ACTUALLY IN MY SWEATSHIRT.

K IN YOUR SWEATSHIRT AND THEN YOU HEAD OFF TO YOUR SISTER'S HOUSE.

F UH-HUH.

K OKAY? UH, WHAT TIME IS THIS?

F I'M NOT QUITE SURE.

K MAKE A GUESS. GIVE ME AN ESTIMATE.

F ALMOST TEN [10:00] MAYBE. SOMETHING LIKE -- OR NINE SOMETHING AT -- OR—

K 'KAY—

F EIGHT SOMETHING. I DON'T KNOW. I -- I JUST SEE -- IF I SEE A T-V GUIDE I -- I COULD TELL YOU, 'CAUSE, UM, BECAUSE OF WHAT SHOWS I WOULDA BEEN WATCHING.

K OKAY.

F INSIDE MY ROOM –

K WHAT DID YOU WATCH THAT NIGHT?

F I -- I DON'T EVEN REMEMBER WHAT'S ON FRIDAY NIGHTS.

K OKAY. OKAY. WELL WHEN YOU GET BACK TO THE RESIDENCE HALL, LOOK IT UP.

F OKAY.

K LET US KNOW. SO UM, DOES YOUR SISTER LIVE ALONE?

F NO.

K OKAY.

F WHO SHE LIVE WITH?

F HER FIANCE.

K OKAY. UM, IS HE A CAL POLY STUDENT?

F YES.

K OKAY. UM, DO YOU JUST, UH, OFTEN -- HOW OFTEN DO YOU GO SEE THEM?

F UM, I USED TO GO MORE OFTEN WHEN I HAD MY TRUCK. BUT, UM – WELL, IT'S UM, MAYBE EVERY OTHER WEEK MAYBE I [UNINTELLIGIBLE]—

K EVERY OTHER WEEK--

F SOMETHIN' I DON'T KNOW, JUST A -- IT'S WELL THAT -- THAT WOULD BE LIKE [UNINTELLIGIBLE] FOR THE YEAR LIKE [UNINTELLIGIBLE] I USED TO LIVE WITH THEM FOR A MONTH OR SOMETHING LIKE THAT.

K 'KAY.

F FEW MONTHS WHEN I WAS LIKE – LIKE I MOVED IN WHEN I WAS GOING THROUGH WOW.

K OKAY. OKAY, WHEN WAS THE LAST TIME YOU SAW HER? BEFORE THIS -- BEFORE YOU HEADED OUT TO SEE HER?

F OH THE LAST TIME I SAW MY SISTER?

K MM-HM.

F I'M NOT QUITE SURE.

K A WEEK AGO?

F YEAH, YEAH A WEEK BEFORE THAT--

K FEW WEEKS AGO – OKAY SOMETHING –

F [UNINTELLIGIBLE] LIKE – LIKE –

K SOMETHING'S NOT ADDING UP HERE TO ME PAUL. I'M -- I'M -- I'M SEEING YOU, UH, PROBABLY WITH A BUZZ ON. THE --

F UH-HUH --

K [UNINTELLIGIBLE] I – I HOPE YOU'D HAVE A BUZZ ON AFTER DRINKING --

F YEAH I DID –

K THAT SORT OF BEER. UH, YOU – YOU TAKE ANOTHER MICKEY AND YOU HEAD OFF TO SEE YOUR SISTER AT TEN [10:00] O'CLOCK AT NIGHT, UH, WITHOUT CALLING. UH, THAT DOESN'T -- THAT DOESN'T SEEM LIKE THAT'S PLAUSIBLE SITUATION. YOU MIGHT WANNA CALL AND SAY HEY, YOU GUYS STILL UP? CAN I COME BY? YOU KNOW – SOMETHING OF THAT NATURE. THAT SOUND REASONABLE?

F OH, NO SHE – SHE WOULDA BEEN UP. I'M NOT QUITE SURE IF IT WAS TEN [10:00] OR MAYBE IT WAS LIKE NINE [9:00] O'CLOCK. I'M NOT QUITE SURE. 'CAUSE I DON'T REMEMBER –

K OKAY—

F [UNINTELLIGIBLE] --

K [UNINTELLIGIBLE] T-V GUIDE. I NEED TO –

F OKAY, OKAY –

K I NEED TO KNOW THIS –

F I'LL DO THAT.

K OKAY? UM, YOU SURE YOU DIDN'T JUST HEAD OUT TO GO TO A PARTY SOMEWHERE?

F YEAH.

K ABSOLUTELY?

F I ALREADY HAD MY OWN BEER, SO --

K OKAY –

F [UNINTELLIGIBLE] --

K ALRIGHT. OKAY, WELL THAT -- THAT'S -- THAT'S A STRETCH FOR ME. UH, I THINK OF – ON A FRIDAY NIGHT A YOUNG MAN IS -- YOU KNOW --

F [UNINTELLIGIBLE] --

K HAD A COUPLE OF BEERS AND HE'S HEADING OUT TO SEE HIS SISTER, THAT --

F SEE, UM --

K THERE'S A STRETCH HERE --

F [UNINTELLIGIBLE] THING USUALLY, BUT A LOT OF TIMES ON THE WEEKENDS I GO TO PARTIES BUT I HEARD THERE WAS NO PARTIES WHATSOEVER.

K 'KAY.

F SO – S-S-SO – SO WHEN I SAW THE PARTY, YOU KNOW, IT'S -- I SAID HEY, I'M STOPPING.

K OKAY.

F YOU -- YOU KNOW LIKE THAT.

K OKAY. ALRIGHT.

F SO IF YOU ASKED ANYONE IN THE HALL, THEY WOULD SAY I GO TO PARTIES ALL THE TIME, BUT -- YOU KNOW THAT'S TRUE, BECAUSE --

K NO, I'M JUST INTERESTED IN THAT PARTICULAR –

F OH—

K WEEK SO – UHM, ANYTHING ELSE TO ADD?

F NOTHING.

K OKAY. ROBERT, UH, YOU HAVE ANYTHING?

C ACTUALLY I JUST GOT A COUPLE THINGS. UH, DO YOU PLAY BASKETBALL ALONE OR ANYTHING? I NOTICED YOU GOT A COUPLE --

F YEAH—

C SCABS ON YOUR KNEES [UNINTELLIGIBLE]—

F UM, I WAS PLAYING, UM, MONDAY.

C MONDAY?

F YEAH.

C UH, BY ANY CHANCE, DID YOU HAVE ANY ACCIDENT OR ANYTHING? THOSE LOOK KIND OF FRESH, IS THAT –

F YEAH. [UNINTELLIGIBLE] FROM. UHM, I WAS PLAYING OVER IN, UM, HARLOE SCHOOL.

C UH-HUH.

F OVER THERE IN, UM – IT'S A ELEMENTARY SCHOOL IN, UM, ARROYO GRANDE.

C MM-HM.

F AND THEN, UH, THE – THE GRAVELS ALL LOOSE DIRT.

C M'KAY.

F SO, I WENT BOOM.

C M'KAY. UM, WHEN YOU WERE, UH, LEAVING THE PARTY –

F UH-HUH—

C AND EVERYBODY WAS KINDA LEAVING, HOW DID YOU END UP GETTING TOGETHER WITH, UH, KRISTIN --

F I DON'T EVEN KNOW --

C ROXY. M'KAY. YOU JUST -- YOU JUST HAPPENED TO -- THEY WERE WALKING ONE DIRECTION –

F YEAH --

C AND YOU --

F THAT -- THAT'S ALL – I – I – I DON'T REMEMBER IF WE WALKED FROM THE FRONT DOOR WITH THEM OR -- OR IF WOUND UP YOU KNOW WITH LIKE – OR LIKE – LIKE A COUPLE HOUSES DOWN. I DON'T – I DON'T EVEN REMEMBER.

C OKAY. DID YOU OFFER TO GIVE HER – OR HELP HER HOME? OR DID YOU JUST – YOU WERE JUST WALKIN' WITH A GROUP OF PEOPLE –

F YEAH –

C AND YOU JUST ENDED UP – HOW DID YOU END UP WITH, UH, WITH ROXY?

F UM, I DON'T EVEN KNOW.

C OKAY.

F I WAS JUST -- WE WERE JUST ALL LEAVING AT THE SAME TIME, I GUESS.

C WHEN YOU WERE WALKING, WERE YOU HELPING HER PHYSICALLY WALK HOME?

F NO.

C SHE WASN'T LEANING ON YOU OR ANYTHING?

F NUH-UH. SHE -- SHE WAS WALKING JUST FINE. COUPLE TIMES I GAVE HER A HUG, WHEN SHE SAID SHE WAS COLD.

C OKAY. DID SHE SAY ANYTHING WHETHER -- WAS SHE FEELING SICK OR ANYTHING ON THE WAY HOME --

F NUH-UH --

C WAS THERE ANY REASON FOR -- SO THE ONLY REASON YOU GUYS -- DO YOU -- WHEN YOU WERE GIVING HER A HUG, WERE YOU GUYS STOPPED MOVING? HAD YOU STOPPED --

F YEAH. YEAH. ONLY FOR A SECOND AND THEN [UNINTELLIGIBLE] THE LONGEST TIME WOULD PROBABLY BE IN FRONT OF THE REC CENTER. THEN WHEN -- THEN I SAID TO THE OTHER GIRL THE [UNINTELLIGIBLE] YOU KNOW IF YOU WANT YOU CAN BE WALKING, 'CAUSE -- 'CAUSE LIKE -- BECAUSE I FELT FINE WALKING WITH A GIRL -- YOU KNOW?

C M'KAY. WHEN YOU WERE WALKING HOME, DID YOU SAY -- DO YOU HAVE ANY OTHER CONVERSATION WITH THE OTHER GIRL? DID YOU TALK TO HER AT ALL OR --?

F UHM, I -- I REMEMBER TALKING TO HER ABOUT -- 'BOUT CLASS. LIKE -- BUT I DON'T REMEMBER IF THAT WAS DURING THE PARTY OR DURING THE WALK BACK, 'CAUSE WE -- WE HAD A CLASS TOGETHER LAST QUARTER.

C OKAY.

F SO, I DON'T REMEMBER IF THAT WAS THE -- THE WALK BACK OR AT THE PARTY.

C SO YOU -- THE -- THE OTHER GIRL YOU'D BEEN -- YOU WERE WALKING HOME WITH, YOU WERE TALKING WITH AT THE PARTY? YOU HAD SAW -- YOU --

F YEAH --

C YOU RECOGNIZED HER FROM THE PARTY?

F RIGHT.

C OKAY. UH, WHEN YOU GUYS GOT UP TO THE INTERSECTION AND BEFORE YOU AND, UM, KRISTIN WENT TOWARDS THE -- UH, SEQUOIA --

F UH-HUH.

C AND SHE LEFT, DID YOU SAY AN -- DID YOU HAVE ANY CONVERSATION WITH HER OR TELL HER GOODNIGHT OR --?

F I DON'T REMEMBER SAYING GOODNIGHT. I DON'T --

C OKAY. DID YOU –

F I DON'T REMEMBER LIKE -- LIKE -- LIKE [UNINTELLIGIBLE] 'CAUSE I PROBABLY DID THOUGH -- YOU KNOW -- SAY YOU KNOW SEE YOU LATER OR –

C M'KAY –

F OR WHATEVER.

C DID YOU GIVE HER A HUG OR A KISS OR --?

F NO.

C ANYTHING LIKE THAT? OKAY. DID YOU -- DID YOU ASK FOR A HUG OR A KISS OR --

F NO.

C ANYTHING LIKE THAT? YOU JUST SAID I'LL SEE -- I'LL SEE YOU LATER AND --

F YEAH.

C [UNINTELLIGIBLE].

F I -- I PROBABLY SAID SOMETHIN' LIKE TAKE CARE.

C M'KAY.

F OR SOMETHING.

C M'KAY. [UNINTELLIGIBLE].

K TAKE YOUR HAT OFF FOR A SECOND PAUL. [UNINTELLIGIBLE] WHAT HAPPENED TO YOUR EYE?

F I GOT ELBOWED PLAYING BASKETBALL.

K OH YOU DID. OKAY. COULD -- UH, WHO WERE YOU PLAYING BASKETBALL WITH?

F UM, I WAS PLAYING WITH MY FRIEND JEREMY AND, UM, AND TWO OTHER GUYS.

K OKAY. OKAY. UM, IT MAY COME DOWN TO THIS, BUT I'M WONDERING, UH, ARE YOU FAMILIAR WITH THE TERM, UH, POLYGRAPH? LIE DETECTOR? THAT SORT OF THING?

F YEAH, I'VE HEARD OF 'EM.

K WOULD YOU BE WILLING TO TAKE ONE IF NECESSARY?

F YEAH.

K OKAY. ALRIGHT. UM, I'M NOT SURE THAT'S GONNA BE NECESSARY AT THIS POINT –

F ALRIGHT –

K BUT UH -- WE MAY -- WE -- THAT'S SOMETHING WE -- WE MAY WANNA DO –

F UH-HUH --

K IF SHE DOESN'T SHOW UP.

F ALRIGHT.

K SO – UH, WHAT I WANT YOU TO DO IS, UH, SEVERAL THINGS. UM, YOU NEED TO, UH, CONTACT THE PEOPLE IN THE RESIDENCE HALL WHO MAY HAVE SEEN YOU.

F UH-HUH.

K YOU NEED TO CONTACT EVERYBODY UP THERE AND FIND OUT WHO SAW YOU, UH, YOU KNOW, AT THE RESTROOM OR IF ANYBODY HEARD YOU COME IN. THIS IS GONNA BE TO YOUR BENEFIT.

F RIGHT. I UNDERSTAND THAT.

K OKAY. AND WE NEED TO TRY AND FIND A TIME FRAME FOR THE TIME YOU LEFT YOUR APARTMENT -

F UH-HUH.

K OR THE RESIDENCE HALL AND THE TIME YOU RETURNED.

F OKAY, I'LL CHECK THE T-V GUIDE.

K OKAY. CAN YOU -- WHEN CAN YOU GET THAT INFORMATION TO ME?

F WHAT THE – ABOUT THE –

K ALL OF THAT INFORMATION I JUST ASKED YOU FOR.

F UM, WELL I HAVE TO SEE WHERE PEOPLE ARE, BUT THEN I CAN ASK –

K 'KAY –

F START ASKING PEOPLE --

K CAN YOU HAVE THAT TO ME BY MONDAY?

F YEAH.

K ALRIGHT.

F UM, YEAH SHOULD BE ABLE TO [UNINTELLIGIBLE] –

K OKAY –

F BECAUSE I'M GOING HOME TOMORROW NIGHT.

K ALRIGHT.

F 'CAUSE [UNINTELLIGIBLE] BUT –

K OKAY. GOOD. YEAH, MAYBE BY MONDAY AFTERNOON IF YOU CAN HAVE THAT FOR ME I WOULD APPRECIATE IT.

F OKAY.

K 'KAY.

F OKAY.

K ANY OTHER QUESTIONS OF ME?

F UH, DID THE -- DOES THE OTHER GIRL EVEN KNOW WHAT TIME TH -- THE THING WAS AT? [UNINTELLIGIBLE] --

K YEAH, WE'VE GOT SOME –

F OH –

K WE'VE GOT SOME ESTIMATES FROM HER.

F [UNINTELLIGIBLE] OKAY, ABOUT THE PARTY AND WHAT TIME THAT ENDED.

K RIGHT, WE'VE GOT SOME ESTIMATES [UNINTELLIGIBLE] --

F I WAS JUST WONDERIN' IF THERE WAS LIKE -- 'CAUSE -- 'CAUSE I HAVE --

K WHAT WE'RE LOOKING FOR IS YOUR ESTIMATE.

F RIGHT.

K SO IF YOU CAN COME UP --

F YEAH --

K WITH SOMETHING THAT'S GONNA BE HELPFUL TO US.

F YEAH, I CAN [UNINTELLIGIBLE] TO THE DORMS, BECAUSE REALLY -- DON'T HAVE ANY [UNINTELLIGIBLE] --

K OKAY. DO -- DO YOU NORMALLY WEAR A WATCH OR DO YOU HAVE A WATCH?

F I -- I HAVE A WATCH. IT'S LIKE -- SEE YEAH, YOU CAN TELL I NEVER WEAR IT.

K OKAY.

F [UNINTELLIGIBLE].

K OKAY. ALRIGHT. GOOD.

F [UNINTELLIGIBLE] YEAH THAT'S ABOUT -- I DON'T THINK I HAVE ANY QUESTIONS -- JUST --

K 'KAY, YOU'VE BEEN COMPLETELY HONEST HERE WITH --

F YEAH --

K WITH EVERYTHING THAT YOU'VE TOLD US?

F YES SIR.

K OKAY. AS FAR AS YOUR INJURIES AND -- AND --

F YEAH.

K THAT SORT OF THING?

F [UNINTELLIGIBLE] YEAH, SEE -- SEE [UNINTELLIGIBLE] MY FRIEND JAVIER, HE WAS WITH ME ON, UH, HE -- HE WAS WITH ME ON SATURDAY NIGHT AND HE CAN TELL YOU I DIDN'T HAVE A BLACK EYE THEN OR NOTHIN'.

K OKAY. ALRIGHT. GOOD. THAT'S ALL I HAVE.

F ALRIGHT?

K OKAY PAUL.

F ALRIGHT, THANKS.

K THANKS FOR COMING DOWN.

F ALRIGHT.

C HEY, PAUL, THANKS FOR COMING DOWN. I APPRECIATE IT.

K DON'T FORGET YOUR BACKPACK.

F YEAH.

K PROBABLY GOT ALL YOUR STUDIES IN THERE, SO --

F WELL NOT TOO MANY OF MY STUDIES, MORE MY FOOD FROM WORK SO --

K OH, ALRIGHT --

F [UNINTELLIGIBLE]

K 'KAY. I'LL SHOW YA HOW TO GET OUTTA HERE.

[BACKGROUND VOICES/NOISES UNINTELLIGIBLE-NOT TRANSCRIBED]

K INVESTIGATION, UH, HAS CONCLUDED. THE INTERVIEW'S CONCLUDED AND IT'S, UH, SEVENTEEN FIFTY-TWO [1752] HOURS ON THE THIRTIETH [30TH] OF MAY.

[END TIME 00:32:47]

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On July 5, 2022, I served the foregoing document(s) described as:

PEOPLE'S MOTION TO INTRODUCE PHOTOGRAPH OF PAUL FLORES AS A CERTIFIED PHOTOGRAPH & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS

(*People v. Paul Ruben Flores & Ruben Ricardo Flores*, Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 5, 2022, at San Luis Obispo, California.

Cameron Myers, Legal Clerk

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/5/2022 12:35 PM
By: Oscar Luna, Deputy

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County.

In this regard, I have submitted a copy Of People's Motion To Introduce Photograph Of Paul Flores As A Certified Photograph To Be Heard On July 8, 2022. In Accordance With Section 6255 Of The California Government Code, I am requesting that this

Court Order That The People's Motion To Introduce Photograph Of Paul Flores As A Certified Photograph Be Sealed Until Further Order Of This Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 5, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/5/2022 6:00 PM
By: Oscar Luna, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County. In This Regard, I have submitted a copy Of People's Motion To Exclude Testimony Regarding August 12, 2021, Disclosures to be heard On July 8, 2022. In Accordance With Section 6255 Of The California Government Code, I Am Requesting that A Copy Of People's Motion To Exclude Testimony Regarding August 12,

2021, Disclosures be Sealed Until Further Order Of This Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 5, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/5/2022 5:00 PM
By: Oscar Luna, Deputy

Dan Dow
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County Government Center, Room 450
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Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County. In This Regard, I Have Submitted A Copy Of People's Request For Closing Hearing Re: August 21, 2021 Disclosures And Supplemental Information

To Be Heard On July 8, 2022. In Accordance With Section 6255 Of The California

Government Code, I Am Requesting that A Copy Of People's Request For Closing Hearing Re: August 21, 2021 Disclosures And Supplemental Information be Sealed Until Further Order Of This Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 5, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: Location: Department 4

Date: 7/6/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Court reviews for the record, proceedings heard in this case.

Week of June 6, 2022 Motions in limine, heard and ruled upon.

Week of June 13, 2022 Jury selection for Paul Flores and Ruben Flores were held for hardships of potential jurors.

Week of June 20, 2022, Trial not heard, continued for reasons stated for the record.

Week of June 27, 2022 Jury selection for Paul Flores. Jury panel and alternates sworn.

Week of July 11, 2022 Jury selection for Ruben Flores to be held.

July 18, 2022 Opening statements for Paul Flores to be held beginning at 8:30 am.

July 18, 2022 Opening statements for Ruben Flores to be held beginning at 1:30 pm.

Remaining Motions in limine to be heard this week.

The Court has provided tentative rulings for Motions 1108, 1101b.

Adoptive admission issue: arguments presented.

The Court has reviewed the flash drive and compact disc provided.

Court exhibit 1 marked and received: Flash drive of interview.

Court exhibit 2 marked and received: Compact disc of conversation between Susan Flores and Paul Flores.

Aranda-Bruton issue: Arguments presented.

Ruben Flores jurors to be excluded for May 31, June 19 interviews.

Court exhibit 3 marked and received: Recording of Ruben Flores statement during buccal swab.

Motion to traverse, quash, suppress filed by the Defense for Paul Ruben Flores.

Arguments presented.

Mr. Mesick orally requests to join the motion.

People object, stating the need for written motion with specificity.

The Court finds the Defendant has not met the burden, and respectfully denies the motion to traverse, quash.

Court in recess for morning break.

Case called, all parties present.

Motion regarding Paul Flores photo is trailed to the afternoon or tomorrow as Defense Counsel has additional evidence and needs additional time.

The Court is in recess until 1:30 pm.

Evidentiary motions to be heard regarding soil sample or cadaver dogs.

Counsel to have their witnesses ready to proceed.

Case called, all parties present.

Defense motion to exclude dog alerts is heard.

The Court has reviewed the motion and responses filed.

Brief recess to allow the Court to review the supplemental report.

Defense witness Dr. James C. Ha, appearing by zoom, is sworn to testify.

Direct examination by Mr. Sanger.

Defense Exhibit # 600 copy of report dated June 1, 2022 by Dr. Ha is marked.

Cross exam by the People.

Court in recess for afternoon break.

Case called, all parties present.

Cross examination of Dr. Ha by the People continues.

Redirect by Mr. Sanger.

Direct examination by Mr. Mesick.

Voir dire by Mr. Peuvrelle regarding witness designation as an expert.

Arguments presented.

The Court will make a ruling on this tomorrow.

The Court is in recess for the day.

Now case is recalled.

The People note that in Defense exhibit 600, the People provided their copy of the motion, which was missing some pages.

This was inadvertent and not intentional.

Pages are now provided and copied, and exhibit is addended by stipulation of the parties.

Case continued to ,Thursday, July 07, 2022 at 08:30 am in Salinas courtroom 4 for jury trial ongoing (Motions in limine).

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/7/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial ongoing long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

The Motion in limine regarding cadaver dog evidence continues.

Dr. Ha, appearing by video, previously sworn, remains under oath.

The Court finds Dr. Ha an expert in canine behavior, olfactory expert.

Mr. Sanger indicates Defense exhibit 600 is now complete and admits it into evidence for purposes of 402 hearing.

Parties stipulate to the admission of exhibit 600 for 402 hearing purposes.

Direct examination of Dr. Ha by the Defense, Mr. Sanger continues.

Direct examination of Dr. Ha by the Defense, Mr. Mesick.

Cross examination of Dr. Ha by the People, Mr. Peuvrelle.

Witness is excused.

Parties submit.

Arguments presented.

The Court will admit evidence, handlers are qualified, dogs trained and reliable, the area is not stale.

There was a sufficient foundation laid.

The Court finds as to evidence code 352 that the evidence presented has probative value.

Court is in recess for break.

Case called, all parties present.

Motions in limine as to the soil samples.

Defense exhibits marked:

604 Photo of house at White Court. (exhibit 95 from preliminary hearing)

605 Photo of house at White Court close up of deck. (99)

606 Close up under deck prior to excavation. (100)

607 Grid marked A-D from March 16, 2021 dig. (101)

608 Digging under deck with 2 people in photo. (109)

609 Area under deck with steps and railing removed from April 15, 2021. (119)

610 Open area painted with grid (130)

611 Open area painted with grid (129)

612 Looking down on grid area A-D with tripod in photo. (186)

613 Area excavated under cleanout valve. (181)

614 Area excavated with buckets and woman in photo. (233)

615 New grid holes in lower area of previously excavated area (E-H). (227)

616 Hole with soil sample A-1 stain. (144)

617 Hole with soil sample B-1stain. (142)

618 Hole with soil sample B-4 stain. (155)

619 Probe area E. (162)

620 Soil sample E-2 stain. (172)

621 Probe G. (168)

622 Soil sample G-1. (167)

623 Soil sample B-3. (154)

624 Soil sample B-2. (151)

625 Soil sample C-2. (150)

626 Soil sample C-1 (149)

627 Soil sample D-1. (148)

DNA exhibits marked- Defense

601 Dr. Johnson report on soil.

601A List of materials provided.

602 Dr. Johnson report on DNA.

603 Dr. Carter report.

People's witness Angela Butler sworn to testify.

People's exhibit marked: 597 Photo of canvas pad.

Court in recess for lunch break, to return at 01:30 pm.

Case called all parties present.

Witness Angela Butler resumes testimony, previously sworn.

Cross examination by the Defense, Mr. Sanger.

Cross examination by the Defense, Mr. Mesick.

Redirect by Mr. Peuvrelle.

Witness is excused.

People's witness Phil Hanes sworn to testify.

People's exhibit 595 marked: Manufacture data sheet for ground penetrating radar machine.

Cross examination by the Defense, Mr. Sanger.

Cross examination by Defense, Mr. Mesick.

Re-direct by the People.

Court in recess for break.

Case called all parties present.

Re-cross by the Defense, Mr. Sanger.

Re-cross by the Defense, Mr. Mesick.

Re-direct by the People, Mr. Peuvrelle.

Witness is excused.

People's witness Cindy Arrington sworn to testify.

People's exhibit 596 marked: photo of excavation below deck with stain. (179)

Cross examination by the Defense, Mr. Sanger.

Defense exhibits 604-607 received.

Witness is excused for the day, and will be allowed to appear by zoom tomorrow.

Case set for Jury trial long cause, ongoing for July 8, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/8/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial Motions in Limine.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Parties agree that exhibits received will be provided to the clerk at the end of each day.

If exhibits are marked only, they will not be retained by the Clerk.

Witness Cindy Arrington, previously sworn is continuing testimony, appearing by zoom under cross examination by Mr. Sanger.

No further questions by Mr. Sanger.

Cross examination by Mr. Mesick.

Re-direct by Mr. Peuvrelle.

Witness is excused, subject to recall.

Defense witness Dr. David Carter, appearing by zoom, sworn to testify.

Direct examination by Defense, Mr. Sanger.

Defense exhibit 603 is received into evidence.

Court in recess for break.

Case called, all parties present.

Dr. David Carter, previously sworn, appearing by zoom, continues testimony under direct examination by Mr. Sanger.

Direct examination by Defense, Mr. Mesick.

Cross examination by the People, Mr. Peuvrelle.

Redirect by Mr. Sanger.

Redirect by Mr. Mesick.

Witness is excused.

Witness Dr. Elizabeth Johnson is sworn to testify, appearing by zoom.

Direct examination by the Defense, Mr. Sanger.

Exhibit 601, 601A. 602 received.

Court in in recess for lunch break, witness ordered to return.

Case called all parties present.

Witness Dr. Elizabeth Johnson resumes testimony, previously sworn, appearing by zoom.

Continued direct examination by the Defense, Mr. Sanger.

Defense exhibit 628 marked Photo of HEM Direct test cards.

Defense exhibit 629 marked Photo of HEM Direct test cards.

Defense exhibit 630 marked Photo of HEM Direct test cards.

Defense exhibit 631 marked Photo of HEM Direct test cards.

Direct examination of the witness by Mr. Mesick.

The Court is in recess for afternoon break.

Case called, all parties present.

Witness Dr. Elizabeth Johnson resumes testimony, previously sworn, appearing by zoom.

Cross examination by the People, Mr. Peuvrelle.

Redirect by Mr. Sanger.

Redirect by Mr. Mesick.

Recross by Mr. Peuvrelle.

Witness is excused subject to recall.

Witness Angela Butler, previously sworn recalled.

Direct examination by the People, Mr. Peuvrelle.

People's exhibit 594 marked and received Document Swigdam guidelines.

Witness is ordered to return on July 14, 2022 at 08:30 am for continued motions in limine. May appear by zoom.

Case is continued to Thursday, July 14, 2022 at 8:30 AM in Salinas Department 4 for Jury Trial: Long Cause (Ongoing) Continued motions in limine.

Defendant is to remain in custody.

No bail is allowed.

MC-500

MEDIA AGENCY *(name)*: FOX NEWS DIGITAL
CHANNEL/FREQUENCY NO.: FOXNEWS.COM
PERSON SUBMITTING REQUEST *(name)*: STEPHANIE PAGONES
ADDRESS:
1211 6TH AVENUE, FLOOR 2, NEW YORK, NY 10036
TELEPHONE NO.: 845-416-6727

FOR COURT USE ONLY

FILED

JUL 11 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

Insert name of court and name of judicial district and branch court, if any:
Superior Court for California, County of Monterey

TITLE OF CASE:
PEOPLE V FLORES

NAME OF JUDGE: HON. JENNIFER O'KEEFE

CASE NUMBER:
22CR003712, 22CR003713

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
   Duration of remainder of trial, jury deliberation and verdict

2. DATE OF PROPOSED COVERAGE *(specify)*: ASAP through completion . *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance)*:

3. TYPE OF COVERAGE
   a. ☐ TV camera and recorder
   b. ☐ Still camera
   c. ☐ Motion picture camera
   d. ☒ Audio
   e. ☒ Other *(specify)*: Note-taking via laptop use

4. ☐ SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:

5. ☐ INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $
   ☐ Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal. Rules of Court, rule 1.150)*.

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: 7/11/2022

StephaniePagones
(TYPE OR PRINT NAME)

Stephanie Pagones
(SIGNATURE)

Telephone No.: 845-416-6727

DIGITAL REPORTER
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING (*A hearing is optional.*)

A HEARING will be held as follows:

Date:	Time:	Dept./Div:	Room:
Address of the Court:			

Clerk, by _____, Deputy

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form | Save this form | Clear this form

MC-510

MEDIA AGENCY *(name)*: FOX NEWS DIGITAL
CHANNEL/FREQUENCY NO.:
PERSON SUBMITTING REQUEST *(name)*: STEPHANIE PAGONES
ADDRESS: 700 FIRST STREET, APT 14Q, HOBOKEN, NJ 07030
TELEPHONE NO.: 646-908-0079

FOR COURT USE ONLY

FILED

JUL 11 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K Harper

Insert name of court and name of judicial district and branch court, if any:
Superior Court for California, County of Monterey

TITLE OF CASE:
People v Flores

NAME OF JUDGE:
HON. JENNIFER O'KEEFE

CASE NUMBER:
22CR003712, 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*:

1. a. ☑ No hearing was held.
   b. ☐ Date of hearing: Time: Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ THE COURT FINDS *(findings or a statement of decision are optional)*: ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ denied.
   b. ☑ granted subject to the conditions in rule 1.150, California Rules of Court, AND the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
      (i) ☐ shall not apply to allow coverage of proceedings that are continued.
      (ii) ☐ shall apply to allow coverage of proceedings that are continued.
      (8) ☑ Other *(specify)*:

See attached order

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☐ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:
7. ☐ Number of pages attached:

Date: 7/11/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Hon. Jennifer J. O'Keefe

CASE NAME:	CASE NUMBER:
People v. Flores	22CR003712, 22CR003713

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/11/2022 11:49 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND ORDER SEALING RECORDS

I am Christopher Peuvrelle, a Deputy District Attorney for San Luis Obispo County. I am the assigned prosecutor for the above-entitled case.

As the court and counsel for the defendant are well aware, there has been a great deal of public interest in this pending case. It has been the goal of all parties to this case to limit the amount of information disseminated to the public to maintain the integrity of the potential jury pool. Such efforts will help assure the defendant is able to receive a fair and impartial trial in which has now been moved to Monterey County.

In this regard, I have submitted a copy of People's Motion to Exclude Any Cross Examination of Jennifer Hudson as to Motorcycle Clubs or Her Status as a Victim of Domestic Violence to be heard on July 14, 2022. In accordance with Section 6255 of the California

Government Code, I am requesting that this court order that the People's Motion to Exclude Any Cross Examination of Jennifer Hudson as to Motorcycle Clubs or Her Status as a Victim of Domestic Violence be sealed until further order of this Court. I respectfully urge that, under Section 6255, the public interest served by not making such records public clearly outweighs the public interest served by disclosure of such records. I would further request that a copy of such reports be released only to counsel for the People and the defendant to prepare for the Jury Trial. Defense counsel represented in chambers with the Honorable Judge van Rooyen on April 15, 2021, that they agree with this request.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 11, 2022

Respectfully submitted,

Dan Dow
District Attorney

By: Christopher Peuvrelle
Deputy District Attorney

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On July 11, 2022, I served the foregoing document(s) described as:

PEOPLE'S MOTION TO EXCLUDE ANY CROSS EXAMINATION OF JENNIFER HUDSON AS TO MOTORCYCLE CLUBS OR HER STATUS AS A VICTIM OF DOMESTIC VIOLENCE & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS
(*People v. Paul Ruben Flores & Ruben Ricardo Flores,* Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 11, 2022, at San Luis Obispo, California.

Alyssa Muckey, Supervising Legal Clerk

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/11/2022 11:49 AM
By: Renee Inofuentes, Deputy

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES RUBEN RICARDO FLORES, Defendants.	CASE NO. 22CR003712 & 22CR003713 PEOPLE'S MOTION TO EXCLUDE ANY CROSS EXAMINATION OF JENNIFER HUDSON AS TO MOTORCYCLE CLUBS OR HER STATUS AS A VICTIM OF DOMESTIC VIOLENCE Date: July 14, 2022 Time: 8:30 a.m. Dept. 4

STATEMENT OF FACTS

During the Preliminary Hearing, both defense counsel asked Jennifer Hudson about any associations with Motorcycle Clubs, specifically the Vagos and Hell's Angels. She testified that she did not meet any Vagos until she was 32. (Preliminary Hearing: Reporter's Transcript page 6017, lines 5-7) This was 15 years after she heard the statement of Paul Flores. (RT: page 2206, lines 11-15)

On May 27, 2022, Jennifer Hudson was a victim of PC 243(e)(1) in Santa Barbara. (See attachment 1)

//

ARGUMENT

I. HUDSON'S ACQUAINTANCES FIFTEEN YEARS AFTER MEETING PAUL FLORES ARE IRRELVANT, AS IS WHETHER SHE IS A VICTIM OF DOMESTIC VIOLENCE

Hudson heard the statement of Paul Flores when she was 17 or 18 years old. Whether or not she met members of the Vagos, or other motorcycle clubs, 14 years later has zero relevance and should be excluded.

Similarly, whether or not she is a victim of domestic violence in 2022 has zero relevance to this case and should also be excluded.

Date: July 11, 2022

Respectfully submitted,

Dan Dow
District Attorney

By:
Christopher Peuvrelle
Deputy District Attorney

ATTACHMENT 1

Report of Arrest
Santa Barbara County Sheriff

22-6258

Supplement No
ORIG

4434 Calle Real

Santa Barbara, CA 93110-1002

Report Type
DOM VIOL

Reported Date
05/27/2022

Officer
WHITE,B

(805) 681-4100

Administrative Information

Agency	Report No	Supplement No	Reported Date	Reported Time
Santa Barbara County Sheriff	22-6258	ORIG	05/27/2022	04:44

Status	Report Type
Arrest Report	Domestic Violence offenses

Location	City	ZIP Code
707 LOMA WY	Santa Maria City	93458

Rep Dist	Area	Beat	From Date	From Time	Officer
237	2	SM	05/26/2022	20:00	3808/WHITE,B

Assignment	Entered by	Assignment	RMS Transfer	Pkg Trans Stat
SANTA MARIA STATION	3808	SANTA MARIA STATION	Successful	Successful

Report Title	Solvability	Score	Approving Officer
Report of Arrest	High level of solving case	300	2797

Approval Date	Approval Time
05/28/2022	15:16:55

Photograph(s)	COBAN
Yes	Yes

# Offenses	Offense	Description	Complaint Type
1	PC243(E)(1)	Battery on Spouse/Co	

Person Summary

Involvement	Involvement No	Type	Name	MNI	Race	Sex	DOB
ARR	1	I	WILLIAMS,NATHAN RAHSKA	271425	W	M	08/10/1986
VIC	1	I	PERIZZOLO,JENNIFER LEE	32106	W	F	04/23/1978

Involvement	Description
EVD	Article: Data processing equipment DISK STAPLE DVD+R MuiFly BodyCam Video / 20 Min

Summary Narrative

On Friday, 3-27-2022, at 0444 hours, Deputies responded to 707 Loma Way to investigate a partial call into Dispatch which implied a possible domestic disturbance in progress. During the course of the investigation, Nathan Williams (8-10-1986) was accused of biting his girlfriend in the neck during an early evening argument, which continued until early morning and culminated in Nathan later allegedly hitting his girlfriend four times in the head with an open hand. The victim claimed no serious injury and declined medical attention. Given no visible injuries other than slight redness to her neck, Nathan was found in violation of 243(e)(1) PC - Misdemeanor Domestic Battery, taken into custody, and transported to the Santa Barbara County North Branch Jail.

Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No ORIG

Arrestee 1: WILLIAMS,NATHAN RABSKA

Involvement	Inv No	Type	Name	MN	Race	Sex
Arrestee	1	Individual	WILLIAMS,NATHAN RABSKA	271425	White	Male

DOB	Age	Ethnicity	Juvenile?	Height	Weight	Hair Color	Eye Color	Skin
08/10/1986	35	Not of Hispanic origin	No	6'02"	215#	Brown	Brown	Light

PRN: 1519594

Type	Address	City	State
Home	707 LOMA WY	Santa Maria City	California

ZIP Code	Date
93455	05/27/2022

Type	ID No	OLS
Operator License	D4039352	California

Type	ID No
Social Security Number	558-91-0721

Phone Type	Phone No	Date	Phone Type	Phone No
Cell	(805) 720-1333	05/27/2022	Message	(805) 310-1056

Date: 05/27/2022

Relationship	Name	Race	Sex	Phone Type
Mother	RABSKA,TAMI	White	Female	Cell

Phone No: (805) 310-1056

Involvement	Arrest Type	Arrest Date	Arrest Time	Book Date	Book Time	Status
Arrested	Arrested	05/27/2022	05:24:00	05/27/2022	06:00:00	Booked

Disp	Arrest Location	City
Misdemeanor	707 LOMA WY	Santa Maria City

Rep Dist	Fingerpt Taken?	Mug?	Place of Birth	City of Birth	Best
237	Yes	Yes	California	FULLERTON	SM

Charge	Level	Charge Literal
PC243(E)(1)	M	Battery Ag Fmr Spou

Victim (Person) 1: PERIZZOLO,JENNIFER LEE

Involvement	Inv No	Type	Name	MN
Victim (Person)	1	Individual	PERIZZOLO,JENNIFER LEE	32106

Race	Sex	DOB	Age	Ethnicity	Juvenile?	Height	Weight	Hair Color
White	Female	04/23/1978	44	Not of Hispanic origin	No	5'05"	125#	Brown

Eye Color	Skin	Means of Attack	Extent of Injury
Green	Light	Hands,fists,feet (medical attn,w/injury)	No visible injury

Dom Violence	Vic/Otnd Age	Vic/Otnd Age	PRN
Yes	44	35	1519595

Type	Address	City	State
Home	707 LOMA WY	Santa Maria City	California

ZIP Code	Date
93455	05/27/2022

Type	ID No	OLS
Operator License	B4902593	California

Phone Type	Phone No	Date
Cell	(805) 720-8282	05/27/2022

Item	Agency	Report No	Original Incident	Original Supplement	Involvement
1	Santa Barbara County Sheriff	22-6258	22-6258	ORIG	Evidence

Inv Date	In Custody?	Security	Tag No	Item No	# Pieces
05/27/2022	Yes	No	09077773	1	1

Description: MuiFly BodyCam Video / 20 Min — Typ: A

Cat	Article	Brand
Data processing equipment	Disk, Computer (floppy or hard diskettes)	STAPLE

Model	Entered Date	Entered Time	RMS Transfer	Control
DVD+R	05/27/2022	12:04	Successful	4928 0531221151

Violation Date: [illegible]

Crime Code(s): Assaults

Narrative

ATTACHMENTS / E-FILES

Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No ORIG

Narrative

SH-5095 NBJ Booking Record
Declaration of Probable Cause
Photos (2)

RELATIONSHIP
The victim (confidential) and Nathan Williams are not married and have no children in common, but live together with the victim's 5-year-old son, from a previous relationship, and Nathan's 2-year-old son, also from a previous relationship. The victim and Nathan have been sexually involved "on and off" for the past year.

EVIDENCE

Photos: 7 photos were taken to document the visible nature and condition of the victim and lack of visible injuries, other than slight redness on the left side of her neck. 6 additional photos were taken to document the condition of the residence where the physical altercations presumably occurred. All photos were later digitally uploaded to Forensics for storage. 2 pertinent photos of the victim were attached to this report as e-files.

Coban: Contact with the victim inside the garage and Nathan Williams in the driveway was audibly documented by the Coban video system from patrol car 6101. The digital file was later electronically uploaded to Forensics for storage.

Bodycam: Contact with both subjects at the residence was further documented by my MUVI Bodycam. The 20-minute video was later digitally burned to a DVD-R and booked into Evidence.

NARRATIVE
On Friday, 3-27-2022, at 0444 hours, Sergeant Wilberding and I responded to 707 Loma Way to investigate a partial call into Dispatch, which implied a possible domestic disturbance in progress. During the brief call, Dispatch heard what was described as a male voice yelling "stop" followed by a female voice yelling "you stop!" The call then disconnected.

Victim Interview - Upon arrival, Sergeant Wilberding stood in the driveway with a male identified as Nathan Williams, while I spoke with Nathan's girlfriend (confidential), who was crying in the garage and stated the following:

On Thursday, 3-26-22, during the early evening, around 2000 hours, Williams and she were in their bedroom when an argument erupted regarding her emotions over her father's death. She was sitting on a set-up massage table at the time, and when the argument escalated, she claimed Williams bit her on the neck. They separated after, but the argument continued through the night.

On this date, at around 0430 hours, the argument re-escalated and once again became physical in nature. According to the victim, Williams "smacked" her on the back of the head three times and slapped her once on the left side of her face. She clarified that all strikes were with an open hand, adding he had also placed his hands on her neck, but he did not strangle her. She did not lose consciousness, claimed no serious injuries sustained, and declined an offer for medical attention.

Injuries - After listening to the victim, I examined her neck and face and noted no bruising or fingermarks to corroborate heavy strikes or strangulation. Not finding any bitemarks, I asked her to show where she was bitten and she indicated the left side of her neck. Only a slight redness was present. Refer to the attached digital photos for further details.

Suspect Interview - After Speaking with the victim, I moved my attention to Williams and asked for his perspective. According to Williams, the argument lasted through the night and revolved around her packing of her deceased father's stuff. During the argument there was a lot of demeaning name calling, but nothing physical occurred. When asked specifically about "the bite", Williams explained the slight redness as a residual hickey from previous consensual sex. When asked specifically about the strikes and slap, Williams objected, claimed he would never hit her, and reiterated it was her ruse to get him arrested.

Legal Requirements - In accordance with the Victim's Bill of Rights Act of 2008, the victim was provided with both Victim and Marsy's Resource cards. An Emergency Protective Order (EPO) was discussed and the victim

Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No ORIG

Narrative

argued it was not necessary. The victim was also offered the option of the DVERT Counseling Service, which she declined.

CONCLUSION

Based on the accusations given, clear emotional trauma sustained, corroboration of slight redness, and California's zero tolerance policy stipulating the "Dominant Aggressor" shall be arrested. Williams was taken into custody, transported, and booked into the Santa Barbara County Northern Branch Jail. While at the jail, Williams demonstrated an inability to control his anger when he punched a wall and physically resisted three Custody Deputies after being asked to remove his jacket and put on a jail t-shirt.

CASE DISPOSITION

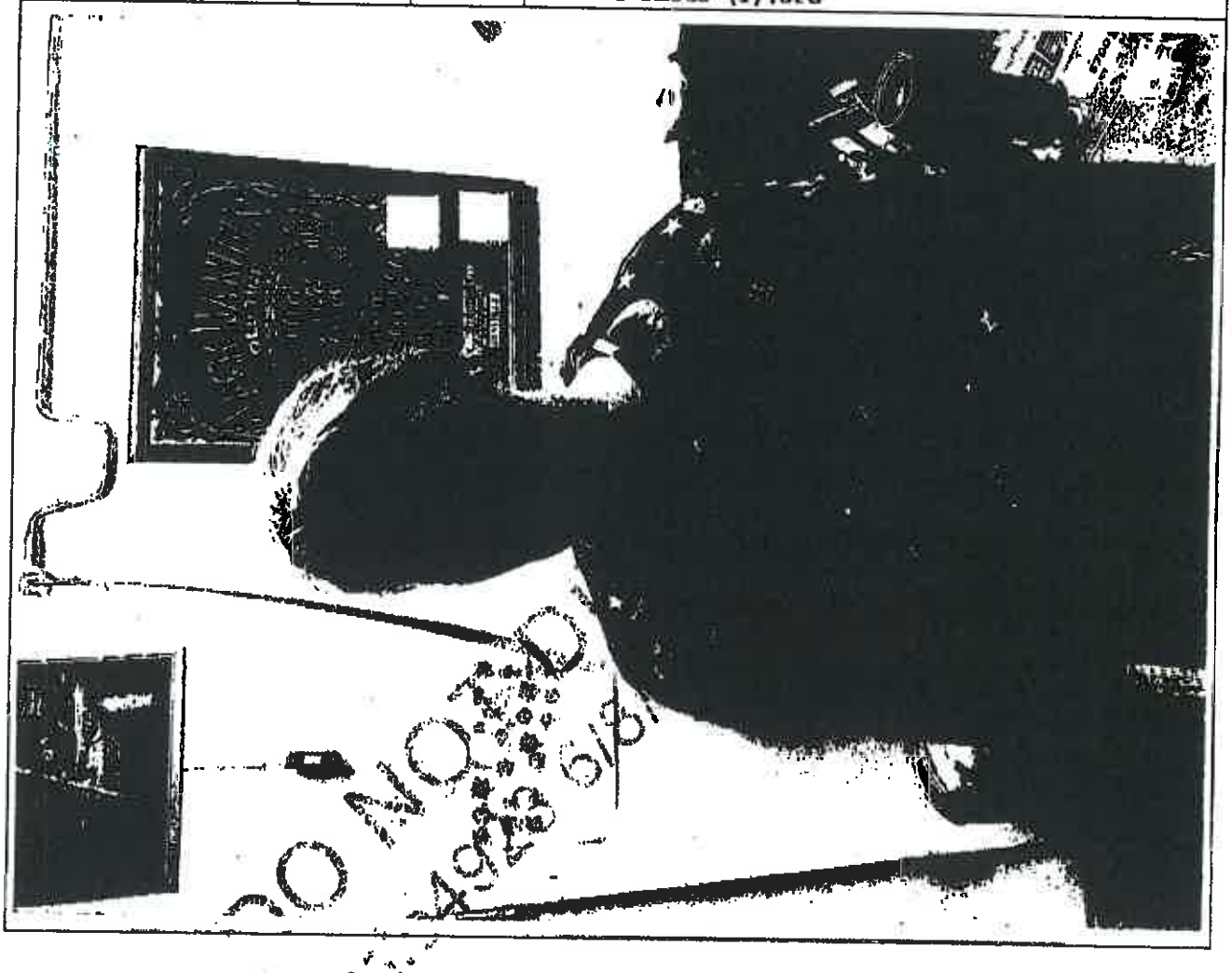
Cleared by arrest. Forward to the District Attorney.

Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No ORIG

Images

Date	Time	Officer	Type	Description
05/27/2022	06:00	3808	PICT	22-6258 Photo (1).JPG

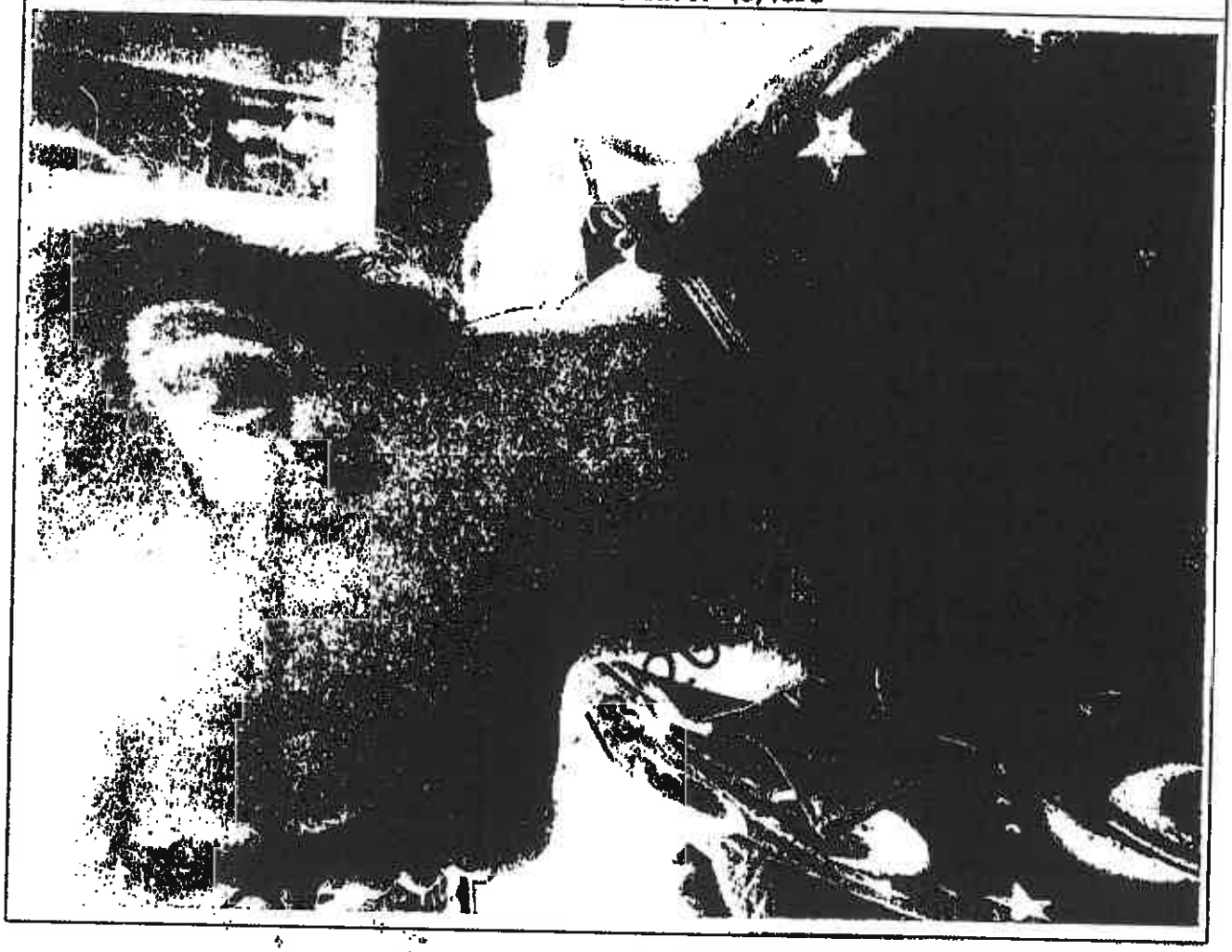


Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No ORIG

Images

Date	Time	Officer	Type	Description
05/27/2022	06:00	3808	PICT	22-6258 Photo (5).JPG



Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No 0001

4434 Calle Real

Santa Barbara, CA 93110-1002

Report Type
DOM VIOL

(805) 681-4100

Reported Date
05/27/2022

Officer
WHITE,B

Administrative Information

Agency	Report No	Supplement No	Reported Date	Reported Time
Santa Barbara County Sheriff	22-6258	0001	05/27/2022	14:28

Status	Report Type
Arrest Report	Domestic Violence offenses

Location	City	ZIP Code
707 LOMA WY	Santa Maria City	93455

Rep Dist	Area	Beat	From Date	From Time	Officer
237	2	SM	05/26/2022	20:00	3808/WHITE,B

Assignment	Entered by	Assignment	RMS Transfer	Prop Trans Stat
SANTA MARIA STATION	3808	SANTA MARIA STATION	Successful	Successful

Report Title	Approving Officer	Approval Date	Approval Time
Report of Arrest	2797	05/28/2022	15:38:13

Enter Protective Order	Other Attachments
Yes	Yes

Summary Narrative

Emergency Protective Order (EPO) granted and served.

Suspect 1: WILLIAMS,NATHAN RABSKA

Involvement	Invl No	Type	Name	MNI	Race	Sex
Suspect	1	Individual	WILLIAMS,NATHAN RABSKA	271425	White	Male

DOB	Age	Ethnicity	Juvenile?	Height	Weight	Hair Color	Eye Color	Skin
08/10/1986	35	Not of Hispanic origin	No	6'02"	215#	Brown	Brown	Light

Type	Address	City	State
Home	707 LOMA WY	Santa Maria City	California

ZIP Code	Date
93455	05/27/2022

Type	ID No	DLS
Operator License	D4039352	California

Type	ID No
Social Security Number	558-91-0721

Phone Type	Phone No	Date
Cell	(805) 720-1339	05/27/2022

Relationship	Name	Race	Sex
Mother	RABSKA,TAMI	White	Female

Address	City	State
830 LOMA WY	Santa Maria City	California

ZIP Code	Phone Type	Phone No
93455	Cell	(805) 310-1056

Victim (Person) 1: Confidential

Involvement	Invl No	Name :
VIC	1	See Confidential Page

Modus Operandi

Crime Code(s)
Assaults

Narrative

ATTACHMENTS

ERP-001 Emergency Protective Order
CLETS Entry Printout

NARRATIVE

Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No 0001

Narrative

On Saturday, 5-27-2022 (same day of arrest), at 1428 hours, the victim recontacted me via Dispatch and reported the following updated information:

The victim had since discovered her small gun safe was missing from under her bed and that Nathan's mother, Tami Rabska, would be bailing him out of jail. Given the new information, the victim was now in fear for her safety and seeking an Emergency Protective Order (EPO).

Missing Firearms: When asked for more details regarding the safe, the victim clarified that it had contained two handguns. One was a "little black 22 caliber pistol" which belongs to her, and the other a "38 caliber" which belongs to Nathan, presumably registered to his father. She did not know the make or model of either handgun. Although she claimed the 22 caliber was registered in her name. A CLETS firearms check, including all her previous surnames, provided no returns. When asked for the timeframe of when the safe went missing, the victim recalled stubbing her toe on the locking cable and pushing the safe back under the bed around 2200 hours (5-26-2022), implying the safe was taken between then and when Nathan was arrested at 0524 hours. Since Nathan was the only other person with a cable lock key, she believed he had taken the safe and placed it in a white GMC Envoy borrowed from his mother.

Emergency Protective Order (EPO): Based on the new developments, an EPO was sought and granted by Judge Lavayen at 1510 hours (5-27-2022). After confirming Nathan was still in custody, I was able to serve the order and admonish the stipulations to him at the Santa Barbara County Northern Branch Jail. While serving the order, I enquired about the missing gun safe. According to Nathan, the victim's 22 caliber was in their bedroom closet at 707 Loma Way and his own gun was secured in the small safe at his mother's house (830 Loma Way).

After speaking with Nathan, I relocated to 707 Loma Way to inform the victim and provide her EPO service copy. According to the victim, her 22 caliber was not in fact in the bedroom closet as claimed and she was adamant the aforementioned safe with her gun was most likely in the GMC Envoy, registered to Tami Rabska, and currently parked in the driveway at 830 Loma Way.

Due Diligence: After speaking with the victim, I relocated to that location and contacted Tami at the front door. After explaining my purpose of the visit, to recover the 22 caliber and 38 caliber guns for safekeeping in accordance with pending domestic violence case laws, Tami was very cooperative and gave consent to search her GMC Envoy, which she unlocked. During the search, no firearms were found and I noted the vehicle only contained mechanics tools and a target bow and arrow set. According to Tami, her son had no other property stored in the house but would notify us if she became aware of a gun. Further, once her son returns from the jail, she would enquire and encourage him to turn in any firearms pending case resolution.

CASE DISPOSITION

Follow up report taken, forward to DA.

Report of Arrest
Santa Barbara County Sheriff

22-6258 Supplement No 0001

Confidential Section

Do not distribute

Victim (Person) 1: PERIZZOLO, JENNIFER LEE

Involvement	Inv No	Type	Name	MN
Victim (Person)	1	Individual	PERIZZOLO, JENNIFER LEE	979392

Race	Sex	DOB	Age	Ethnicity	Juvenile?	Height	Weight	Hair Color
White	Female	04/23/1978	44	Not of Hispanic origin	No	5'05"	135#	Brown

Eye Color	Skin	Confidential	Means of Attack
Hazel	Light	Domestic Violence	Hands,fists,feet (medical attn,w/injury)

Extent of Injury	Dom Violence	Vict/Ofnd Age	Vict/Ofnd Age
No visible injury	Yes	44	35

Type	Address	City	State
Home	707 LOMA WY	Santa Maria City	California

ZIP Code	Date
93455	05/27/2022

Type	ID No	OLS
Operator License	D04484294	Arizona

Type	ID No
Social Security Number	610-70-1829

Phone Type	Phone No	Date
Cell	(805)720-8282	05/27/2022

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/11/2022 3:12 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

CONDITIONALLY UNDER SEAL

EX PARTE APPLICATION TO FILE CONFIDENTIAL EX-PARTE APPLICATION UNDER SEAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant Paul Ruben Flores, by and through his attorneys Robert M. Sanger, Sarah S. Sanger and Sanger Swysen & Dunkle, hereby request that the Court permit Defendant to file under seal Defendant's Confidential Ex-Parte under seal in accordance with California Rules of Court, rules 2.550 and 2.551, and under the attorney-client privilege and work product doctrine and the right to counsel and privacy pursuant to the Sixth and Fourteenth Amendments to the United States Constitution and

article I, section 15 of the California Constitution, and to protect the Defendant's right to privacy under article I, section 1 of the California Constitution.

This application is based on the attached memorandum of points and authorities, all the papers and records on file in this action and on such further oral and documentary evidence that may be presented at a hearing of this application.

Dated: July 11, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. We are concurrently filing a Confidential Ex Parte Application and [Proposed] Order conditionally under seal. The documents also include information that is protected by the attorney-client privilege and work product doctrines and the defendant's right to counsel and privacy under the Sixth and Fourteenth Amendments to the United States Constitution.
3. I am respectfully requesting that the Confidential Ex Parte Application and the [Proposed] Order be filed under seal so that the information contained therein is not divulged to the public or to the San Luis Obispo County District Attorney's Office.

I declare under penalty of perjury that the foregoing is true and correct and that this was executed on July 11, 2022, at Santa Barbara County, California.

Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

I. FILING THE CONFIDENTIAL EX-PARTE APPLICATION AND THE [PROPOSED] ORDER UNDER SEAL IS NECESSARY TO PREVENT CONFIDENTIAL INFORMATION FROM BEING DIVULGED TO THE PUBLIC

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (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. (California Rule of Court 2.550(d).)

The information included in the Confidential Ex Parte Application is protected by the attorney-client privilege and work product doctrine as well as Mr. Flores's right to counsel and privacy under the Sixth and Fourteenth Amendments to the United States Constitution and article I, section 15 of the California Constitution. We respectfully submit that it is necessary to file the Confidential Ex Parte Application and the [Proposed] Order under seal to

///

///

///

protect Mr. Flores's right to privacy and right to counsel and this overriding interest satisfies the requirements of Rule of Court 2.550(d).

CONCLUSION

For the above-state reasons, the Court should grant this application.

Dated: July 11, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 07/12/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES &

RUBEN RICARDO FLORES,

Defendant.

MONTEREY CASE NO. 22CR003712 & 22CR003713

SAN LUIS OBISPO CASE NO.: 21F-02402-A, B

[~~PROPOSED~~] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Motion To Introduce Photograph Of Paul Flores As A Certified Photograph And The Affidavit In Support Of The People's Motion To Introduce Photograph Of Paul Flores As A Certified Photograph are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: 7/12/2022

Jennifer O'Keefe

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 07/12/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs.

PAUL RUBEN FLORES &

RUBEN RICARDO FLORES,

Defendant.

MONTEREY CASE NO. 22CR003712 & 22CR003713

SAN LUIS OBISPO CASE NO.: 21F-02402-A, B

~~[PROPOSED]~~ ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The a copy of People's Motion To Exclude Testimony Regarding August 12, 2021, Disclosures be Sealed Until Further Order Of This Court And The Affidavit In support of A copy of People's Motion To Exclude Testimony Regarding August 12, 2021, Disclosures be Sealed Until Further Order Of This Court are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: 7/12/2022

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On July 5, 2022, I served the foregoing document(s) described as:

PEOPLE'S MOTION TO EXCLUDE TESTIMONY REGARDING AUGUST 12, 2021, DISCLOSURES BE SEALED UNTIL FURTHER ORDER OF THIS COURT & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS

(*People v. Paul Ruben Flores & Ruben Ricardo Flores*, Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 5, 2022, at San Luis Obispo, California.

Cameron Myers, Legal Clerk

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 07/12/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B [PROPOSED] ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The A Copy Of People's Request For Closing Hearing Re: August 21, 2021 Disclosures And Supplemental Information And The Affidavit In Support of A Copy Of People's Request For Closing Hearing Re: August 21, 2021 Disclosures And Supplemental Information are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: 7/12/2022

Jennifer O'Keefe
THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On July 5, 2022, I served the foregoing document(s) described as:

A COPY OF PEOPLE'S REQUEST FOR CLOSING HEARING RE: AUGUST 21, 2021 DISCLOSURES AND SUPPLEMENTAL INFORMATION & AFFIDAVIT OF DEPUTY DISTRICT ATTORNEY CHRISTOPHER PEUVRELLE – REQUEST FOR ORDER AND PROPOSED ORDER SEALING PUBLIC RECORDS

(*People v. Paul Ruben Flores & Ruben Ricardo Flores*, Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 5, 2022, at San Luis Obispo, California.

Cameron Myers, Legal Clerk

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
County Government Center, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 07/12/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendant.	MONTEREY CASE NO. 22CR003712 & 22CR003713 SAN LUIS OBISPO CASE NO.: 21F-02402-A, B ~~[PROPOSED]~~ ORDER SEALING PUBLIC RECORDS

Based upon the foregoing Affidavit and Request, IT IS HEREBY ORDERED that:

1. The People's Motion to Exclude Any Cross Examination of Jennifer Hudson as to Motorcycle Clubs or Her Status as a Victim of Domestic Violence and the Affidavit in support of the People's Motion to Exclude Any Cross Examination of Jennifer Hudson as to Motorcycle Clubs or Her Status as a Victim of Domestic Violence are sealed and lodged with the Court;

2. No other sealing is ordered pursuant to the People's request; and

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3. Defense Counsel for Paul Ruben Flores, Robert M. Sanger and his office and Defense Counsel for Ruben Ricardo Flores, Harold V. Mesick and his office are permitted to view the sealed records.

Dated: 7/12/2022

THE HONORABLE JENNIFER O'KEEFE
JUDGE OF THE SUPERIOR COURT

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 07/12/2022
By Deputy: Inofuentes, Maria

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES, Defendant.	Case No. 22CR003712 **~~[PROPOSED]~~ ORDER GRANTING EX PARTE APPLICATION TO FILE CONFIDENTIAL EX-PARTE APPLICATION AND [PROPOSED] ORDER UNDER SEAL** Hon. Jennifer O'Keefe

THE COURT MAKES THE FOLLOWING FACTUAL FINDINGS:

1. The Court finds that the documents submitted by Defendant contain confidential information in which Defendant has an overriding right to privacy under article I, section 1 of the California Constitution and the information is protected by the attorney-client privilege, the work product doctrine and right to counsel under the Sixth and Fourteenth Amendments to the United States Constitution and article I, section 15 of the California Constitution which overcomes the right of public

access to the documents;

2. Defendant's overriding right to privacy in his information supports sealing the record;

3. A substantial probability exists that Defendant's right to privacy will be prejudiced if the documents are not sealed;

4. The proposed sealing is narrowly tailored; and

5. No less restrictive means exist to protect Defendant's overriding right to privacy in his information.

IT IS HEREBY ORDERED THAT:

1. Defendant's Confidential Ex-Parte Application and the [Proposed] Order are sealed and lodged with this Court;

2. No other sealing is ordered pursuant to Defendant's request; and

3. No one other than Paul Flores's counsel and the Court are permitted to view the sealed records.

Dated: 7/12/2022

The Honorable Jennifer O'Keefe
Judge of the Superior Court

MC-500

MEDIA AGENCY *(name)*: Mustang Media Group
CHANNEL/FREQUENCY NO.: KCPR 91.3 FM
PERSON SUBMITTING REQUEST *(name)*: Catherine Allen
ADDRESS:
1GrandAve.San Luis Obispo, CA 93407
TELEPHONE NO.: 760-331-3206

FOR COURT USE ONLY

FILED IN COURT
7-14-22
CLERK OF THE SUPERIOR COURT
By _____ DEPUTY

Insert name of court and name of judicial district and branch court, if any:
Superior Court of California, Monterey County

TITLE OF CASE:
People v. Flores Paul Ruben, People v. Ruben Ricardo

NAME OF JUDGE: Judge Jennifer O'Keefe

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

CASE NUMBER:
22CR003712, 22CR003713

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
   Opening statements, presentation of evidence

2. DATE OF PROPOSED COVERAGE *(specify)*: 7/18/2022 - Onward . *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance)*:

3. TYPE OF COVERAGE
   a. ☐ TV camera and recorder
   b. ☒ Still camera
   c. ☐ Motion picture camera
   d. ☒ Audio
   e. ☐ Other *(specify)*:

4. ☐ SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:

5. ☒ INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $ 0
   ☐ Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal. Rules of Court, rule 1.150)*.

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: 7/9/.2022

Catherine Allen
(TYPE OR PRINT NAME)

Catherine Allen
(SIGNATURE)

Telephone No.: 760-331-3206

Editor in Chief
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING (*A hearing is optional.*)

A HEARING will be held as follows:

Date: Time: Dept./Div: Room:
Address of the Court:

Clerk, by _____, Deputy

Print this form Save this form

MC-510

MEDIA AGENCY *(name):* Mustang Media Group
CHANNEL/FREQUENCY NO.: KCPR 91.3 FM
PERSON SUBMITTING REQUEST *(name):* Catherine Allen
ADDRESS: 1 Grand Ave.San Luis Obispo, CA 93407
TELEPHONE NO.: 760-331-3206

FOR COURT USE ONLY

FILED IN COURT
7-14-22
CLERK OF THE SUPERIOR COURT
BY _____ DEPUTY

Insert name of court and name of judicial district and branch court, if any:
Superior Court of California, Monterey County

TITLE OF CASE:
People v. Flores Paul Ruben, People v. Ruben Ricardo

NAME OF JUDGE:
Judge Jennifer O'Keefe

CASE NUMBER:
22CR003712, 22CR003713

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name):* Mustang Media Group, Mustang News

1. a. ☑ No hearing was held.
   b. ☑ Date of hearing: 7/18/2022 Time: a.m. Dept./Div.: 4 Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ **THE COURT FINDS** *(findings or a statement of decision are optional):* ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ **denied.**
   b. ☑ **granted** subject to the conditions in rule 1.150, California Rules of Court, **AND** the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
         (i) ☐ shall not apply to allow coverage of proceedings that are continued.
         (ii) ☐ shall apply to allow coverage of proceedings that are continued.
      (8) ☑ Other *(specify)*:

      See attached order

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☐ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:
7. ☐ Number of pages attached:

Date: 7/14/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Hon. Jennifer J. O'Keefe

CASE NAME:	CASE NUMBER:
—	22CR003712, 22CR003713

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

MC-500

MEDIA AGENCY *(name)*: The Stockton Record/USA Today Network
CHANNEL/FREQUENCY NO.:
PERSON SUBMITTING REQUEST *(name)*: Genette Brookshire
ADDRESS:
445 W. Weber Ave., Suite 128 C, Stockton, CA 95203
TELEPHONE NO.: (209) 470-0401

FOR COURT USE ONLY

FILED IN COURT
7-14-22
CLERK OF THE SUPERIOR COURT
BY _____ DEPUTY

Insert name of court and name of judicial district and branch court, if any:
Superior Court of California, Monterey County, Salinas branch

TITLE OF CASE:
The People of the State of California vs. Paul Ruben Flores

NAME OF JUDGE: Hon. Jennifer O'Keefe

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

CASE NUMBER:
22CR003712

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*: Opening statements of the trial.

2. DATE OF PROPOSED COVERAGE *(specify)*: 7/18/22 . *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance):*

3. TYPE OF COVERAGE
   a. ☐ TV camera and recorder
   b. ☐ Still camera
   c. ☐ Motion picture camera
   d. ☐ Audio
   e. ☐ Other *(specify):*

4. ☐ SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify):*
   Hon. Jennifer O'Keefe

5. ☐ INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $
   ☐ Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal. Rules of Court, rule 1.150).*

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: Jul 13, 2022

Genette Brookshire
(TYPE OR PRINT NAME)

Genette Brookshire
(SIGNATURE)

Telephone No.: 209-470-0401

Senior Content Strategist/Managing Editor
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING *(A hearing is optional.)*

A HEARING will be held as follows:

Date:	Time:	Dept./Div:	Room:
Address of the Court:			

Clerk, by _____, Deputy

To protect your privacy, please press the Clear This Form button after you have printed the form.

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MC-510

MEDIA AGENCY *(name)*: The Stockton Record/USA Today Network CHANNEL/FREQUENCY NO.: PERSON SUBMITTING REQUEST *(name)*: Genette Brookshire ADDRESS: 445 W. Weber Ave., Suite 128 C, Stockton, CA 95203 TELEPHONE NO: 2094700401	FOR COURT USE ONLY FILED IN COURT 7-14-22
Insert name of court and name of judicial district and branch court, if any: Superior Court of California, Monterey County, Salinas branch	CLERK OF THE SUPERIOR COURT BY _____ DEPUTY K Kuerstein
TITLE OF CASE: The People of the State of California vs. Paul Ruben Flores	
NAME OF JUDGE: Hon. Jennifer O'Keefe	
ORDER ON MEDIA REQUEST TO PERMIT COVERAGE	CASE NUMBER: 22CR003712

AGENCY MAKING REQUEST *(name)*: The Stockton Record

1. a. ☑ No hearing was held.
   b. ☐ Date of hearing: Time: Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. ☐ THE COURT FINDS *(findings or a statement of decision are optional)*: ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. ☐ **denied.**
   b. ☑ **granted** subject to the conditions in rule 1.150, California Rules of Court, **AND** the following:
      (1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) ☐ Payment to the clerk of increased court- incurred costs of *(specify)*: $ ☐ to be determined.
      (4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

      (6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
      (ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) ☐ This order
      (i) ☐ shall not apply to allow coverage of proceedings that are continued.
      (ii) ☑ shall apply to allow coverage of proceedings that are continued.
      (8) ☑ Other *(specify)*:

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. ☑ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. ☐ Only the following proceedings *(specify type or date or both)*:
6. ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:
7. ☐ Number of pages attached:

Date: 7/14/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Cal. Rules of Court rule 1.150
www.courtinfo.ca.gov

Hon. Jennifer J. O'Keefe

CASE NAME:	CASE NUMBER:
The People of the State of California vs. Paul Ruben Flores	22CR003712

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be permitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Paul Ruben Flores,** Defendant	**Out of Court Entries by Clerk** Clerk: **Kristie Hanson** Date: 7/14/2022 Time: 4:14 pm
	Case No. 22CR003712

Matter set on calendar by Order of Honorable Jennifer J. O'Keefe.

Matter is set at request of San Luis Obispo County Counsel regarding ancillary expenses.

The Court notes this will be an open hearing and no specific funding requests should be addressed either in motions filed with the Court or on the record.

If Counsel wishes to address specific funding requests orally, it will be heard in a closed session.

If Counsel wishes to address specific funding requests in a motion, the motion should be filed under seal.

County Counsel of Monterey County to be notified of hearing.

Case continued to Friday, July 22, 2022 at 01:30 pm in Salinas courtroom 4 for Motion hearing.

CC: Attorney Robert Sanger

Monterey Assistant County Counsel Janet Holmes

San Luis Obispo Assistant County Counsel Jon Ansolabehere

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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/14/2022 10:45 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES and RUBEN RICARDO FLORES,

Defendants.

Case Nos. 22CR003712, 22CR003713

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PROOF OF SERVICE

I declare that I am employed in the County of San Francisco, State of California. I am over the age of eighteen (18) and not a party to the within entitled case, and my business address is Cannata, O'Toole, Fickes & Olson LLP, 100 Pine Street, Suite 350, San Francisco, CA 94111.

On July 14, 2022, I served the following documents in the manner(s) selected:

1. **NOTICE OF MOTION AND MOTION OF NEWS MEDIA COALITION TO UNSEAL JUDICIAL RECORDS AND REGISTER OF ACTIONS AND FOR REMOTE ACCESS;**

   MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT;

   REQUEST FOR HEARING;

   DECLARATION OF CHLOE JONES IN SUPPORT

2. **[PROPOSED] ORDER GRANTING MOTION OF NEWS MEDIA COALITION TO UNSEAL JUDICIAL RECORDS AND REGISTER OF ACTIONS AND FOR REMOTE ACCESS**

3. **PROOF OF SERVICE**

[X] (ELECTRONIC SERVICE) on the date executed below, I caused the document(s) described to be electronically served via Odyssey e-FileCA to the below recipients:

By Electronic Service

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Counsel for Paul Ruben Flores

I declare that the foregoing is true and correct and that this declaration was executed in San Francisco, California, on July 14, 2022.

Jessica Toscano

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On 7/14/2022 10:45 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES and REUBEN RICARDO FLORES,

Defendants.

Case Nos. 22CR003712, 22CR003713

NOTICE OF MOTION AND MOTION OF NEWS MEDIA COALITION TO UNSEAL JUDICIAL RECORDS AND REGISTER OF ACTIONS AND FOR REMOTE ACCESS;

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT;

REQUEST FOR HEARING;

DECLARATION OF CHLOE JONES IN SUPPORT

Date:
Time:
Place: Dept. 4
Judge: Hon. Jennifer O'Keefe

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NOTICE OF MOTION AND MOTION

TO THE COURT, ALL PARTIES, AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, at a date and time set by the Court, in Department 4 of the Monterey County Superior Court, at 240 Church Street, Salinas, California 93901, non-party news media organizations The McClatchy Company, LLC (d.b.a. *The Tribune*), Los Angeles Times Commiunications, LLC (d.b.a. *Los Angeles Times*), American Broadcasting Company, Inc. (d.b.a. *ABC News*), and The Associated Press (collectively, "the News Media Coalition") will, and hereby do, move for an order (1) unsealing all sealed court records filed in this case following its transfer to the Monterey County Superior Court in their entirety; (2) unsealing in its entirety and providing the press and the public with access to the full and complete register of actions in this matter, both remotely in electronic format and in hard copy upon request at the courthouse; and (3) authorizing remote electronic access to all records filed with the Court in this case under California Rule of Court 2.503(e). The News Media Coalition moves to lift or modify any order, including the April 15, 2021 "gag order" in this case, that is inconsistent with the relief sought in this Motion.

This Motion is made on the grounds that under the First Amendment to the United States Constitution, article I, sections 2(a) and 3(b) of the California Constitution, California Code of Civil Procedure section 1904, California Rules of Court 2.550-2.551, 2.503, and 2.507, and the common law, judicial records and registers of actions, including the records and register of actions sought here, are presumptively open and cannot be sealed without notice and express factual findings as set forth in California Rule of Court 2.550(d). The demanding requirements for sealing set forth in, inter alia, California Rule of Court 2.550(d) have not been and cannot be satisfied here. This Motion also seeks an order authorizing remote electronic access to all judicial records in this case as set forth for certain criminal cases under California Rule of Court 2.503(e).

This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities filed herewith, the Request for Hearing filed herewith, the declaration of Chloe Jones filed herewith, the anticipated Reply in support of this Motion, all pleadings, records, and files in this action (including, but not limited to, the sealed records this Motion seeks to access), and all

other evidence and argument received by the Court in connection with this Motion.

DATED: July 14, 2022

CANNATA O'TOOLE FICKES & OLSON LLP

By: _____
AARON R. FIELD

Karl Olson
Aaron R. Field

Attorneys for Non-Party News Media Organizations THE MCCLATCHY COMPANY, LLC (d.b.a. THE TRIBUNE), LOS ANGELES TIMES COMMUNICATIONS, LLC, AMERICAN BROADCASTING COMPANY, INC. (d.b.a. ABC NEWS), and THE ASSOCIATED PRESS

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

As our Supreme Court has recognized, "Openness in government is essential to the functioning of a democracy." (*International Federation of Professional and Technical Engineers, Local 21 v. Superior Court* ("*IFPTE*") (2007) 42 Cal.4th 319, 328.) Accordingly, courts have long held that the press and the public have a powerful presumptive right of access to judicial records and proceedings[1], and that sealing or closure is permitted in only "the rarest of circumstances." (*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1226; see also *id.* at p. 1198 ["[H]istorically our nation viewed what transpires in the courtroom as public property."].) More than a century ago, our Supreme Court explained:

> "In this country it is a first principle that the people have the right to know what is done in their courts. The old theory of government which invested royalty with an assumed perfection, precluding the possibility of wrong and denying the right to discuss its conduct of public affairs, is opposed to the genius of our institutions in which the sovereign will of the people is the paramount idea; and the greatest publicity to the acts of those holding positions of public trust, and the greatest freedom in discussion of the proceedings of public tribunals that is consistent with truth and decency are regarded as essential to the public welfare."

(*Cal. ex rel. Lockyer v. Safeway, Inc.* (C.D. Cal. 2005) 355 F. Supp. 2d 1111, 1124-25 [quoting *In re Shortridge* (1893) 99 Cal.526, 530-31].)

Openness is particularly "essential," *IFPTE*, *supra*, 42 Cal.4th at p. 328, here. The state contends that this case will solve a mystery that has unsettled the San Luis Obispo County community for more than twenty-five (25) years: What happened to Kristin Smart on May 25, 1996? The public has a powerful interest – and is in fact keenly interested – in independently evaluating whether and, if so, how this case answers that question. It also has a powerful interest in verifying that this case is adjudicated fairly and consistently with the law, and that law enforcement agencies and officials handled the investigation of Ms. Smart's disappearance appropriately and are prosecuting this case effectively despite waiting decades to bring charges.

---

[1] The relevant rights of access here flow from the First Amendment to the United States Constitution, article I, sections 2(a) and 3(b)(1) of the California Constitution, California Rules of Court 2.550-2.551, and the common law.

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Yet, despite the presumption of and compelling interest in openness, as of July 5, 2022, *most* of the records filed in this Court – *166 of 243* records – were sealed *in their entirety*, including records related to motions to dismiss and motions in limine, and records related to sealing, including this Court's rulings on whether sealing is justified. Of the 77 filings that are public, 54 are form "media requests," form orders granting or denying them, and related records, and only 6 contain anything of substance relating to the actual criminal case. (Declaration of Chloe Jones ("Jones Decl.") ¶ 5(A).) In short, since this case came to this Court, virtually every filing of substance has been sealed. This has made it very hard to track, evaluate, and report on these proceedings and the parties' factual and legal arguments. Compounding the problems this has caused, the Court appears to be using a "dual-docketing" system that limits the public to a difficult-to-decipher partial register of actions while using more complete records internally.

To overcome these barriers to access, the News Media Coalition makes this motion to unseal. The Motion should be granted, for several reasons. *First*, all sealed judicial records filed on or after April 20, 2022 in this case should be unsealed under the First Amendment, article I, sections 2(a) and 3(b) of the California Constitution, Rules of Court 2.550 and 2.551, and the common law. No party has demonstrated that any sealing is justified in this case – let alone the sealing of almost all substantive filings in this case in their entirety. Nor, to the News Media Coalition's knowledge, has the Court made on-the-record findings necessary to justify sealing. *Second*, the register of actions should be unsesaled or supplemented such that it is fully accessible to the public and contains all required information under the First Amendment, Rules of Court 2.550-2.551, 2.503(b), and 2.507(b)(3)(H), and the common law. *Third*, remote access to all court filings in this case should be authorized under Rule of Court 2.503(e) and the First Amendment.

II. FACTUAL AND PROCEDURAL BACKGROUND

This case arises from the disappearance of Kristin Smart, a 19-year-old freshman at California Polytechnic State University, San Luis Obispo, on May 26, 1996. There has been great public interest in, and thus extensive news media coverage of, Ms. Smart's disappearance in the decades since it occurred. (See Jones Decl. ¶ 4.) According to defendant Paul Flores, this has included "thousands of articles in various publications." (Motion for Change of Venue at 8:1-2.)

Despite the exceptional public interest in this case, as of July 5, 2022, most of the records filed in this case after its transfer –166 of 243 records – have been sealed in their entirety, including all records related to the parties' motions to dismiss and motions in limine, and almost all records related to sealing, and sealing orders. (Jones Decl. ¶ 5(A).) Of the 77 public filings, 54 are form "media requests," form orders granting or denying them, and related records. (*Ibid.*) The remainder are also non-substantive except for 6 that relate to juror selection. (*Ibid.*)

The extensive, wholesale sealing of almost all substantive records in this case is inconsistent with the San Luis Obispo County Superior Court's handling of this matter. (*Ibid.*) The parties presented and discussed at the preliminary hearing before the San Luis Obispo County Superior Court evidence that appears to be the subject of motions in limine that this Court has sealed. (*Ibid.*) Further, this Court's public-facing register of actions in this case is difficult to decipher and contains very little substantive information. (Jones Decl. ¶ 5(B).) It uses short statements like "motion," "affidavit," and "document: other" that do not meaningfully describe proceedings, the nature or purpose of any filing, or how the Court has ruled. (*Ibid.*)

Lack of remote access to court filings in this case detracts from the openness of the proceedings. (Jones Decl. ¶ 5(C).) Without remote access, the press and the public must request records in person at the courthouse or by mail using a form that takes weeks or longer for the Court to process. (*Ibid.*) This burdens and delays reporting, including for Ms. Jones, a reporter for *The Tribune* who covered this case in her City with relative ease until it was transferred to this Court, many miles away. (Jones Decl. ¶¶ 3, 5(C).)

Ms. Jones informally requested remote access in a June 10, 2022 e-mail, but the Court declined. (Jones Decl. ¶ 5(C).) The Court's media liason wrote, "The Court has considered the possibility of designating Flores an extraordinary criminal case under CRC 2.503, however, has decided not to designate it as such at this time." (*Ibid.*)

To remove these barriers to access, the News Media Coalition makes the instant Motion.

III. ARGUMENT

A. THE MEDIA COALITION HAS STANDING TO MAKE THIS MOTION.

The public and press have standing to assert their rights of access to court records and

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proceedings. (*Globe Newspaper Co. v. Superior Court* (1982) 457 U.S. 596, 609 n. 25 ["representatives of the press and the general public must be given an opportunity to be heard on the question of their exclusion"]; *NBC Subsidiary, supra*, 20 Cal.4th at p. 1217 n.36 [same]; see also, e.g., *In re Associated Press* (7th Cir. 1998) 162 F.3d 503, 507-08 [holding that "those who seek access . . . have a right to be heard in a manner that gives full protection of the asserted right" and that the press and the public "must be given an opportunity to be heard on the question of their exclusion from the proceedings or access to documents"].) The News Media Coalition therefore has standing to challenge any restrictions on its (or the public's) access to court records here, and should be provided an opportunity to be heard before such orders are issued. (See *NBC Subsidiary, supra*, 20 Cal.4th at pp. 1217-18 & n.36; Cal. R. Ct. 2.551(h)(2) [any "member of the public may move, apply, [or] petition . . . to unseal a court record"].)[2]

B. THIS MOTION SEEKS TO VINDICATE PUBLIC RIGHTS THAT ARE ESSENTIAL TO THE FUNCTIONING OF A DEMOCRACY.

Openness in and press coverage of criminal court records and proceedings empowers the public to debate, evaluate, and politically supervise the work of law enforcement and the judicial branch in an informed manner. (See *Richmond Newspapers, Inc. v. Virginia* (1980) 448 U.S. 555, 587 [Brennan, J., Marshall, J., concurring].) The First Amendment embodies a "commitment to free expression and communicative interchange for their own sakes" and an "antecedent assumption that valuable public debate – as well as other civic behavior – must be informed." (*Ibid.*)

> Without the information provided by the press most of us and many of our representatives would be unable to vote intelligently or to register opinions on the administration of government generally. With respect to judicial proceedings in particular, the function of the press serves to guarantee the fairness of trials and to bring to bear the beneficial effects of public scrutiny upon the administration of justice.

[2] The press is entitled to challenge orders that deny access to court records. (E.g., *Burkle v. Burkle* (2006) 135 Cal.App.4th 1045, 1050 [recognizing newspaper's right to intervene to unseal records]; *Press-Enterprise v. Superior Court* ("*Press-Enterprise III*") (1994) 22 Cal.App.4th 498, 500-01 [implicitly recognizing newspaper's right to challenge sealing of post-indictment grand jury transcript in high-profile criminal case in Riverside County]; Cal. R. Ct. 2.551(h)(2) [any "member of the public may move, apply, [or] petition . . . to unseal a court record"].)

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(*Cox Broad. Corp. v. Cohn* (1975) 420 U.S. 469, 491-92; see also *Estate of Hearst* (1977) 67 Cal.App.3d 777, 782 ["If public court business is conducted in private, it becomes impossible to expose corruption, incompetence, inefficiency, prejudice, and favoritism."].)

In *Richmond Newspapers*, the United States Supreme Court recognized that "a presumption of openness inheres in the very nature of a criminal trial under our system of justice." (448 U.S. at p. 573.) The Court held that the First Amendment guarantees the public and the press a presumptive right of access to criminal trials, emphasizing that openness has "long been recognized as an indispensable attribute of an Anglo-American trial." (*Id.* at p. 569; see also *Globe Newspaper, supra*, 457 U.S. at p. 602 [statute excluding public and press from trial testimony of minor victims in sex offense cases violated First Amendment]; *Press-Enterprise Co. v. Superior Court* ("*Press-Enterprise I*") (1984) 464 U.S. 501, 509-10 [order sealing transcript of voir dire proceedings in murder case violated constitutional right of access; recognizing that openness enhances the appearance of fairness so essential to public confidence].)

This presumption of openness applies to court records as well as court proceedings. (See, e.g., *Associated Press v. District Court* (9th Cir. 1983) 705 F.2d 1143, 1145 [overturning order sealing documents filed as part of pre-trial proceedings in drug prosecution of John DeLorean, and stating [t]here is no reason to distinguish between pretrial proceedings and the documents filed in regard to them. Indeed, the . . . principal justifications for the first amendment right of access to criminal proceedings apply, in general, to pretrial documents"].) As the Ninth Circuit explained in *CBS, Inc. v. District Court* (9th Cir. 1985) 765 F.2d 823, 825,

> We begin with the presumption that the public and the press have a right of access to criminal proceedings and documents filed therein. The right of access is grounded in the First Amendment and in common law, and extends to documents filed in pretrial proceedings as well as in the trial itself.

(See also *Copley Press, Inc. v. Superior Court* (1992) 6 Cal.App.4th 106, 111 ["Both the federal and the state Constitutions provide broad access rights to judicial hearings and records. A lengthy list of authorities confirms this right in general, and in particular as it pertains to the press, both in criminal and civil cases"] [citations omitted].)

Openness that enables public oversight of law enforcement officers, prosecutors, and

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criminal trials is particularly important. (See *McClatchy Newspapers, Inc.*, *supra*, 189 Cal.App.3d at p. 975 [the public's " 'interest in overseeing the conduct of the prosecutor, the police, and the judiciary is strong indeed' "].) In criminal cases, openness also has "community therapeutic value." (*Press Enterprise Co. v. Superior Court* ("*Press-Enterprise II*") (1986) 478 U.S. 1, 13.) And, openness promotes "the appearance of justice" in criminal cases, which is "best provided for by allowing people to observe it." (*Richmond Newspapers, Inc.*, *supra*, 448 U.S. at pp. 571-72 [pl. opn.].)

The public interest in openness here is magnified by the seriousness of the government's allegations, the community's desire to for answers to longstanding questions about Ms. Smart's disappearance, and the fact that it took decades for the government to bring charges. " 'People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.' " (*Press-Enterprise I*, *supra*, 464 U.S. at p. 509 [citation omitted].)

The News Media Coalition's interest in access is an interest in "contemporaneous" access. (*Courthouse News Service*, *supra*, 47 F.3d at p. 594.) The News Media Coalition thus respectfully requests that this motion be heard promptly – before opening statements or as soon as possible thereafter – to enable it to receive the records that it seeks while they are newsworthy. (*Ibid.*) "The newsworthiness of a particular story is often fleeting. To delay or postpone disclosure undermines the benefit of public scrutiny and may have the same result as complete suppression." (*Ibid.* [internal citations and quotation marks omitted].)

C. THE SEALING OF ALMOST ALL RECORDS VIOLATES THE FIRST AMENDMENT, RULES OF COURT 2.550 AND 2.551, AND THE COMMON LAW RIGHT OF ACCESS.

The First Amendment and Rules of Court 2.550 and 2.551 foreclose sealing 166 of 243 records, in their entirety, without public justification. In *NBC Subsidiary* – a unanimous and sweeping decision that fully embraced the First Amendment right of access to judicial records and proceedings, in which all four News Media Coalition members participated as *amici curiae* – the Supreme Court held that judicial records may be sealed only "in the rarest of circumstances." (20 Cal. 4th at p. 1226.) Under *NBC Subsidiary*, judicial records and proceedings may not be

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sealed or closed unless strict procedural and substantive requirements are satisfied.

First, as to procedure, the court must "provide notice to the public of the contemplated closure." (*Id.* at p. 1217.) If the motion is a "written filing," it must be "publicly docket[ed]" "reasonably in advance of the determination thereon." (*Ibid.*; accord. Cal. R. Ct. 2.551(b)(1).) The motion "must be accompanied by a memorandum of points and authorities and a declaration containing facts sufficient to justify the sealing." (*Ibid.*; *NBC Subsidiary*, *supra*, 20 Cal.4th at pp. 1217-18; see also *Oregonian Publ. Co. v. District Court* (9th Cir. 1990) 920 F.2d 1462, [vacating sealing order because trial court had "no evidentiary support" for belief that sealing would "serve 'higher values' "].) The Court must then make specific, express, on-the-record findings that all requirements for sealing have been met. (*Press-Enterprise II*, *supra*, 478 U.S. at pp. 13-14.)

Second, as to substance, sealing or closure is not permitted unless its proponent proves, *In re Providian Credit Card Cases* (2002) 96 Cal.App.4th 292, 301, and the Court expressly finds, that (1) there is an overriding interest that overcomes the public's right of access; (2) there is a substantial probability that sealing will promote that interest; (3) the sealing order is narrowly tailored to serve the overriding interest; and (4) there are no less restrictive alternatives to sealing, *NBC Subsidiary*, *supra*, 20 Cal.4th at at p. 1208; accord. Cal. R. Ct. 2.550(d), 2.550(e)(1).[3] A "court must not permit a record to be filed under seal based solely upon the agreement or stipulation of the parties." (Cal. R. Ct. 2.551(a).)

NBC Subsidiary is dispositive of many of the issues presented here and should guide this Court's decision. There, in a civil lawsuit by Sondra Locke against Clint Eastwood alleging "deceit, intentional interference with prospective economic advantage, and breach of fiduciary duty arising out of promises by Eastwood to assist Locke in the development of motion picture projects," the trial court ordered that "all proceedings in the case that are held outside the presence of the jury will be closed to the public and the press." (*NBC Subsidiary*, *supra*, 20

[3] The First Amendment right of access applies to all of the sealed records at issue here, because they were all "filed in court as a basis for adjudication." (*NBC Subsidiary*, 20 Cal.4th at 1208 & n.25; accord. Cal. R. Ct. 2.550(b) [records subject to presumption of access include "all or a portion of any document, paper, exhibit, transcript, or other thing filed or lodged with the court, by electronic means or otherwise"]; Cal. Const., art. I, § 3(b) [providing an independent right of access and requiring that statutes and court rules be construed in favor of access].)

Cal.4th at p. 1182.) Its stated reason was "to ensure that the only information that the press has is what the jury sees and nothing else because I do not want to have a situation I have seen in other cases where the press reports something that was out of the presence of the jury and then, somehow, someone reads it." (*Ibid.*; see also *id.* at pp. 1183 [discussing later order stating a similar rationale for blanket closure of proceedings held outside the presence of the jury].) KNBC-TV applied to vacate the order, but the trial court denied the application. (*Id.* at p. 1184.) KNBC-TV then obtained a writ of mandate from the Court of Appeal vacating the closure order because it was "based upon insufficient findings and hence inconsistent with the First Amendment" and directing the trial court to disclose transcripts of proceedings that had been improperly closed. (*Id.* at p. 1188.)

The Supreme Court affirmed the Court of Appeal and unequivocally held that the trial court's blanket closure order was not consistent with the First Amendment. It began its First Amendment analysis with the "celebrated dictum" that "[a] trial is a public event" and that "[w]hat transpires in the court room is public property." (*Id.* at p. 1197 [internal citaitons and quotation marks omitted].) It surveyed *Richmond Newspapers*, *supra*, 448 U.S. 555, *Globe Newspaper*, *supra*, 457 U.S. 596, *Press-Enterprise I*, *supra*, 464 U.S. 501, *Waller v. Georgia* (1984) 467 U.S. 39, and *Press–Enterprise II*, *supra*, 478 U.S. 1 (all prominent criminal cases), and held that the First Amendment right of access applies in not only criminal cases, but also civil cases. (*Id.* at pp. 1207-12.) It also held that proceedings outside the presence of the jury are not categorically exempt from the First Amendment right of access. (*Id.* at pp. 1213-14.)

Next, the Supreme Court rejected the argument that proceedings on the admissibility of evidence and other matters ancillary to a jury trial are not subject to the First Amendment right of access, stating that it was "unaware of any authority holding or suggesting that such proceedings have not been historically important, open, and public parts of civil trials." (*Id.* at p. 1119.) It also rejected the assertion that applying the First Amendment right of access to hearings held outside the presence of the jury "might (i) increase 'the risk that jurors will be exposed to the very information that was held from them,' and (ii) discourage or impair 'the necessary give-and take negotiations between counsel and the court that such conferences are designed to engender.' " (*Id.*

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at p. 1221.) The Supreme Court wrote:

> . . . although it is readily apparent that publicity poses a risk of prejudice to the fairness of a trial (cf. *Press–Enterprise II*, *supra*, 478 U.S. 1, 14-15[. . .]), [. . .] frequent and specific cautionary admonitions and jury instructions, and not closure, constitute the accepted, presumptively adequate, and plainly less restrictive means of dealing with the threat of jury contamination.

(*Ibid.*)

The Supreme Court held that fair trial concerns did not justify the trial court's blanket closure order. It held that the trial court had "made no finding supporting the proposition that prejudice to that interest was *substantially probable* absent closure and temporary sealing in a case that was similarly a focus of intense public interest and significant coverage by the news media" – and expressed doubts that some of the information at issue could have caused prejudice because it was already public. (*Id.* at p. 1222 & n.47 [emphasis in original].) It elaborated,

> . . . even assuming that closure and temporary withholding of transcripts might have been appropriate as to some or part of the proceedings that were conducted in the jury's absence, the trial court's blanket and sweeping order closing the courtroom during all nonjury proceedings was not narrowly tailored: the trial court wholly failed to identify particular proceedings that would or did contain information justifying closure.

(*Id.* at pp. 1222-23.)

The Supreme Court also held that the trial court's blanket closure order was not consistent with the First Amendment for the independent reason that less restrictive means than closure were available to address fair trial concerns. (*Id.* at p. 1223.) It held that jury instructions or sequestration could have addressed fair trial concerns in a less restrictive way than closure, and that this independently invalidated the closure order. (*Ibid.*) It held that "as a general matter, cautionary admonitions and instructions must be considered a presumptively reasonable alternative – a presumption that can be overcome only in exceptional circumstances." (*Id.* at p. 1224.) Even in a hypothetical extreme case involving "exceptionally prejudicial" evidence and "intens[e] of media coverage" that might rebut this presumption, the Supreme Court explained, only "narrowly tailored closure," "supported by sufficient findings," "made after notice and a hearing," "coupled with prompt release of transcripts" is permissible. (*Ibid.*) It wrote that it knew

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of no authority suggesting that blanket closure was permitted. (*Id.* at p. 1225.)

The Supreme Court held that the trial court's "generalized conjecture that the jurors might violate their oaths and allow themselves to be exposed to press coverage, and that their deliberations might be tainted irreparably by that exposure" was insufficient to establish an "overriding interest" that could justify *any* closure, let alone the trial court's blanket closure order. (*Ibid.*) It rejected the assertion that requiring proponents of closure to satisfy First Amendment standards on an issue-by-issue basis was unworkable, and admonished that "courts can and should minimize such inconveniences by proposing to close proceedings only in the rarest of circumstances." (*Id.* at p. 1226.)

Applying the First Amendment, Rules of Court 2.550 and 2.551, and *NBC Subsidiary* here, all sealed court filings in this matter from April 20, 2022 onward should be unsealed in their entirety. Neither the procedural nor the substantive prerequisites for sealing have been satisfied here. The parties have not demonstrated, and to our knowledge the Court has not expressly and specifically found on the record, that *any* overriding interest in nondisclosure could justify *any* sealing or closure here -- let alone the wholesale sealing of most of the records filed in this case following its transfer to this Court – especially considering the acute public interest in access here. Since the register of actions in this case is itself largely sealed or withled, motions to seal have not been publicly docketed in this Court, and, as a result, First Amendment-compliant public notice of motions to seal was never provided. And, to our knowledge, no party has presented evidence that explains and the Court has not expressly found on the record, as to any of the many sealed records in this case, let alone all of them, that sealing is narrowly tailored to an overriding interest in nondisclosure or that there is no less restrictive means available to protect such an interest. Nor could they have (especially now that jury selection is done). It is almost impossible justify blanket sealing or closure under the First Amendment, see *NBC Subsidiary, supra,* 20 Cal.4th at pp. 1224-25, and blanket sealing or closure is not, and cannot be, justified here.

The April 15, 2021 "gag order" cannot, and does not, justify any sealing or closure here. To the extent that the order purports to require sealing or closure, it must be lifted or modified because the First Amendment, Rule of Court-based, and common law requirements for sealing

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and closure are not satisfied, just as the blanket closure order in *NBC Subsidiary* was vacated.[4] The same goes for any other order that purports to require sealing or closure here; to the extent any order purports to require sealing or closure that the First Amendment, the Rules of Court, and the common law do not allow, it should be lifted or modified to harmonize it with the law.

Even if the parties could demonstrate and the Court could expressly and specifically find that there is an "overriding" interest in nondisclosure here (and no such demonstration or finding has been made, to the News Media Coalition's knowledge), limited redaction, rather than blanket sealing, is the only way to protect that interest. To seal presumptively public judicial records, the proponent of sealing must prove, *In re Providian Credit Card Cases*, *supra*, 96 Cal.App.4th at p. 301, and the Court must expressly and specifically find that sealing is narrowly tailored to address an overriding interest in nondisclosure. Blanket, wholesale sealing is not permitted.

Moreover, sealing or closure is not permitted if there are less restrictive means available to protect any overriding interest. The United States Supreme Court has held:

> [R]isk of prejudice does not automatically justify refusing public access to hearings on every motion to suppress. Through *voir dire*, cumbersome as it is in some circumstances, a court can identify those jurors whose prior knowledge of the case would disable them from rendering an impartial verdict. And even if closure were justified for the hearings on a motion to suppress, closure of an entire 41-day proceeding would rarely be warranted.

(*Press-Enterprise II*, *supra*, 478 U.S. at p. 15; see *ibid.* ["The First Amendment right of access cannot be overcome by the conclusory assertion that publicity might deprive the defendant of that right.' "].) "[A]s a general matter, cautionary admonitions and instructions must be considered a presumptively reasonable alternative [to secrecy] – a presumption that may be overcome only in exceptional circumstances." (*NBC Subsidiary*, *supra*, 20 Cal.4th at pp. 1223-24.)

The extensive news media coverage of this case is not enough to meet the standards for sealing. Prejudice to fair trial rights cannot be presumed from publicity. (*Nebraska Press Assn. v. Stuart* (1976) 427 U.S. 539, 554; see also *People v. Mendonsa* (1982) 137 Cal.App.3d 888, 895

[4] At a minimum, the April 15, 2021 "gag order" should be modified to remove "court clerks and baliffs" from page 1, line 23 and "judicial officers or employees" from page 1, line 24, and to include language that confirms no other provision of the order applies to the Court, court clerks or baliffs, or judicial officers or employees. To the extent that the order applies to the Court, it is inconsistent with the First Amendment, Rules of Court 2.550 and 2.551, and the common law.

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["[T]here is no presumption that an accused suffers prejudice from unfriendly news stories."].) In *Odle v. Superior Court* (1982) 32 Cal.3d 932, 942, a case involving the murder of an 18-year-old woman with a two-year-old child, and a police officer, the Supreme Court observed, "It is . . . difficult to envision an eventual capital case which will not receive extensive media coverage, at least for a short period of time." There, the Court affirmed denial of a venue change motion – where the "reasonable likelihood of prejudice" standard is far lower than the standard for sealing in Rule 2.550(d) - from Contra Costa County, which then had a population of 666,000 reasoning,

> If the early publicity attendant on a capital case alone suffices to raise a doubt as to the likelihood of a fair and impartial trial, a change of venue would perforce be required in every such case. . . . Time dims all memory and its passage serves to attenuate the likelihood that early extensive publicity will have any significant impact at the time of trial. It also serves to resolve any doubt concerning the likelihood that Odle can receive a fair and impartial trial in Contra Costa County.

(*Id.* at pp. 942-43.) Here, *a fortiori*, fair trial concerns do not meet the far more demanding First Amendment and Rule 2.550 requirements for any sealing, let alone the extensive sealing that has occurred in this case, particularly now that the trial is to be held in a different venue than the one in which the alleged crime in this case was committed and the jury has been chosen. Nor is sealing narrowly tailored to or the least restrictive means of addressing such concerns. Cautionary admonitions to the jury, or even sequestration, are less restrictive alternatives to closure that would address any fair trial concerns here.[5]

D. THE COURT'S APPARENT "DUAL-DOCKETING" SYSTEM IN THIS CASE IS INCONSISTENT WITH THE FIRST AMENDMENT, RULES OF COURT 2.550 AND 2.551, THE COMMON LAW, AND RULES OF COURT 2.503 AND 2.507.

The First Amendment right of access to judicial records and proceedings extends to not only court filings, but also registers of actions. (See *Hartford Courant Co. v. Pellegrino* (2d Cir.

[5] The common law right of access indepdendently requires that the records sought be unsealed. It covers a broader universe of judicial records than the First Amendment, and applies to all of the records sought by this Motion *a fortiori*. (See *Sander v. State Bar of Cal.* (2013) 58 Cal.4th 300, 318 [setting forth the breadth of the common law right of access].) Like the First Amendment, it makes records it covers "presumptively accessible to the public," *id.* at p. 319, and prohibits sealing them "[a]bsent strong countervailing reasons," *id.* at p. 318 [internal citation and quotation marks omitted]. And, the burden to justify sealing rests on the party that advocates for it. (*Id.* at pp. 318-19; see also Evid. Code § 500.) That burden has not been, and cannot be, met here given the strength of the public interest in access and the weakness of any interest in sealing.

2004) 380 F.3d 83, 93-96 [holding that newspaper and public had qualified First Amendment right of access to docket sheets in civil and criminal cases]; *Doe v. Public Citizen* (4th Cir. 2014) 749 F.3d 246, 268-69 [same]; *United States v. Valenti* (11th Cir. 1993) 987 F.2d 708, 715 [holding that a "dual-docketing" system involving a public docket stripped of information about certain filings and an internal docket that contained this information violated the First Amendment]; see also *Courthouse News Service v. Planet* (9th Cir. 2014) 750 F.3d 776, 787 [citing *Hartford Courant* with approval for a different proposition].) Access to registers of actions is necessary for the press and the public to effectuate their rights of access to underlying court records and proceedings. The common law right of access applies as well. (See *Sander, supra*, 58 Cal.4th at p. 318.)

The register of actions in this case has apparently been largely sealed or withheld, since the public version contains very little useful information. That is inconsistent with the First Amendment, Rules of Court 2.550 and 2.551, and the common law. First, to our knowledge, neither the parties nor the Court followed the sealing procedures required by the First Amendment. No notice of motion to seal the register of actions was ever publicly docketed. No evidence establishing that all of the First Amendment requirements for sealing are satisfied as to the register of actions has, to our knowledge, ever been presented. Nor are we aware of any express, specific, on-the-record findings by the Court that sealing or withholding the register of actions, in whole or in part, meets the First Amendment standards. (See Cal. R. Ct. 2.550.)

Second, there is no conceivable justification for sealing or withholding the register of actions here. Registers of actions contain basic case information like the names of Court filings, the disposition of motions, and hearing information. (See Cal. R. Ct. 2.507(b)(3).) Disclosing this kind of basic information will harm nothing, and will help the news media and the public a great deal in observing these proceedings. Thus, there is neither an "overriding interest" that overcomes the public interest in access under the First Amendment, nor a "countervailing reason[]" that justifies under the common law. Sealing is not narrowly tailored to any theorretical overriding interest in closure. And, again, the Court has other less-restrictive means to address fair trial concerns: careful instructions to the jury and, if necessary, sequestration.

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The limited information included in the current publicly available register of actions also falls short of the requirements of Rules of Court 2.503(b) and 2.507(b)(3)(H). (See also Cal. Const., art. I, § 3(b)(2) [court rules must be broadly construed to the extent that they provide a right of access, and narrowly construed to the extent that they limit access].) Rule 2.503(b) states that if the Court "maintains" "registers of actions" "in electronic form," it "must provide electronic access *to them*," and not to a less-informative replacement. Further, Rule of Court 2.507(b)(3)(H) requires registers of actions to include "descri[ptions] of each event." The difficult-to-decipher charaterizations of events in the current register of actions do not qualify.[6]

E. THE COURT SHOULD AUTHORIZE REMOTE ACCESS TO ALL RECORDS AND FILINGS IN THIS CASE UNDER RULE OF COURT 2.503(E) AND THE FIRST AMENDMENT.

Rule of Court 2.503(e) allows the Court to authorize remote access to records in a criminal case if it finds that the case is "extraordinary." The Court may authorize remote access in a criminal proceeding if " (1) the number of requests for access to documents in the case is extraordinarily high and (2) responding to those requests would significantly burden the operations of the court." (Cal. R. Ct. 2.503(e).) The Court should consider "relevant" factors when exercising its discretion under this rule, "such as" (A) "The privacy interests of parties, victims, witnesses, and court personnel, and the ability of the court to redact sensitive personal information"; (B) "The benefits to and burdens on the parties in allowing remote access, including possible impacts on jury selection"; and (C) "The burdens on the court in responding to an extraordinarily high number of requests for access to documents." (Cal. R. Ct. 2.503(e)(1).)

This is a textbook case for remote access. The number of requests for records in this case is presumably already unusually high, and will increase as more records become available. Remote access will not harm any privacy interests; public records in this closely-watched case will inevitably be requested and disclosed to the public regardless of whether remote access is authorized. The benefits of remote access far outweigh any detriments, and remote access will not negatively impact jury selection, which the Court has now completed.

[6] The April 15, 2021 order should be lifted or modified to the extent necessary grant this Motion.

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The First Amendment right of timely access to judicial records and proceedings is an independent ground for authorizing remote access here. At present, to obtain copies of judicial records in this case, Ms. Jones must either drive from San Luis Obispo to Salinas and retrieve them in person or request them by U.S. Mail, which can take weeks. Others face similar obstacles. There is no good reason for this delay, especially considering that the Court uses an electronic filing system, presumably has electronic copies of all filings in this case readily available, and can presumably enable remote access to records in this case with relative ease. The widespread adoption of remote access procedures during the COVID-19 pandemic confirm that remote access is workable and can benefit the parties, the press, the public, and the Court.

The delay in access that denying remote access has caused, coupled with the absence of a justification for the denial, is inconsistent with the First Amendment. A court policy that delays access must satisfy two criteria to be consistent with the timely access right. First, there must be "a substantial probability that [the Court's] interest in the fair and orderly administration of justice would be impaired by immediate access." (*Courthouse News Service*, *supra*, 947 F.3d at p. 596.) Second, there must be no reasonable alternative ways to " 'adequately protect' that government interest" available. (*Id.* at pp. 595-96 & n.8; see also *Courthouse News Service v. Hade* (E.D.Va. Jan. 14, 2022) Civil Action No. 3:21cv460-HEH, 2022 WL 141532, at **3-5 [denying motion to dismiss First Amendment challenge to remote access limitation].) The denial of remote access here passes neither test. Remote access would not impair the Court's interest in the fair and orderly administration of justice. And, again, if the Court has fair trial concerns, juror admonitions and instructions or sequestration are reasonable alternative ways to address them.

IV. CONCLUSION

The First Amendment, Rules of Court 2.550 and 2.551, and the common law require the unsealing of all of the many court filings in this matter from April 20, 2022 onward that are now sealed. They also require the unsealing of the register of actions. And, remote access should be authorized under both Rule of Court 2.503(e) and the First Amendment. This Motion should be granted.

//

DATED: July 14, 2022

CANNATA O'TOOLE FICKES & OLSON LLP

By: _____
AARON R. FIELD

Karl Olson
Aaron R. Field

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REQUEST FOR HEARING

The News Media Coalition respectfully requests the opportunity to be heard by the Court in person on the matters set forth in this Motion at the earliest possible time. As the Ninth Circuit recently reaffirmed, the press and the public have a right of timely access to judicial records under the First Amendment. (*Courthouse News Service*, *supra*, 947 F.3d at p. 594 [internal citations and quotation marks omitted].) "The newsworthiness of a particular story is often fleeting. To delay or postpone disclosure undermines the benefit of public scrutiny and may have the same result as complete suppression." (*Ibid.*) The News Media Coalition, the press, and the public need contemporaneous access to the many records that have been filed under seal over the past several months, and to future court filings in this matter, to report on developments in this case while they are newsworthy and to use the information it is entitled to in a way that will best inform readers and the public.

DATED: July 14, 2022

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By: _____
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DECLARATION OF CHLOE JONES

I, CHLOE JONES, declare:

1. I am a Courts & Crime Reporter at *The Tribune*, a member of the coalition of news media organizations that filed the instant motion to unseal and request for remote access. *The Tribune* serves and focuses its coverage on the City of San Luis Obispo and San Luis Obispo County, where it is the largest daily newspaper by circulation. I make this declaration based on personal knowledge, and, if called as a witness, I could testify to the facts stated herein.

2. I hold undergraduate and graduate degrees in investigative journalism, and I have dedicated my entire career thus far working as a professional journalist. I earned a B.A. in Journalism in May 2019 and an M.A. in Investigative Journalism in December 2020 from Arizona State University's Walter Cronkite School of Journalism and Mass Communication. I worked as a News Intern at KJZZ 91.5, an NPR Member Station in Phoenix, Arizona in 2018 and 2019; in various reporter roles at Cronkite News – Arizona PBS from 2019-2020; as a Reporting Fellow at News 21 in Phoenix, Arizona, where I led several in-depth investigative reporting efforts, from January through August 2020; as a Breaking News Intern at The Arizona Republic/azcentral and an Investigative Reporter at the Howard Center for Investigative Journalism from August through December 2020; as a freelance journalist covering, among other things, breaking news for the Arizona Mirror from May 2020 through January 2021; and as a Roy Howard Fellow and Digital Reporter for PBS NewsHour in Phoenix, Arizona from 2021-2022. I joined *The Tribune* as a Courts and Crime Reporter in January 2022, and I have worked there ever since.

3. At *The Tribune*, I have covered a wide range of topics, including Kristin Smart's disappearance, law enforcement's investigation of Ms. Smart's disappearance, and this criminal case. I have covered this case since I joined *The Tribune*, and I intend to continue covering this case through trial.

4. The press and the public have a compelling interest in access to judicial records and proceedings in all court cases. However, in my opinion, this case is particularly newsworthy, and the public has a particularly compelling interest in access to records and proceedings in this

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case. This case is an attempt to solve a mystery that has unsettled San Luis Obispo residents for decades. Everyone in the San Luis Obispo community has a powerful interest in verifying for themselves that, despite a decades-long delay, the judicial process is working in this case and that the result makes sense and is consistent with the evidence and the law. The San Luis Obispo community also has a powerful interest in understanding how and why the juries in this case reach their eventual verdicts – from those who helped search for Ms. Smart when she disappeared, to Ms. Smart's former colleagues at California Polytechnic State University, to Ms. Smart's family and friends, to residents who had little personal involvement with Ms. Smart's disappearance but will nevertheless feel safer and trust their institutions more after watching the judicial process work here and understanding the factual and legal basis for the result.

5. Beginning when this case was transferred to this Court, I encountered multiple barriers to my and *The Tribune*'s coverage of the case.

A. First, the majority of court filings and records in the case created after the case was transferred to this Court are sealed and inaccessible to the press and the public. Attached hereto as **Exhibit A** is a spreadsheet I prepared based on my review of the register of actions and my communications with the Court that identifies filings in this case following its transfer to this Court that are sealed and filings that are public. The spreadsheet shows the extent of the wholesale sealing of records in this case, including the sealing of almost all of the parties' substantive court filings and the Court's rulings. As well, I am aware from my visits to the San Luis Obispo County Superior Court that, in that Court, motions related to the preliminary hearing, and those that came after, in this case are almost all public, yet motions in limine in this Court are all under seal, even though some of them appear to address the same categories of evidence that these earlier motions did, and some of them appear to address evidence that was publicly presented at the preliminary hearing.

Sealing all moving, opposition, and reply papers in their entirety makes it impossible to report on the parties' written factual and legal arguments and much more difficult to report on the oral arguments of counsel and the Court's rulings on the parties' motions. This kind of sealing also makes it much harder to assess which hearings are likely to be newsworthy, to

prepare to report on motion hearings by investigating relevant issues or conducting relevant interviews before they occur (and to prepare to report effectively on each day of testimony at the coming trial), and to explain what is happening in the case and why to my readers and the public.

The wholesale sealing of all filings related to the parties' motions in limine, motions to dismiss, and motions regarding third party culpability and electronic evidence found in the Flores home, in particular, has posed challenges for *The Tribune*'s coverage of this case. With respect to the motions in limine, for example, it is my understanding that the Court's rulings on those motions may determine what evidence can and cannot be presented at trial. It is important for *The Tribune* and other news organizations to be able to explain to our readers what evidence will and will not be presented and why; the public is already aware, due to previous reporting, of certain evidence in this case that one might view as significant, and the public should not be left to guess about the legal basis for admitting or excluding such evidence at trial. With respect to the motions to dismiss and the motions regarding third party culpability and Paul Flores's 1996 statements, it is my understanding that these motions speak to the merits of the case and to the need to impanel and try the case to two separate juries. The public needs access to filings related to these motions as well to understand the proceedings in this case and to evaluate the result.

The wholesale sealing of almost all filings and court orders related to whether sealing is appropriate is also problematic. Sealing these records makes it impossible for the press and the public to evaluate and challenge sealing decisions on a record-by-record basis. And, sealing these records means that not only can members of the public not access judicial records related to the merits of this case, they cannot identify with confidence what records are being withheld or the extent of the sealing, and they cannot assess the parties' and the Court's reasons for secrecy or meaningfully evaluate whether secrecy is appropriate.

B. Second, the Court's publicly available register of actions in this case provides virtually no useful information about the nature of each court filing. In other courts, in my experience, registers of actions or docket sheets identify each filing by name, which makes it possible to ascertain the basic nature of each filing. The Court's register of actions in this case,

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however, provides virtually no substantive information about each filing, instead labeling each filing with abstract terms like "motion," "affidavit," or "document: other." The press and the public need to know what each document is to determine when they need to advocate for their right of access on a document-by-document basis, and to report effectively on the proceedings in this case.

C. Third, requiring *The Tribune* and other members of the press to access court records in this case by asking for them on a record-by-record basis from the Court's clerk is particularly problematic in this case, and this is in my opinion a textbook case for which it makes sense to authorize remote access. The public's interest in (and thus the news media's interest in covering) this case is unusually high, and I presume, based on this fact, that the volume of requests for records by the news media and the public is already likewise unusually high and will increase further in advance of and during the trial. Unsealing records in this case, consistent with this Motion, may further increase the volume of records requests. I also expect, based on my experience requesting records from the Court thus far, that keeping up with this unusually high volume of requests will be increasingly challenging for the Court's staff, which I understand also has other responsibilities at the Court. Finally, confirming that the case is extraordinary and that the Court should approve remote access here, requiring *The Tribune* to ask the Court clerk whether records are sealed or unsealed, and requiring *The Tribune* to travel to the Monterey County Superior Court computer by refusing to respond to requests electronically and only providing a mail option that can take thirty (30) days to obtain a response, inherently and unnecessarily delays access to those records. While I appreciate the clerk's office's efforts to timely respond to my records questions related to this case to date, the Court's process inherently delays access to records. The process is particularly burdensome and obstructive here, given the lack of information about each filing provided by the Court's register of actions in its current public form.

By way of background, I informally asked the Court to authorize remote access in this case in a June 10, 2022 e-mail, and the Court declined. The Court's media liason responded, "The Court has considered the possibility of designating Flores an extraordinary criminal case

under CRC 2.503, however, has decided not to designate it as such at this time." When I asked for more information, the liason declined to elaborate on the Court's decision.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 14th day of July, 2022 in Pismo Beach, California.

CHLOE JONES

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EXHIBIT A

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
1	Paul	4/20/22	Document: Other		Y	Soil sample orde	N
2	Paul	4/21/22	Document: Other		Y	Case summary fi	N
3	Paul	4/21/22	Document: Other		Y	Case summary fi	N
4	Paul	4/22/22	Application (no fe	Flores	N		N
5	Paul	4/22/22	Application (no fe	Flores	N		N
6	Paul	4/25/22	Minute Order; Out of Court Entry		Y	order assigning c	N
7	Paul	4/27/22	Affidavit: Peremp	People	Y	people saying va	N
8	Paul	4/28/22	Minute Order; Out of Court Entry		Y	order assigning c	N
9	Paul	5/16/22	Order	People	N		N
10	Paul	5/16/22	Order	People	N		N
11	Paul	5/16/22	Affidavit	People	N		N
12	Paul	5/16/22	Request	People	N		N
13	Paul	5/26/22	Order		Y	media decorum c	Y
14	Paul	5/27/22	Proof of Service	People	Y	motion to seal Be	N
15	Paul	5/27/22	Affidavit	People	Y	motion seal Benc	N
16	Paul	5/27/22	Motion	People	Y	motion to seal Be	N
17	Paul	5/31/22	Request: Media Coverage		Y	media	Y
18	Paul	5/31/22	Order:Media Coverage		Y	media	Y
19	Paul	5/31/22	Order:Media Coverage		Y	media	Y
20	Paul	5/31/22	Order:Media Coverage		Y	media	Y
21	Paul	5/31/22	Order:Media Coverage		Y	media	Y
22	Paul	5/31/22	Order:Media Coverage		Y	media	Y
23	Paul	5/31/22	Order:Media Coverage		Y	media	Y
24	Paul	5/31/22	Request: Media Coverage		Y	media	Y
25	Paul	5/31/22	Request: Media Coverage		Y	media	Y
26	Paul	5/31/22	Request: Media Coverage		Y	media	Y
27	Paul	5/31/22	Request: Media Coverage		Y	media	Y
28	Paul	5/31/22	Request: Media Coverage		Y	media	Y
29	Paul	5/31/22	Request: Media Coverage		Y	media	Y
30	Paul	5/31/22	Brief	NBCUniversal M	Y	media	Y
31	Paul	5/31/22	Request: Media (	NBCUniversal M	Y	media	Y

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
32	Paul	5/31/22	Proof of Service	People	N		N
33	Paul	5/31/22	Affidavit	People	N		N
34	Paul	5/31/22	Memorandum	People	N		N
35	Paul	5/31/22	Minute Order; Out of Court Entry		Y	Order to strike P	N
36	Paul	5/31/22	Proof of Service	People	N		N
37	Paul	5/31/22	Proof of Service	People	N		N
38	Paul	5/31/22	Order	Flores	N		N
39	Paul	5/31/22	Order	People	N		N
40	Paul	5/31/22	Order	People	N		N
41	Paul	5/31/22	Order	People	Y	denial to seal Be	N
42	Paul	5/31/22	Motion	Flores	N		N
43	Paul	5/31/22	Motion	Flores	N		N
44	Paul	5/31/22	Motion	Flores	N		N
45	Paul	5/31/22	Motion	Flores	N		N
46	Paul	5/31/22	Application (no fe	Flores	N		N
47	Paul	5/31/22	Affidavit	People	N		N
48	Paul	5/31/22	Motion	People	N		N
49	Paul	5/31/22	Affidavit	People	N		N
50	Paul	5/31/22	Motion	People	N		N
51	Paul	6/1/22	Order:Media Coverage		Y	media	Y
52	Paul	6/1/22	Order:Media Coverage		Y	media	Y
53	Paul	6/1/22	Request: Media Coverage		Y	media	Y
54	Paul	6/1/22	Order:Media Coverage		Y	media	Y
55	Paul	6/1/22	Request: Media Coverage		Y	media	Y
56	Paul	6/1/22	Affidavit	People	N		N
57	Paul	6/1/22	Request	People	N		N
58	Paul	6/1/22	Affidavit	People	N		N
59	Paul	6/1/22	Motion		N		N
60	Paul	6/1/22	Motion	Flores	N		N
61	Paul	6/1/22	Motion	Flores	N		N

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
62	Paul	6/1/22	Application (no fe	Flores	N		N
63	Paul	6/1/22	Minute Order; Out of Court Entry		Y	media, Order allc	Y
64	Paul	6/1/22	Motion	People	N		N
65	Paul	6/2/22	Request: Media Coverage		Y	media	Y
66	Paul	6/3/22	Proof	People	N		N
67	Paul	6/3/22	Application (no fe	People	N		N
68	Paul	6/3/22	Declaration	People	N		N
69	Paul	6/3/22	Declaration	People	N		N
70	Paul	6/3/22	Opposition/Objec	People	N		N
71	Paul	6/3/22	Opposition/Objections		N		N
72	Paul	6/3/22	Application (no fe	Flores	N		N
73	Paul	6/3/22	Order:Media Coverage		Y	media	Y
74	Paul	6/3/22	Motion	Flores	N		N
75	Paul	6/3/22	Application (no fe	Flores	N		N
76	Paul	6/6/22	Order	People	N		N
77	Paul	6/6/22	Order	People	N		N
78	Paul	6/6/22	Order	People	N		N
79	Paul	6/6/22	Affidavit	People	N		N
80	Paul	6/6/22	Motion	People	N		N
81	Paul	6/6/22	Motion	People	N		N
82	Paul	6/6/22	Motion	People	N		N
83	Paul	6/7/22	Affidavit	People	N		N
84	Paul	6/7/22	Motion	People	N		N
85	Paul	6/7/22	Affidavit	People	N		N
86	Paul	6/7/22	Motion	People	N		N
87	Paul	6/9/22	Motion	Flores	N		N
88	Paul	6/9/22	Application (no fe	Flores	N		N
89	Paul	6/9/22	Order		N		N
90	Paul	6/9/22	Document: Other		Y	media request	Y
91	Paul	6/10/22	Application (no fe	Flores	N		N

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
92	Paul	6/10/22	Application (no fe	Flores	N		N
93	Paul	6/13/22	Minute Order		N		N
94	Paul	6/14/22	Order		N		N
95	Paul	6/14/22	Minute Order		N		N
96	Paul	6/15/22	Minute Order		N		N
97	Paul	6/16/22	Minute Order		N		N
98	Paul	6/16/22	Notice	Flores	N		N
99	Paul	6/16/22	Application (no fe	Flores	N		N
100	Paul	6/17/22	Minute Order		N		N
101	Paul	6/20/22	Minute Order: Out Of Court Entry		Y	trial calendar cha	N
102	Paul	6/22/2022	Order: Media Coverage		Y	media related	Y
103	Paul	6/23/22	Order	People	N		N
104	Paul	6/23/22	Proof		N		N
105	Paul	6/23/22	Affidavit		N		N
106	Paul	6/23/22	Opposition/Objections		N		N
107	Paul	6/23/22	Order	Flores	N		N
108	Paul	6/23/22	Order: Media Co	NBCUniversal, e	Y	media	Y
109	Paul	6/23/22	Proof		N		N
110	Paul	6/23/22	Affidavit		N		N
111	Paul	6/23/22	Motion		N		N
112	Paul	6/23/22	Motion	Flores	N		N
113	Paul	6/23/22	Application (no fe	Flores	N		N
114	Paul	6/24/22	Order	Flores	N		N
115	Paul	6/24/22	Order	People	N		N
116	Paul	6/24/22	Order	People	N		N
117	Paul	6/24/22	Order	People	N		N
118	Paul	6/24/22	Order	Flores	N		N
119	Paul	6/24/22	Order	Flores	N		N
120	Paul	6/24/22	Order	People	N		N
121	Paul	6/24/22	Proof		N		N

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
122	Paul	6/24/22	Affidavit		N		N
123	Paul	6/24/22	Motion		N		N
124	Paul	6/24/22	Order		N		N
125	Paul	6/24/22	Order		N		N
126	Paul	6/27/22	Minute Order		N		N
127	Paul	6/28/22	Minute Order		N		N
128	Paul	6/28/22	Order	People	N		N
129	Paul	6/28/22	Order	Flores	N		N
130	Paul	6/28/22	Order	Flores	N		N
131	Paul	6/30/22	Motion	Susan Flores	N		N
132	Paul	7/5/22	Affidavit	People	N		N
133	Paul	7/5/22	Motion	People	N		N
134	Paul	7/5/22	Affidavit	People	N		N
135	Paul	7/5/22	Motion	People	N		N
136	Paul	7/5/22	Affidavit	People	N		N
137	Paul	7/5/22	Motion	People	N		N
138	Ruben	4/21/22	Minute Order		Y	change or venue	N
139	Ruben	4/21/22	Document: Other		Y	Case summary fi	N
140	Ruben	4/21/22	Affidavit: Peremp	Flores	Y	says monterey ju	N
141	Ruben	4/21/22	Document: Other		Y	Case summary fi	N
142	Ruben	4/27/22	Affidavit: Peremptory Challenge C(		Y	says monterey ju	N
143	Ruben	5/23/22	Minute Order: Out of Court Entry		Y	modified bail so I	N
144	Ruben	5/26/22	Order		Y	media decorum c	Y
145	Ruben	5/31/22	Order: Media Coverage		Y	media	Y
146	Ruben	5/31/22	Order: Media Coverage		Y	media	Y
147	Ruben	5/31/22	Order: Media Coverage		Y	media	Y
148	Ruben	5/31/22	Order: Media Coverage		Y	media	Y
149	Ruben	5/31/22	Order: Media Coverage		Y	media	Y
150	Ruben	5/31/22	Order: Media Coverage		Y	media	Y
151	Ruben	5/31/22	Request: Media Coverage		Y	media	Y

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
152	Ruben	5/31/22	Request: Media Coverage		Y	media	Y
153	Ruben	5/31/22	Request: Media Coverage		Y	media	Y
154	Ruben	5/31/22	Request: Media Coverage		Y	media	Y
155	Ruben	5/31/22	Request: Media Coverage		Y	media	Y
156	Ruben	5/31/22	Request: Media Coverage		Y	media	Y
157	Ruben	5/31/22	Affidavit	NBCUniversal, e	Y	media	Y
158	Ruben	5/31/22	Request	NBCUniversal, e	Y	media	Y
159	Ruben	5/31/22	Proof of Service	People	Y	motion to seal Be	N
160	Ruben	5/31/22	Order	People	Y	denial to seal Be	N
161	Ruben	5/31/22	Affidavit	People	Y	motion to seal Be	N
162	Ruben	5/31/22	Minute Order: Out of Court Entry		Y	Order to strike P	N
163	Ruben	5/31/22	Motion		Y	motion to seal Be	N
164	Ruben	6/1/22	Order: Media Coverage		Y	media	Y
165	Ruben	6/1/22	Order: Media Coverage		Y	media	Y
166	Ruben	6/1/22	Request: Media Coverage		Y	media	Y
167	Ruben	6/1/22	Order: Media Coverage		Y	media	Y
168	Ruben	6/1/22	Request: Media Coverage		Y	media	Y
169	Ruben	6/1/22	Order: Media Coverage		Y	media	Y
170	Ruben	6/1/22	Request: Media Coverage		Y	media	Y
171	Ruben	6/2/22	Request: Media Coverage		Y	media	Y
172	Ruben	6/9/22	Order		Y	media request	Y
173	Ruben	6/9/22	Document: Other		Y	media request	Y
174	Ruben	6/22/22	Order: Media Coverage		Y	media request	Y
175	Ruben	6/23/22	Order: Media Co	NBCUniversal, e	Y	media request	Y
176	Ruben	4/26/22	Report		N		N
177	Ruben	4/28/22	Minute Order		N		N
178	Ruben	5/16/22	Affidavit	People	N		N
179	Ruben	5/16/22	Request	People	N		N
180	Ruben	5/20/22	Order	People	N		N
181	Ruben	5/20/22	Order	People	N		N

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
182	Ruben	5/31/22	Proof of Service	People	N		N
183	Ruben	5/31/22	Affidavit		N		N
184	Ruben	5/31/22	Memorandum	People	N		N
185	Ruben	5/31/22	Affidavit	People	N		N
186	Ruben	5/31/22	Order	People	N		N
187	Ruben	5/31/22	Affidavit	People	N		N
188	Ruben	5/31/22	Proof of Service	People	N		N
189	Ruben	5/31/22	Proof of Service	People	N		N
190	Ruben	5/31/22	Order	People	N		N
191	Ruben	5/31/22	Motion	People	N		N
192	Ruben	5/31/22	Motion	People	N		N
193	Ruben	6/1/22	Affidavit	People	N		N
194	Ruben	6/1/22	Request	People	N		N
195	Ruben	6/1/22	Affidavit	People	N		N
196	Ruben	6/1/22	Motion		N		N
197	Ruben	6/1/22	Motion	People	N		N
198	Ruben	6/3/22	Declaration		N		N
199	Ruben	6/3/22	Motion: In Limine		N		N
200	Ruben	6/6/22	Order	People	N		N
201	Ruben	6/6/22	Order	People	N		N
202	Ruben	6/6/22	Order	People	N		N
203	Ruben	6/6/22	Affidavit	People	N		N
204	Ruben	6/6/22	Motion	People	N		N
205	Ruben	6/6/22	Motion	People	N		N
206	Ruben	6/6/22	Motion	People	N		N
207	Ruben	6/7/22	Affidavit	People	N		N
208	Ruben	6/7/22	Motion	People	N		N
209	Ruben	6/7/22	Affidavit	People	N		N
210	Ruben	6/7/22	Motion	People	N		N
211	Ruben	6/13/22	Minute Order		N		N

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
212	Ruben	6/14/22	Minute Order		N		N
213	Ruben	6/15/22	Minute Order		N		N
214	Ruben	6/16/22	Minute Order		N		N
215	Ruben	6/17/22	Minute Order		N		N
216	Ruben	6/23/22	Proof		N		N
217	Ruben	6/23/22	Affidavit		N		N
218	Ruben	6/23/22	Opposition/Objections		N		N
219	Ruben	6/23/22	Proof		N		N
220	Ruben	6/23/22	Affidavit		N		N
221	Ruben	6/23/22	Motion		N		N
222	Ruben	6/24/22	Order	People	N		N
223	Ruben	6/24/22	Order	People	N		N
224	Ruben	6/24/22	Order	People	N		N
225	Ruben	6/24/22	Order	People	N		N
226	Ruben	6/24/22	Proof		N		N
227	Ruben	6/24/22	Affidavit		N		N
228	Ruben	6/24/22	Motion		N		N
229	Ruben	6/24/22	Order		N		N
230	Ruben	6/24/22	Order		N		N
231	Ruben	6/27/22	Application (no fe	Flores	N		N
232	Ruben	6/27/22	Application (no fe	Flores	N		N
233	Ruben	6/27/22	Order		N		N
234	Ruben	6/27/22	Order		N		N
235	Ruben	6/28/22	Order	People	N		N
236	Ruben	6/28/22	Order	Flores	N		N
237	Ruben	6/30/22	Motion	Susan Flores	N		N
238	Ruben	7/5/22	Affidavit	People	N		N
239	Ruben	7/5/22	Motion	People	N		N
240	Ruben	7/5/22	Affidavit	People	N		N
241	Ruben	7/5/22	Motion	People	N		N

ID	Case	File Date	File Type	Filed by	Public?	Notes	Media related?
242	Ruben	7/5/22	Affidavit	People	N		N
243	Ruben	7/5/22	Motion	People	N		N

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Pamela Ramos, CSR13221** Location: Department 4

Date: 7/14/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial ongoing long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Regarding Chris Lambert, parties agree that he may remain in courtroom today and the court will take up the issue at the end of today's session.

Motion to quash subpoena for Susan Flores.

Attorney Jeff Radding and Susan Flores appearing by zoom.

Susan Flores is sworn to testify.

Ms. Flores indicates she will invoke the right against self incrimination.

Subpoena is fulfilled.

Witness Angela Butler, previously sworn and still under oath, resumes testimony (zoom).

Cross examination by the Defense.

Witness is excused.

Arguments presented.

The Court is in recess for break.

Case called, all parties present.

Motions in Limine ruled upon.

The Court reviews the specific laws that apply regarding admissible scientific evidence.

Phillip Hanes testimony is admissible.

Cindy Arrington testimony is admissible.

Angela Butler: DNA bodily fluids expert analyst.

Motion to exclude DNA evidence will not be excluded.

Hemdirect test evidence is admissible.

Luminol testing of trailer will be admissible.

People's Motion regarding photograph of Mr. Flores.

Matter was discussed in chambers.

The Court's ruling remains the same, blow up photo of negative, background to be cropped.

Ruling regarding witness Jennifer Hudson stated for the record.

Ruling regarding 1101 and 1108 motion to admit evidence.

The Court and Counsel had in chambers discussions.

Sworn Jurors for each panel were admonished to have no contact with media or with each other.

Court ruling as to admissibility of specific witnesses stated for the record.

Court ruling as to videos stated for the record.

Court ruling as to google searches stated for the record.

Court in recess for lunch break.

Case called all parties present.

People's motion to exclude testimony is heard.

The Motion is heard in open court.

The Court rules for the record.

Appropriate to question Jennifer Hudson.

Mr. Lambert's Attorney has filed a motion to quash and shortening time.

Motion will be heard on July 15, 2022 at 10:00 am in Salinas, Department 4.

Defendant waives his presence and will allow his Attorney to appear for him.

Matter is set for July 15, 2022 at 10:00 am in Salinas, Department 4 for Jury trial long cause ongoing. (Motion to quash Defendant's subpoena or order shortening time)

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Pamela Ramos, CSR13221** Location: Department 4

Date: 7/15/2022 **Time: 10:00 AM** **Hearing: Other**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant is in custody but was not transported to court.

Defendant has personally waived his presence for today's proceedings.

Attorney Robert Sanger appears for Defendant. (Appearing by zoom PC 977)

Attorney Diana Palacios with Chris Lambert is present. (Attorney appearing by zoom)

Motion to quash Defendant's subpoena or shorten time is heard.

The Court has read and reviewed the non party exparte application by Ms. Palacios for Chris Lambert.

Arguments presented.

Motion is granted with reasons stated for the record. Mr. Lambert will be able to attend Court proceedings.

Mr. Sanger requests the Court make a preservation order for evidence.

Parties agree to the order.

Motion regarding statements of admissibility of Paul Flores:

Statement 1: May 28, 1996 to Officer Cudworth is admissible to both juries.

Statement 2: May 31, 1996 to Detective Mike Kennedy and Officer Cudworth is admissible to both juries.

Statement 3: May 31, 1996 to Investigator Bill Hanley is admissible only to Paul Flores jury.

Statement 4: June 1996 to Investigator Bill Hanley and Investigator Larry Hobson is admissible to Paul Flores jury only.

Report: Mike Kennedy interview of Paul Flores is admissible to both juries.

Regarding the photo of Paul Flores, submitted as cropped, the Court finds it acceptable.

Counsel are encouraged to meet and confer regarding the witness lineup for next week.

Case remains set for Jury trial long cause on July 18, 2022 at 08:30 am in Salinas, Department 4. (Opening statements Paul Flores)

Defendant is to remain in custody.

No bail is allowed.

MC-500

MEDIA AGENCY (name): KTLA
CHANNEL/FREQUENCY NO.: 5
PERSON SUBMITTING REQUEST (name): MORGAN BALL
ADDRESS: 5800 SUNSET BLVD LOS ANGELES, CA 90028
TELEPHONE NO.: (323) 460-5513

Insert name of court. Add name of judicial district and branch court, if any:
MONTEREY SUPERIOR COURT

TITLE OF CASE: PEOPLE V PAUL RUBEN FLORES

NAME OF JUDGE: JUDGE O'KEEFE

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

FOR COURT USE ONLY

FILED

JUL 18 2022

CLERK OF THE SUPERIOR COURT
DEPUTY
K. Hansor

CASE NUMBER: 22CR003712

1. PORTION OF THE PROCEEDINGS TO BE COVERED *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*:
HEARING

2. DATE OF PROPOSED COVERAGE *(specify)*: 7/18/22 *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance)*:

3. TYPE OF COVERAGE
   a. [x] TV camera and recorder
   b. [ ] Still camera
   c. [ ] Motion picture camera
   d. [ ] Audio
   e. [ ] Other *(specify)*:

4. [ ] SPECIAL REQUESTS OR ANTICIPATED PROBLEMS *(specify)*:

5. [ ] INCREASED COSTS. This agency acknowledges that it will be responsible for increased court-incurred costs, if any, resulting from this media coverage *(estimate)*: $
   [ ] Amount unknown

6. PROPOSED ORDER. A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal. Rules of Court, rule 1.150)*.

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: 7/15/22

MORGAN BALL
(TYPE OR PRINT NAME)

MBall
(SIGNATURE)

Telephone No.: (323) 460-5513

PLANNING EDITOR
(SUPERVISORY POSITION IN MEDIA AGENCY)

NOTICE OF HEARING (*A hearing is optional.*)

A HEARING will be held as follows:

Date:	Time:	Dept./Div.:	Room:
Address of the Court:			

Clerk, by _____, Deputy

MC-510

MEDIA AGENCY *(name)*: KTLA
CHANNEL/FREQUENCY NO.: 5
PERSON SUBMITTING REQUEST *(name)*: MORGAN BALL
ADDRESS: 5800 SUNSET BLVD LOS ANGELES, CA 90028
TELEPHONE NO.: (323) 460-5513

Insert name of court and name of judicial district and branch court, if any:
MONTEREY SUPERIOR COURT

TITLE OF CASE:
PEOPLE V PAUL RUBEN FLORES

NAME OF JUDGE:
JUDGE O'KEEFE

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

FOR COURT USE ONLY

FILED

JUL 18 2022

CLERK OF THE SUPERIOR COURT
DEPUTY

CASE NUMBER:
22CR003712

AGENCY MAKING REQUEST *(name)*: KTLA

1. a. [✓] No hearing was held.
   b. [✓] Date of hearing: 7/18/22 Time: 8:30A Dept./Div.: Room:
2. The court considered all the relevant factors listed in subdivision (e)(3) of California Rules of Court, rule 1.150 *(see reverse)*.
3. [ ] THE COURT FINDS *(findings or a statement of decision are optional)*: [ ] Attached [ ] As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
   a. [ ] denied.
   b. [✓] granted subject to the conditions in rule 1.150, California Rules of Court, AND the following:
      (1) [ ] The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
      (2) [ ] The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
      (3) [ ] Payment to the clerk of increased court-incurred costs of *(specify)*: $ [ ] to be determined.
      (4) [ ] The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
      (5) [ ] Personnel and equipment shall be placed [ ] as directed [ ] as indicated in the attachment [ ] as follows *(specify)*:

      (6) (i) [ ] The attached statement of agreed pooling arrangements is approved.
      (ii) [ ] A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
      (7) [ ] This order
      (i) [ ] shall not apply to allow coverage of proceedings that are continued.
      (ii) [ ] shall apply to allow coverage of proceedings that are continued.
      (8) [✓] Other *(specify)*:

See attached order

5. Coverage granted in item 4b is permitted in the following proceedings:
   a. [ ] All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
   b. [ ] Only the following proceedings *(specify type or date or both)*:
6. [ ] The order made on *(date)*: is [ ] terminated [ ] modified as follows *(specify)*:

7. [ ] Number of pages attached:

Date: 7/18/2022

Jennifer O'Keefe
JUDGE

(See reverse for additional information)

Form Adopted for Mandatory Use
Judicial Council of California
MC-510 [Rev. January 1, 2007]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

Hon. Jennifer J. O'Keefe, Inc.
www.judgeokeefe.com

Cal. Rules of Court rule 1.150
www.courtinfo.ca.gov

CASE NAME:	CASE NUMBER:
PEOPLE V PAUL RUBEN FLORES	22CR003712

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

Out of Court Minute Order Re: Media Requests

The Court makes the following rulings:

Recording of courtroom proceedings is restricted. One pool camera for still photography is allowed.

No audio recording is allowed inside the courtroom. This includes audio recordings for note taking purposes.

No video recording is allowed inside the courtroom

The pool camera will not be permitted to capture images during jury selection

The pool camera will not be permitted to capture images of jurors at any time, whether during jury selection or during trial.

The pool camera will not be peimitted to capture images of conferences between an attorney and a client, witness or aide

The pool camera will not be permitted to capture images of conferences between attorneys

The pool camera will not be permitted to capture images of conferences between counsel and the judge at the bench

The pool camera is prohibited from capturing images of proceedings held in chambers

The pool camera is prohibited from capturing images of proceedings closed to the public

No other cameras are allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/18/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peurvelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called all parties present.

All jurors and alternate jurors are present.

The Court instructs the jurors as to the law.

Sidebar with Counsel outside of courtroom.

Jurors admonished not to discuss the matter in any way and are released for break.

Out of the presence of the Jurors, the Court and Counsel take up the matter of the People's power point presentation.

The Defense allowed to view power point presentation.

The Court will allow the power point presentation to be shown in opening statement.

Case called, all parties present, all jurors and alternates present.

People's opening statement.

Jurors admonished and released for break.

Out of the presence of the jurors and alternates.

Housekeeping issues discussed.

Case called, all parties present, all jurors and alternates present.

The Court discusses the trial schedule for today.

Jurors and alternates ordered to return at 1:15 pm today for continued opening statements.

Out of the presence of the jurors:

Court exhibit # 4 marked and received. Juror question.

Court exhibit # 5 marked and received. District Attorney power point presentation flash drive.

Court in recess for lunch.

Case called, all parties present, all jurors and alternate jurors present.

Defense opening statement continues.

Jurors admonished and released for the day.

Jury trial long cause ongoing, continued to July 19, 2022 at 10:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Paul Ruben Flores,** Defendant	**Out of Court Entries by Clerk** Clerk: **Kristie Hanson** Date: 7/20/2022 Time: 8:53 am
	Case No. 22CR003712

Matter is set for Hearing Motion of News Media Coalition to unseal Judicial records on August 4, 2022 at 03:00 pm in Salinas, Department 4.

All parties notified by emailed copy of this minute order:

District Attorney Chris Peuvrelle

Attorney Robert Sanger

Attorney Harold Mesick

Attorney Karl Olson

Attorney Aaron Field

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

AMENDED
on: 07/22/2022

By: Hanson, Kristie
Deputy Clerk

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/21/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called.

All parties present.

Seating arrangements for Jury panels discussed.

Seating for panels will be alternating by week with Paul Flores jury panel in box this week and Ruben Flores panel in box next week.

Jurors admonished and released for break.

Case called, all parties present, both jury panels present Paul Flores and Ruben Flores panels.

Witness Denise Smart sworn to testify for the People.

People's exhibit 1 marked and received photo of Kristin Smart in red sweater.

People's exhibit 1A marked and received photo of Kristin Smart at high school graduation.

People's exhibit 4 marked and received photo of Smart family on boat.

Court takes Judicial notice that May 5, 1996 was a Sunday.

People's exhibit 412 marked and received letter to Kristin.

Court takes Judicial notice that May 24, 1996 was a Friday.

Cross exam of witness by Defense Robert Sanger.

Jurors are admonished and released for lunch break, to return at 1:25 pm.

Out of the presence of the jurors, the Court and Counsel discuss housekeeping matters.

Case called, all parties present, all jurors for Paul Flores panel and Ruben Flores panel are present.

Witness Denise Smart, previously sworn, resumes testimony under cross examination by the Defense, Mr. Sanger.

Cross exam of witness by the Defense, Mr. Mesick.

Re-cross by Defense.

Defense exhibit 600 marked Mulliken Medical Center report.

Witness is excused, subject to recall.

Witness Matthew Smart sworn to testify for the People.

People's exhibit 6 marked and received IOU note to Matthew Smart.

Cross exam by Defense, Mr. Sanger.

Jurors are admonished and released for break.

Case called all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panels.

Witness Matthew Smart, previously sworn, resumes testimony under cross examination.

Cross examination by Mr. Mesick.

Witness is excused.

People's witness Stan Smart sworn to testify.

Cross examination by the Defense, Mr. Sanger.

Jurors are admonished and released for the day.

Out of the presence of the jurors, the Court and Counsel discuss matters for the record regarding 402 rulings.

Matter remains set for Jury trial ongoing on July 22, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

AMENDED MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/21/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called.

All parties present.

Seating arrangements for Jury panels discussed.

Seating for panels will be alternating by week with Paul Flores jury panel in box this week and Ruben Flores panel in box next week.

Jurors admonished and released for break.

Case called, all parties present, both jury panels present Paul Flores and Ruben Flores panels.

Witness Denise Smart sworn to testify for the People.

People's exhibit 1 marked and received photo of Kristin Smart in red sweater.

People's exhibit 1A marked and received photo of Kristin Smart at high school graduation.

People's exhibit 4 marked and received photo of Smart family on boat.

Court takes Judicial notice that May 5, 1996 was a Sunday.

People's exhibit 412 marked and received letter to Kristin.

Court takes Judicial notice that May 24, 1996 was a Friday.

Cross exam of witness by Defense Robert Sanger.

Jurors are admonished and released for lunch break, to return at 1:25 pm.

Out of the presence of the jurors, the Court and Counsel discuss housekeeping matters.

Case called, all parties present, all jurors for Paul Flores panel and Ruben Flores panel are present.

Witness Denise Smart, previously sworn, resumes testimony under cross examination by the Defense, Mr. Sanger.

Cross exam of witness by the Defense, Mr. Mesick.

Re-cross by Defense.

Defense exhibit 600 marked Mulliken Medical Center report.

Witness is excused, subject to recall.

Witness Matthew Smart sworn to testify for the People.

People's exhibit 6 marked and received IOU note to Matthew Smart.

Cross exam by Defense, Mr. Sanger.

Jurors are admonished and released for break.

Case called all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panels.

Witness Matthew Smart, previously sworn, resumes testimony under cross examination.

Cross examination by Mr. Mesick.

Witness is excused.

People's witness Stan Smart sworn to testify.

Cross examination by the Defense, Mr. Sanger.

Jurors are admonished and released for the day.

Out of the presence of the jurors, the Court and Counsel discuss matters for the record regarding 402 rulings.

********Amended by order of court on Friday, July 22, 2022, Christopher Ruhl, Court Executive Officer, by Kristie Hanson, Deputy.********

Court exhibit 6 marked and received Juror question.

Court exhibit 7 marked and received Juror question.

Court exhibit 8 marked and received Juror question.

Matter remains set for Jury trial ongoing on July 22, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY	
The People of the State of California, Plaintiff vs. **Paul Ruben Flores,** Defendant	**Out of Court Entries by Clerk** Clerk: **Kristie Hanson** Date: 7/22/2022 Time: 8:31 am
	Case No. 22CR003712

*****Deletions and/or corrections made to docket entries on Thursday, July 21, 2022 to correct record Nunc Pro Tunc.*****

Record is corrected to reflect:

Court exhibit 6 marked and received Juror question.

Court exhibit 7 marked and received Juror question.

Court exhibit 8 marked and received Juror question.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/22/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Out of the presence of the jurors, the Court and Counsel have had discussions in chambers.

Juror 929 from Ruben Flores panel is brought into the courtroom and asked about an encounter that occurred outside of courtroom.

Juror is excused until called back in with the rest of the panel.

Juror 932 from Ruben Flores panel is brought into the courtroom and asked about an encounter that occurred outside of the courtroom.

Juror is excused until called back in with the rest of the panel.

Out of the presence of the jurors, the Court and Counsel discuss 402 rulings.

Court exhibit 9 is marked and received document regarding promiscuity.

Court exhibit 10 is marked and received document Mike Kennedy.

The Court denies the request.

Case called, all parties present, all jurors for Paul Flores panel, and Ruben Flores panel and alternates are present in Court.

Witness Stan Smart, previously sworn, resumes testimony under cross examination by Mr. Sanger.

Defense exhibit 601 marked and received aerial photo of map of 710 White Court house.

Defense exhibit 602 marked dark copy of reward flier of Paul Flores.

Defense exhibit 603 marked and received copy of reward flier of Paul Flores.

Cross examination by Mr. Mesick.

Jurors are admonished and released for break.

Case called all parties present, all jurors and alternates are present for both jury panels.

Redirect of the witness by the People.

People's exhibit 420 marked and received aerial view of 710 White Court.

People's exhibit 421 marked and received street view of front of house of 710 White Court.

People's exhibit 422 marked and received view of driveway of 710 White Court.

Cross exam by the Defense.

Witness is excused, subject to recall. Witness may remain in courtroom.

Witness Vanessa Shields sworn to testify.

Cross exam by the Defense.

Redirect by the People.

Witness is excused.

Jurors are admonished and released for lunch break.

Out of the presence of the jurors and alternates, the Court and Counsel discuss housekeeping matters.

Stipulation of the parties regarding exhibits is marked and received as Court exhibit 11.

Court in recess for lunch.

Case called, all parties present, all jurors and alternates present for both jury panels.

People's witness Kendra Koed sworn to testify.

People's exhibit 57A marked photo of 135 Crandall Way.

People's exhibit 53 marked photo side view 135 Crandall Way.

People's exhibit 51 marked front side view 135 Crandall Way.

Peoples exhibit 2 marked photo Kristin Smart.

People's exhibit 3 marked photo of Kristin Smart with dark hair.

People's exhibit 58 marked view of 135 Crandall Way.

People's exhibit 60 marked photo inside front door 135 Crandall Way.

People's exhibit 62A marked photo living room.

People's exhibit 70 marked photo view from back door.

People's exhibit 74 marked photo close up from back porch.

People's exhibit 75 marked photo of back porch.

People's exhibit 76 marked photo of back porch.

People's exhibit 79 marked and received photo of backyard fence.

Cross exam by the Defense, Mr. Sanger.

Defense exhibit 604 marked screenshot your own back yard.

Defense exhibit 605 marked and received Koed Instagram page.

Defense exhibit 606 marked and received facebook page.

Defense exhibit 607 marked and received Instagram page.

Jurors are admonished and released for break.

Case called, all parties present, all jurors and alternates present for both panels.

Witness Kendra Koed, previously sworn, resumes testimony under cross examination.

Cross examination by Mr. Mesick.

Witness is excused subject to recall.

The Court clarifies with the jurors that any evidence and exhibits presented pertain to both Defendants.

Jurors are admonished and released for the day.

Jury trial remains as set for Monday, July 25, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristle Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/25/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial: Long Cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called, all parties present, all jurors for both panels present.

Alternate 3 (Juror 1063) for Ruben Flores not present.

People's witness Lindsey Smart Stewart sworn to testify.

People's exhibit 431 marked and received photo of Kristin, Matt, Lindsey Smart.

Cross examination by Defense, Mr. Sanger.

Cross examination by Defense, Mr. Mesick.

Witness is excused.

People's witness Margarita Campos sworn to testify.

People's exhibit 86 is marked and received, large aerial map of Crandall Way and University.

Jurors are admonished and released for break.

Out of the presence of the jurors and alternates, the Court and Counsel discuss matters for the record.

Defense counsel places his objections to Lindsey Stewart testimony on the record.

The Court notes juror 1063 (alternate 3 on Ruben Flores panel) is released by stipulation of Mr. Peuvrelle and Mr. Mesick.

Case called all parties present, all jurors and alternates present for both Paul Flores and Ruben Flores panel.

Witness Margarita Campos, previously sworn, still under oath resumes testimony.

Cross examination by Defense, Mr. Sanger.

Cross examination by Defense, Mr. Mesick.

Redirect by the People.

Re-cross by Mr. Sanger.

Re-cross by Mr. Mesick.

Witness is excused, subject to recall.

Jurors are admonished and released for lunch to return at 1:15 pm.

Case called all parties present, all jurors and alternates for both Paul Flores and Ruben Flores panel present.

People's witness Ross Ketcham sworn to testify.

Cross examination by Defense, Mr. Sanger.

Cross examination by Defense, Mr. Mesick.

Witness is excused subject to recall.

People's witness Cheryl Manzer is sworn to testify.

Jurors admonished and released for break.

Case called, all parties present, all jurors and alternate jurors for Paul Flores and Ruben Flores panel present.

Witness Cheryl Manzer resumes testimony under direct examination by the People.

People's exhibit 414A marked and received aerial map of Perimeter Road and Grand Avenue.

People's exhibit 414B marked and received aerial map of intersection Perimeter Road and Grand Avenue.

Cross examination by Defense, Mr. Sanger.

Defense exhibit 608 marked and received, aerial map of Crandall Way.

Cross examination by Defense, Mr. Mesick.

Witness excused, subject to recall.

Jurors admonished and released for the day to return at 10:30 am on July 26, 2022.

Out of the presence of the jurors, the Court and Counsel discuss housekeeping issues.

The Court and Counsel address Juror 344 regarding letter requesting specific date to be unavailable. Letter is marked Court exhibit 13.

Court exhibit 12 juror question is marked and received.

Court exhibit 13 juror letter is received.

Court is in recess for the day.

Jury trial long cause ongoing set for July 26, 2022 at 10:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 7/26/2022 **Time: 10:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called, all parties present.

All Jurors and alternates present for Paul Flores panel.

One juror absent from Ruben Flores panel.

The Court and Counsel have discussed the matter in chambers.

Parties stipulate to continue the jury trial to Monday, August 1, 2022 at 08:30 am.

Jurors are admonished and released for the day.

Jury trial long cause ongoing remains set for August 1, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 8/1/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial ongoing long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

All jurors in Ruben Flores panel present except juror 950 who is ill.

Juror 950 is released from the panel for Ruben Flores.

Alternate juror 1017 replaces juror 950 and is sworn into seat 9.

Paul Flores jury panel, alternate juror 382 is ill and not present today. (alternate 5).

Alternate Juror 382 is released from jury duty by stipulation of the parties.

People's witness James T. Camp is sworn to testify.

People's exhibit 50 marked and received photo of 135 Crandall Way.

People's exhibit 50A marked and received photo of driveway 135 Crandall Way.

People's exhibit 51 marked and received photo of front, right side view of 135 Crandall Way.

People's exhibit 52 marked and received photo of view of sidewalk from front of 135 Crandall Way.

People's exhibit 53 marked and received photo of side view of 135 Crandall Way.

People's exhibit 54 marked and received photo of side fence 135 Crandall Way.

People's exhibit 55 marked photo of view of side fence 135 Crandall Way.

People's exhibit 55A marked and received photo of side fence at 135 Crandall Way.

People's exhibit 56 marked and received photo of 135 Crandall Way from middle of street.

People's exhibit 57 marked and received photo of 135 Crandall Way from corner across street.

People's exhibit 57A marked and received photo of 135 Crandall Way from corner across street.

People's exhibit 58 View of driveway and 135 Crandall Way marked and received.

People's exhibit 59 marked and received view of side fence at 135 Crandall Way and neighboring home.

People's exhibit 60 marked and received view from front door of inside of 135 Crandall Way.

Peoples exhibit 61 marked and received photo of living room inside looking outside of window.

People's exhibit 61A marked and received photo of living room inside looking outside of window.

People's exhibit 62 marked and received photo of living room window on right side.

People's exhibit 62A marked and received photo of living room window on right side.

People's exhibit 63 marked and received photo of kitchen looking out to back yard.

People's exhibit 64 marked and received view of hallway leading to bedrooms.

Peoples exhibit 65 marked and received view of hallway with cabinets.

People's exhibit 66 marked and received photo of hallway view of entrance to bathroom.

People's exhibit 67 marked and received photo of front view of entrance to bathroom.

People's exhibit 68 marked and received photo of front view of entrance to bathroom.

People's exhibit 69 marked and received photo of hallway view looking towards living room.

People's exhibit 70 marked and received photo of view from backdoor leading to kitchen.

People's exhibit 71 marked and received photo view of kitchen looking diagonally into living room.

People's exhibit 72 marked photo view of kitchen wall microwave.

People's exhibit 73 marked and received view from kitchen looking into living room.

People's exhibit 74 marked and received close up view from back porch from kitchen.

People's exhibit 75 marked and received photo of back porch looking at door entrance to kitchen.

People's exhibit 76 marked and received photo of view of back porch and side yard.

People's exhibit 77 marked and received photo of side yard looking from backyard to front of house.

People's exhibit 78 marked and received photo of side door.

People's exhibit 79 marked and received photo of back yard and fence from side of house.

Peoples exhibit 80 marked and received photo of back yard and fence from side of house.

People's exhibit 81 marked and received photo of view of side yard from back yard looking towards porch.

People's exhibit 82 marked and received photo of side view of front of 135 Crandall Way looking at driveway.

People's exhibit 83 marked and received photo of side view of driveway at 135 Crandall Way.

People's exhibit 10 is marked and received photo of Cal Poly walk from Crandall Way to dorms.

Cross exam by the Defense, Mr. Sanger.

Jurors admonished and released for break to return at 10:40 am.

Case called, all parties present, all jurors and alternate jurors present for both Paul Flores and Ruben Flores panel.

Witness James Campbell, previously sworn, resumes testimony under cross examination by Mr. Sanger.

Cross examination by the Defense, Mr. Mesick.

Redirect by the People.

People's exhibit 414, 414B marked and received aerial map of Santa Lucia dorm.

Witness excused, subject to recall.

Witness Crystal Teschendorf sworn to testify.

People's exhibit 432 marked photo of hairbrush.

Cross examination by Mr. Sanger.

Court exhibit 14 marked and received Juror note.

Court exhibit 15 marked and received Juror note.

Jurors are admonished and released for lunch break to return at 1:30 pm.

Out of the presence of the jurors, the Court and Counsel discuss juror questions.

Court is in recess for lunch.

Case, called, all parties present, out of the presence of the jurors, with the exception of juror 86.

The Court questions juror 86 regarding information received by the Court.

Juror 86 is released and will be called back in with remaining jury panels and alternates.

Case called, all parties present, all jurors and alternate jurors are present.

Witness Crystal Teschendorf, previously sworn, resumes testimony under cross examination by the Defense, Mr. Sanger.

Cross examination by Mr. Mesick.

Redirect by the People.

People's exhibit 433 marked and received photo of backpack.

People's exhibit 434 marked and received photo of cosmetic bag.

Witness is excused subject to recall.

Witness Steve Fleming sworn to testify.

Jurors are admonished and released for a one hour break to accommodate juror request.

Out of the presence of the jurors, with the exception of juror 310, the Court and Counsel discuss matter with the juror.

Juror 310 ordered to return with the rest of the jurors after break at 3:30 pm.

The Court states for the record matters discussed with Counsel regarding information received regarding one of the jurors.

Matter regarding jurors absent today were stated for the record.

The People state for the record hardship of witness Crystal Teshendorf, if recalled to testify. The People will not have an objection to calling witness out of order.

The Court will amend the decorum order regarding photos by media of 1108 witnesses.

Case called, all parties present, all jurors and alternate jurors present.

Witness Steve Fleming, previously sworn, resumes testimony under direct by the People.

People's exhibit 42 marked photo of door to room 120 Muir Hall.

People's exhibit 43 marked photo of view of room 120 Muir Hall window.

Cross examination by Mr.Sanger.

Witness is excused and ordered to return at 10:30 am on August 2, 2022.

Out of the presence of the jurors and alternate jurors, the Court and Counsel discuss a matter with Juror 345 regarding conversation overheard.

Juror 345 will remain on the jury panel.

Court is in recess for Jury trial ongoing long cause on August 2, 2022 at 10:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 8/2/2022 8:00 AM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants	CASE NOS. 22CR003712 & 22CR003713 PEOPLE'S OPPOSITION, IN PART, TO COURT'S PROPOSED LIST OF ITEMS TO UNSEAL TO THE GENERAL PUBLIC Date: August 4, 2022 Time: 8:30 AM Dept. 4

TO THE HONORABLE JUDGE JENNIFER O'KEEFE, TO THE DEFENDANTS AND THEIR ATTORNEYS OF RECORD, ROBERT SANGER AND HAROLD MESICK:

Please take notice that on August 4, 2022, The People of the State of California, by and through Christopher Peuvrelle, Deputy District Attorney for the County of San Luis Obispo, will oppose, in part, the Court's proposed list of items to unseal to the general public in the above-captioned case. This opposition is based upon the attached points and authorities and argument contained herein; as well as all documents, pleadings, a redacted copy of the DA Discovery Log originally attached as an exhibit to People's Reply to Defense Motion to Compel filed on 7/14/21 (See Exhibit 1) and a redacted copy of the DA Discovery Log originally attached as an exhibit to People's Reply to Defense Motion to Compel filed on 8/20/21 (*See*

Exhibit 2), and papers filed in this case, and such other written and oral evidence as will be presented in court.

I.

THE PEOPLE OBJECT TO CERTAIN ITEMS BEING UNSEALED

On July 29, 2022, the Honorable Judge Jennifer O'Keefe provided the Prosecution and Defense with two color-coded lists of items under consideration for unsealing to the general public. The People are currently in the process of a thorough review of both lists provided by Judge O'Keefe, however, after a preliminary review of both lists, the People object to the unsealing and release of the following items:

4/19/21	(24 pages)Opposition/objections; Declaration and Motion opposing defense' request for a bail reduction Points and Authorities	Yes	?	
6/25/21	People's motion to amend complaint	Yes	?	
7/14/21	Reply: People's reply to defenses motion to compel	Yes	?	
7/30/21	People's motion to admit evidence pursuant to 1101(b)	Yes	?	
8/16/21	Declaration in support of Pitchess Motion	Yes	?	
8/16/21	People's motion to exclude testimony regarding August 12, 2021 disclosures	Yes	?	
8/16/21	Motion: Discovery – Notice of motion for peace officer personnel records	Yes	?	
8/16/21	Proposed order Pitchess	Yes	?	
8/20/21	People's reply to defense motion to compel	Yes	?	
8/20/21	Request – people's request for closed hearing re: August 12, 2021 disclosures	Yes	?	
8/23/21	Opposition/objections Sheriff's opposition to motion of D Paul Flores for Peace Officer Personnel Records	Yes	?	

The People have filed several documents in the above instant cases containing confidential information. This includes the names of Victims asserted under Evidence Code Section 1108 and therefore object to the unsealing of all sealed documents with personal and/or identifying information of the Victims. Under Marsy's Law, the California Constitution article I, § 28, section (b) provides victims with the right to have their information kept confidential. Unsealing of the documents outlined above would be a violation of that right.

CONCLUSION

Based on the above, the People object to the unsealing of the items delineated above as they contain confidential information.

Date: August 1, 2022

Respectfully submitted,

Dan Dow
District Attorney

By:

Christopher G. Peuvrelle
Deputy District Attorney

EXHIBIT 1

EXHIBIT 2

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On August 1, 2022, I served the foregoing document(s) described as:

PEOPLE'S OPPOSITION, IN PART, TO COURT'S PROPOSED LIST OF ITEMS TO UNSEAL TO THE GENERAL PUBLIC
(*People v. Paul Ruben Flores & Ruben Ricardo Flores,* Case No.22CR003712 & 22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
EMAIL: RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
EMAIL: SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
EMAIL: HAROLDMESICK@GMAIL.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 1, 2022, at San Luis Obispo, California.

Sandee Lopez

Sandee Lopez, Legal Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: **Department 4**

Date: 8/2/2022 **Time: 10:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial ongoing long cause.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

All parties present, all jurors and alternate jurors present for Paul Flores and Ruben Flores panels.

Witness Steve Fleming, previously sworn, resumes testimony under cross examination by the Defense Mr. Sanger.

Defense exhibit 609 marked and received google earth aerial map of the dorms.

Cross examination by the Defense Mr. Mesick.

Jurors and alternates are admonished and released for lunch break to return at 1:15 pm.

Witness Steve Fleming is ordered to return at 1:15 pm.

Court in recess for lunch break.

The Court has been informed by the Bailiff that a juror has a question for the Court.

Out of the presence of the jurors and alternate jurors, with exception of juror 273, the Court and Counsel have discussions with juror.

Juror 273 will remain on the jury panel.

Case called, all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panels.

Witness Steve Fleming, previously sworn, resumes testimony under redirect examination by the People.

The parties have a stipulation that the winter quarter at Cal Poly began January 2, 1996 and ended March 16, 1996.

People's exhibit 129A marked transcript of interview with Steve Fleming.

Cross examination by Mr. Sanger.

Court exhibit 16 marked and received juror note.

Cross examination by Mr. Mesick.

Re-cross by Mr. Sanger.

Court exhibit 17 marked and received juror note.

Witness is excused subject to recall.

Jurors are admonished and released for break.

Case called, all parties present, all jurors and alternates present.

Witness Matthew Toomey sworn to testify.

Cross examination by the Defense Mr. Sanger.

Cross examination by the Defense Mr. Mesick.

Witness is excused.

Witness Trevor Boelter sworn to testify.

Witness is excused and ordered to return August 3, 2022 at at 8:30 am.

Jurors and alternates are admonished and ordered to return August 3, 2022 at 8:30 am.

The Court notes for the record the Court exhibits 16, 17 juror questions.

Court in recess for the day to return on August 3, 2022 at 08:30 am in Salinas, Department 4 for Jury trial long cause ongoing.

Defendant is to remain in custody.

No bail is allowed.

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 8/2/2022 4:04 PM
By: Oscar Luna, Deputy

Dan Dow
District Attorney
State Bar #237986
County of San Luis Obispo
Courthouse Annex, Room 450
San Luis Obispo, CA 93408
Telephone: (805) 781-5800

Attorney for the People of the State of California

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. PAUL RUBEN FLORES & RUBEN RICARDO FLORES, Defendants	CASE NOS. 22CR003712 & 22CR003713 AMENDED PROOF OF SERVICE PEOPLE'S OPPOSITION, IN PART, TO COURT'S PROPOSED LIST OF ITEMS TO UNSEAL TO THE GENERAL PUBLIC

THE PEOPLE OF THE STATE OF CALIFORNIA file an Amended Proof of Service Re: People's Opposition, In Park, to Court's Proposed List of Items to Unseal to the General Public, attached as Exhibit A.

EXHIBIT A

PROOF OF SERVICE

Code of Civil Procedure §1031a; CRC Rule 2006(d)

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO

I am and at all times herein mentioned as a citizen of the United States and a resident of the County of San Luis Obispo over the age of 18 years and not a party to the within entitled action. My business address is Court House Annex, 4th Floor, San Luis Obispo, California 93408.

On August 2, 2022, I served the foregoing document(s) described as:

AMENDED PROOF OF SERVICE
PEOPLE'S OPPOSITION, IN PART, TO COURT'S PROPOSED LIST OF ITEMS TO UNSEAL TO THE GENERAL PUBLIC
(*People v. Paul Ruben Flores*, Case No.22CR003712 & *People v. Ruben Ricardo Flores*, Case No.22CR003713)

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

ROBERT M. SANGER
ATTORNEY FOR PAUL FLORES
VIA EMAIL:
RMSTEAM@SANGERSWYSEN.COM

SARAH SANGER
ATTORNEY FOR PAUL FLORES
VIA EMAIL:
SSANGER@SANGERSWYSEN.COM

HAROLD MESICK
ATTORNEY FOR RUBEN FLORES
VIA EMAIL: HAROLDMESICK@GMAIL.COM

KARL OLSON
VIA EMAIL: KOLSON@COFOLAW.COM

AARON FIELD
VIA EMAIL: AFIELD@COFOLAW.COM

KRISTEL GELERA
VIA EMAIL: KGELERA@COFOLAW.COM

[XX] BY EMAIL TRANSMISSION: By use of San Luis Obispo County issued email, I caused such document(s) to be transmitted to the addressee(s) email account noted above. The County issued computer used complies with Rule 2.251 and the transmission was reported as complete without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 2, 2022, at San Luis Obispo, California.

Sandee Lopez

Sandee Lopez, Legal Clerk

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 8/3/2022 9:08 AM
By: Oscar Luna, Deputy

SANGER SWYSEN & DUNKLE
Robert M. Sanger, SBN 058214
Sarah S. Sanger, SBN 322722
222 E. Carrillo Street, Suite 300
Santa Barbara, CA 93101
Tel.: (805) 962-4887
Fax: (805) 963-7311
Email: RMSteam@sangerswysen.com

Attorneys for Defendant
Paul Ruben Flores

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES,

Defendant.

Case No. 22CR003712

RESPONSE TO MOTION OF NEWS MEDIA COALITION TO UNSEAL JUDICIAL RECORDS AND REGISTER OF ACTIONS

Date: August 4, 2022
Time: 3:00 p.m.
Department: 4

Hon. Jennifer O'Keefe

Defendant, Paul Flores, agrees in part with the News Media Coalition's motion and opposes it in part as follows:

The Defendant, Paul Flores, agrees that most of the materials that have been properly sealed thus far may be unsealed at this point based on the fact that jurors have been empaneled and have been admonished not to expose themselves to press coverage. However, certain matters should remain sealed because the subject matter of those filings is such that it might impair the fair trial rights of the

defendant even with an admonished jury. Other matters pertain to the privacy interests of third parties and there are also materials that may be subject to sealing for other reasons.

We have submitted a list of items to which we do not object and to which we do object to the Court confidentially.

Dated: August 3, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, hereby declare:

1. I am an attorney at law, duly licensed to practice in the State of California, and I am the attorney of record for the Defendant herein, Paul Ruben Flores.
2. The Defendant, Paul Flores, agrees that most of the materials that have been sealed thus far may be unsealed at this point based on the fact that jurors have been empaneled and have been admonished not to expose themselves to press coverage.
3. However, certain matters should remain sealed because the subject matter of those filings is such that it might impair the fair trial rights of the defendant even with an admonished jury.
4. Other matters pertain to the privacy interests of third parties and there are also materials that may be subject to being sealed for other reasons.
5. We have submitted a list of items to which we do not object and to which we do object to the Court confidentially. Disclosure of the list of items to which there is an objection would defeat the purpose of sealing the documents if the Court so rules. We have no objection to disclosure of the portions of the list that indicate the documents that the Court ultimately rules will be disclosed.

I declare under penalty of perjury that the foregoing is true and correct and that this was executed on August 3, 2022, at Monterey County, California.

Robert M. Sanger

MEMORANDUM OF POINTS AND AUTHORITIES

As stated in *People v. Jackson*,

> "The court concluded that most judicial proceedings and records are subject to a presumption of openness. When the presumption applies, the public has a qualified right of access. That right may be denied only if the court, after notice and hearing, makes four supported findings: "(i) there exists an overriding ... interest supporting closure and/or sealing; (ii) there is a substantial probability ... that the interest will be prejudiced absent closure and/or sealing; (iii) the proposed closure and/or sealing is narrowly tailored to serve the overriding interest; and (iv) there is no less restrictive means of achieving the overriding interest." (*Id.* at p. 1218, 86 Cal.Rptr.2d 778, 980 P.2d 337, fns. omitted.) These principles are codified in California Rules of Court, rule 243.1."

People v. Jackson, 128 Cal. App. 4th 1009, 1022, 27 Cal. Rptr. 3d 596, 605 (2005).

Here, the qualified right of the public to openness and access to documents previously properly sealed requires the unsealing of most of the document in the Court's files. However, that qualified right is overridden by a proper finding with regard to certain documents of the four criteria set forth in *Jackson* and in former Rule of Court 243.1, now California Rule of Court 2.550(d). The analysis and findings with regard to particular documents are properly made by the Court after hearing proceedings that are closed to the public to the extent that said proceedings, themselves, would compromise the overriding interest that overcomes the right of public access.

Therefore, the Defendant respectfully asks the Court to release documents that were previously sealed for which a showing can no longer be made and to continue to seal such documents or portions thereof for which the four criteria of the Rules of Court are sustained.

Pursuant to California Rule of Court 2.550(d), the Court has the authority to order a record be filed under seal if it expressly finds that: (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. (California Rule of Court 2.550(d).)

Certain of the documents, if released to the public prior to the conclusion of trial, would compromise the defendant's right to a fair trial and due process of law under the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article 1 of the California Constitution. In addition, some of the information included in the court documents is protected by the attorney-client privilege and work product doctrine as well as Mr. Flores's right to counsel and privacy under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, including sections 1 and 15, of the California Constitution as well as the rights of privacy of the defendant and other third parties under the First, Fourth, Fifth, Sixth, Ninth, Tenth and Fourteenth Amendments to the United States Constitution and Article I, including sections 1 and 15, of the California Constitution.

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///

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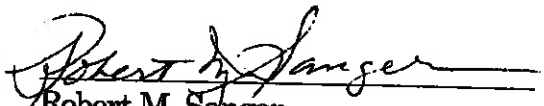
CONCLUSION

For the reasons stated above, defendant Paul Flores requests that the Court continue to seal the items meeting the above criteria in closed proceedings and unseal for the public all such documents not meeting said criteria.

Dated: August 3, 2022

Respectfully submitted,

SANGER SWYSEN & DUNKLE
Robert M. Sanger
Sarah S. Sanger

By: 
Robert M. Sanger
Attorneys for Defendant
Paul Ruben Flores

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 222 E. Carrillo St., Ste. 300, Santa Barbara, California, 93101.

On August 3, 2022, I served the foregoing document entitled: **RESPONSE TO MOTION OF NEWS MEDIA COALITION TO UNSEAL JUDICIAL RECORDS AND REGISTER OF ACTIONS** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

_X_ **BY ELECTRONIC TRANSMISSION** -I caused the above-referenced document(s) to be transmitted via electronic transmission to the interested parties at the email addresses referenced in the attached service list.

____ **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

____ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address referenced on the attached service list.

_X_ **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

_____ **FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed August 3, 2022, at Santa Barbara, California.

Jake Swanson

Jake Swanson

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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 8/3/2022 4:50 PM
By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES and RUBEN RICARDO FLORES,

Defendants.

Case Nos. 22CR003712, 22CR003713

REPLY OF NEWS MEDIA COALITION IN SUPPORT OF MOTION TO UNSEAL JUDICIAL RECORDS AND REGISTER OF ACTIONS AND FOR REMOTE ACCESS;

DECLARATION OF AARON R. FIELD;

SUPPLEMENTAL DECLARATION OF CHLOE JONES

Date: Aug. 4, 2022
Time: 3:00 pm
Place: Dept. 4
Judge: Hon. Jennifer O'Keefe

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I. INTRODUCTION

The People and defendant Paul Flores agree that the majority of sealed records in this case should be unsealed and have not opposed unsealing the register of actions. Moreover, neither makes the demanding showing required to seal any records at all – they offer only conclusory and unspecified arguments that some records should remain sealed. But such conclusory arguments are not enough to meet the strict requirements for sealing set forth by the First Amendment right of access, the U.S. Supreme Court's case law establishing it, the California Supreme Court's *NBC Subsidiary v. Superior Court* (1999) 20 Cal.4th 1178 decision, and California Rule of Court 2.550(d), which puts the *NBC Subsidiary* decision into the rules. *A fortiori*, no party has demonstrated that the continued sealing of any record *in its entirety* is permitted; if there is any remaining overriding interest in secrecy in this case, it can and must be protected by redaction, and not the blanket withholding of filings with this Court. The News Media Coalition's[1] motion should be granted.

II. ARGUMENT

A. OBJECTION TO FAILURE TO SERVE NEWS MEDIA COALITION WITH COURT FILINGS RE: SEALING.

As a preliminary matter, the News Media Coalition has been unable to confirm the extent to which the prosecution and the defense oppose the motion to unseal prior to filing this reply, and it appears that the News Media Coalition has not been served with court documents related to this motion. The People served the News Media Coalition with a document signed on August 1, 2022 entitled "People's Opposition, in Part, to Court's Proposed List of Items to Unseal to the General Public" in the late afternoon on August 2, 2022."[2] (Declaration of Aaron R. Field ¶ 2.) Defendant Paul Flores served the News Media Coalition with a short document entitled "Response to Motion of News Media Coalition to Motion to Unseal Judicial Records and

[1] The "News Media Coalition" consists of Non-Party News Media Organizations The McClatchy Company, LLC (d.b.a. The Tribune), Los Angeles Times Communications, LLC, American Broadcasting Company, Inc. (d.b.a. ABC News), and The Associated Press.

[2] It is not clear from the People's opposition or from the publicly available register of actions, in its current form, whether the People filed this document in partial opposition to the News Media Coalition's motion, or to additional unsealing that the Court may have – quite rightly – proposed.

Register of Actions" on August 3, 2022, following a request for service of opposition papers by counsel for the News Media Coalition. (*Ibid.*) However, no other party, including defendant Ruben Flores, has served the News Media Coalition with opposition papers. (*Ibid.*) Further, the papers served by the People and defendant Paul Flores do not state the extent to which those parties object to unsealing, and refer to documents regarding sealing and, in particular, to lists of records that should or should not be unsealed in the view of these parties – which have not been provided to the News Media Coalition.

The News Media Coalition objects to the Court potentially relying on anything in papers that have neither been served on the News Media Coalition nor themselves sealed consistent with the First Amendment, the Rules of Court, and the common law – which are ex parte submissions to the Court related to the instant motion. The News Media Coalition is entitled to a full and fair, due process-compliant hearing on its motion, which seeks to vindicate its members' First Amendment rights. (See *In re Associated Press* (7th Cir. 1998) 162 F.3d 503, 507-08 ["[t]hose who seek access . . . have a right to be heard in a manner that gives full protection of the asserted right"]; *Globe Newspaper Co. v. Superior Court* (1982) 457 U.S. 596, 609 n. 25 [holding that "representatives of the press and the general public must be given an opportunity to be heard on the question of their exclusion"].) Parties should not be permitted to oppose a motion to unseal in secrecy, especially without proving, or being able to prove, that such secrecy itself complies with the First Amendment prerequisites for sealing or closure. (Accord. Cal. R. Ct. 2.551(h)(2) ["The . . . opposition . . . and supporting documents must be filed in a public redacted version and a sealed complete version if necessary to comply with (c)."].)

To date, no party has adequately demonstrated that any filings related to sealing – such as oppositions to the instant motion to unseal – can be kept from the public, let alone from the moving parties who must confront the arguments they contain to vindicate their constitutional rights. Counsel for defendant Paul Flores declares, in a response to this motion, that he has "submitted a list of items to which we do not object and to which we do object to the Court confidentially," and that "[d]isclosure of the list of items to which there is an objection would defeat the purpose of sealing the documents if the Court so rules." (Response to Motion of News

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Media Coalition to Unseal Judicial Records and Register of Actions at 3:16-19.) However, that conclusory assertion falls far short of the prerequisites for sealing under the First Amendment and the Rules of Court, and does not justify sealing this list under the common law either. The list presumably identifies documents by name to which defendant Paul Flores objects to unsealing, and may or may not speak to the basis for maintaining the Court's seal on those documents. It, and one or more documents discussed in People's Opposition, may also reveal the Court's tentative position on what should and should not be unsealed. There is no interest at all in sealing that kind of basic information, let alone an overriding interest or a strong countervailing reason for sealing that justifies sealing under the First Amendment, the Rules of Court, and the common law. *A fortiori*, the sealing of this list in its entirety is not narrowly tailored to any such interest. The earlier change of venue to this Court and admonitions to the jury about access to news media reporting on this case are less restrictive means of protecting any interest in fair trial rights here that confirm sealing these materials is inappropriate. Withholding this kind of information from parties that have filed a motion to unseal forces the moving parties to address whether proponents of sealing have met their burden of proof on this question blind, contrary to basic principles of due process and the News Media Coalition's First, Fifth and Fourteenth Amendment rights in this context.

B. THE PARTIES HAVE NOT SATISFIED THEIR BURDEN TO PROVE THAT SEALING IS JUSTIFIED.

As noted above, both the People and defendant Paul Flores concede that the vast majority of records currently sealed must be unsealed – and neither party contests that the register of actions must be unsealed as well. Both argue that some portion of records should remain sealed. Neither party, however, meaningfully grapples with the procedural or substantive requirements for sealing under the First Amendment, the Rules of Court, or the common law right of access, let alone demonstrates that these requirements are satisfied as to any records or information at issue here.

The First Amendment and Rule 2.550(d)(1) first require a showing that, "There exists an overriding interest that overcomes the right of public access to the record." On this score, both the

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People and defendant Paul Flores are entirely conclusory, with defendant Paul Flores citing fair trial rights and the People citing Marsy's Law. These conclusory assertions are not tied to, and *a fortiori* cannot justify, sealing any particular information in any particular records as is required to justify sealing.

Defendant Paul Flores claims that he cannot publicly disclose a list of items he contends should remain sealed and later requests an *in camera* hearing. However, that claim is incorrect, and the request for an *in camera* hearing should be denied. First, defendant Paul Flores concedes, as he must, that the jury has been seated and admonished. It must be presumed that the jury will follow instructions and admonitions, and that these are adequate alternatives to sealing or closure. (See *NBC Subsidiary, supra*, 20 Cal.4th at pp. 1221, 1223-24 [citing *Press Enterprise Co. v. Superior Court* ("*Press-Enterprise II*") (1986) 478 U.S. 1, 14-15].) Neither party has presented anything that overcomes these presumptions here, confirming that none of the First Amendment and Rule of Court-based prerequisites for sealing have been satisfied. (*Press-Enterprise II, supra*, 478 U.S. at p. 15; see *ibid.* ["The First Amendment right of access cannot be overcome by the conclusory assertion that publicity might deprive the defendant of that right.' "].)

Second, defendant Paul Flores's request for *in camera* proceedings ignores the Supreme Court's holding in *NBC Subsidiary* that even proceedings "tangential to the trial" such as proceedings regarding the admissibility of evidence have been historically "open, public, and important" parts of trials and are subject to the First Amendment right of access. (20 Cal.4th at pp. 1217-18.) Thus, his request that the hearing on this motion take place in private should be soundly rejected. A star chamber private hearing on what should be made public would defeat the purpose of the First Amendment access rules and there is no provision in the case law or the access rules for it that applies here – especially given, as here, that defendant Paul Flores has not even identified what he thinks should be presented *in camera*, let alone established with evidence that such a presentation is necessary or appropriate.

Defendant Paul Flores's request for an *in camera* hearing should be denied on statutory grounds as well. In *Torres v. Superior Court* (2000) 80 Cal.App.4th 867, 872-75, the Court of Appeal held that parties are "not entitled to an *in camera* hearing" under Evidence Code section

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915 "just for the asking," and vacated a trial court order setting an *in camera* hearing based on a conclusory request by the People. Under Evidence Code section 915, "the party claiming the privilege must either show in open court why the matter is privileged, or declare that doing so would compromise the privilege" in order to obtain an *in camera* hearing (in addition to satisfying the First Amendment requirements for closure discussed in *NBC Subsidiary, supra*). (See *Torres, supra*, 80 Cal.App.4th at pp. 872-73.) Defendant Paul Flores has done neither, which confirms that his request for an *in camera* hearing should be denied. (*Accord, Am. Civil Liberties Union of N. Cal. v. Superior Court* (2011) 202 Cal.App.4th 55, 87 [holding, in a Public Records Act case, that "a trial court's prerogative to inspect documents *in camera* is not a substitute for the government's burden of proof, and should not be resorted to lightly" and that *in camera* review cannot replace the "obligation to justify its withholding in publicly available and debatable documents, and it should be invoked only when the issue at hand, could not be otherwise resolved"].)

The parties likewise fail to make the showing that, "The overriding interest supports sealing the record," the requirement set forth in Rule 2.550(d)(2). Once again, conclusory references to fair trial rights and Marsy's Law, not tied to any particular record, don't make the required showing. (See, e.g., *Press-Enterprise II, supra*, 478 U.S. at p. 15 ["The First Amendment right of access cannot be overcome by the conclusory assertion that publicity might deprive the defendant of that right.' "].)

The First Amendment and Rule 2.550(d)(3) require a showing that, "A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed." Once again, the parties fall short. Defendant Paul Flores cites *People v. Jackson*, but the instant case is most definitely not *People v. Jackson*. The Court of Appeal in *Jackson* – a case involving a celebrity entertainer who had achieved worldwide fame and notoriety, in which no jury had been impaneled when the motion to unseal was decided and there had been no change of venue – correctly described that case as "*sui generis*." The "*sui generis*" factors in *Jackson* are absent here. This case is more like *Odle v. Superior Court* (1982) 32 Cal.3d 932, a case which involved the killing of a police officer and the mother of a two-year-old child, where the nature of the

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crime resulted in extensive publicity but not enough even to justify a change of venue under the less demanding "reasonable likelihood" that a fair trial cannot be had in a given county standard applicable to venue change motions. Moreover, and most significant, the jury has already been seated and admonished here, unlike in *Jackson.* (See also, e.g., *United States v. Loughner* (D. Ariz. 2011) 769 F.Supp.2d 1188, 1192-97 [ordering the unsealing of warrant affidavits related to an infamous and tragic mass shooting, in which a United States Congresswoman was among the victims, before a jury had been impaneled and where no change of venue motion had previously been granted].)

The fourth requirement of the First Amendment and Rule 2.550(d) is that the proponents of sealing or closure show sealing is "narrowly tailored," and here they most certainly have not. The People cite Marsy's Law, which might in the abstract justify sealing some part of some record, but they do not offer the Court any "narrowly tailored" sealing. Likewise, defendant Paul Flores completely fails to "narrowly tailor" any proposed sealing. The Court is not obligated to do the parties' jobs for them. The Court can unseal all of the records in this case without making specific findings. It cannot seal records without making the specific findings set forth in the case law and the rules, however. Absent any "narrowly tailored" sealing justified by the other requirements in Rule 2.550(d), the Court is justified in unsealing all of the records. At the very least, no party has demonstrated that any record should remain sealed in its entirety; if there are overriding grounds to keep particular information in particular records, such as the name of a crime victim, sealed, that particular information should be redacted, and the remainder of the record should be disclosed.

The First Amendment and Rule 2.550(d)(5) requires the court to find, as a prerequisite for sealing, that "No less restrictive means exist to achieve the overriding interest." Once again, the parties have not made that showing. The Court has already changed venue, and the jury has been seated and admonished about avoiding publicity. Those are the less restrictive means available, and already employed, to protect fair trial rights. Redaction, too, is a less restrictive means to protect any information which should be sealed, to the extent that an overriding interest in sealing is established. Sacrificing the First Amendment rights of access, on the other hand, is the most

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restrictive and least appropriate option. The parties have not shown and cannot show that is necessary.

C. TRIAL EXHIBITS – ESPECIALLY TRIAL EXHIBITS PRESENTED TO THE JURY – MUST BE UNSEALED AND DISCLOSED.

Finally, we note that the Court has declined to disclose Exhibits presented to the jury at trial. (Supplemental Declaration of Chloe Jones ¶ 2.) The News Media Coalition's motion calls for the unsealing of these Exhibits, and these Exhibits should be unsealed for the same reasons that all other filings in this case and the register of actions should be unsealed, as explained above and in the memorandum of points and authorities filed in support of this motion.

III. CONCLUSION

The parties have not satisfied the procedural or substantive requirements for sealing – or *a fortiori* for sealing any records or the register of actions entirely – under the First Amendment, the Rules of Court, or the common law. Nor have the parties opposed, to the News Media Coalition's knowledge, the News Media Coalition's request for remote access. This motion should be granted in its entirety, to effectuate the strong First and Sixth Amendment interest in public trials.

DATED: August 3, 2022

CANNATA O'TOOLE FICKES & OLSON LLP

By: _____
AARON R. FIELD

Karl Olson
Aaron R. Field

Attorneys for Non-Party News Media Organizations THE MCCLATCHY COMPANY, LLC (d.b.a. THE TRIBUNE), LOS ANGELES TIMES COMMUNICATIONS, LLC, AMERICAN BROADCASTING COMPANY, INC. (d.b.a. ABC NEWS), and THE ASSOCIATED PRESS

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DECLARATION OF AARON R. FIELD

I, AARON R. FIELD, declare:

1. I am a member in good standing of the State Bar of California. I am a Partner at the law firm of Cannata, O'Toole, Fickes & Olson LLP, and I represent Non-Parties the McClatchy Company, LLC (d.b.a. The Tribune), Los Angeles Times Communications, LLC, American Broadcasting Company, Inc. (d.b.a. ABC News), and The Associated Press (collectively, "the News Media Coalition") in connection with this motion. I make this declaration based on personal knowledge, and, if called as a witness, I could testify to the facts stated herein.

2. The District Attorney's Office e-mailed the News Media Coalition a document that states it was signed on August 1, 2022 entitled "People's Opposition, in Part, to Court's Proposed List of Items to Unseal to the General Public" in the late afternoon on August 2, 2022. Defendant Paul Flores, through counsel, served the News Media Coalition with a document entitled "Response to Motion of News Media Coalition to Motion to Unseal Judicial Records and Register of Actions" on August 3, 2022. No other party, including defendant Ruben Flores, has served the News Media Coalition with opposition papers to date, to the best of my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3rd day of August, 2022 in San Francisco, California.

AARON R. FIELD

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SUPPLEMENTAL DECLARATION OF CHLOE JONES

I, CHLOE JONES, declare:

1. I am a Courts & Crime Reporter at *The Tribune*, a member of the coalition of news media organizations that filed the instant motion to unseal and request for remote access. *The Tribune* serves and focuses its coverage on the City of San Luis Obispo and San Luis Obispo County, where it is the largest daily newspaper by circulation. I make this declaration based on personal knowledge, and, if called as a witness, I could testify to the facts stated herein.

2. I e-mailed the Court on July 27, 2022 to request access to "the electronic exhibits that were projected during opening statements in the Flores case, including but not limited to photos, the powerpoint, the interview videos and the audio-recording." I added, "I am happy to pick them up in person, if needed." However, the Court, through the Court Executive Officer, denied this request, writing in a reply e-mail on July 27, 2022, "this is not a request the Court can accommodate, for a variety of different reasons. [¶] Please see the attached Gag Order, which remains in force. See sec. 1 in particular."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3rd day of August, 2022 in Pismo Beach, California.

Chloe Jones

CHLOE JONES

KARL OLSON (SBN 104760)
AARON R. FIELD (SBN 310648)
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ELECTRONICALLY FILED BY
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By: Renee Inofuentes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

PAUL RUBEN FLORES and RUBEN RICARDO FLORES,

Defendants.

Case Nos. 22CR003712, 22CR003713

PROOF OF SERVICE

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PROOF OF SERVICE

I declare that I am employed in the County of San Francisco, State of California. I am over the age of eighteen (18) and not a party to the within entitled case, and my business address is Cannata, O'Toole, Fickes & Olson LLP, 100 Pine Street, Suite 350, San Francisco, CA 94111.

On August 3, 2022, I served the following documents in the manner(s) selected:

1. **REPLY OF NEWS MEDIA COALITION IN SUPPORT OF MOTION TO UNSEAL JUDICIAL RECORDS AND REGISTER OF ACTIONS AND FOR REMOTE ACCESS;**

   DECLARATION OF AARON R. FIELD;

   SUPPLEMENTAL DECLARATION OF CHLOE JONES

2. **PROOF OF SERVICE**

[X] (ELECTRONIC SERVICE) on the date executed below, I caused the document(s) described to be electronically served via Odyssey e-FileCA to the below recipients:

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Counsel for Ruben Ricardo Flores

I declare that the foregoing is true and correct and that this declaration was executed in San Francisco, California, on August 3, 2022.

Kristel Gelera

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 8/3/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury Trial long cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panels.

Witness Trevor Boelter, previously sworn, still under oath resumes testimony under direct examination by the People.

Defense exhibit 611 marked email.

Jurors are admonished and released for break.

Court exhibit 18 marked and received juror question.

Case called, all parties present, all jurors and alternates present for Paul Flores and Ruben Flores.

Witness Trevor Boelter, previously sworn, still under oath resumes testimony under cross examination by the Defense.

Court exhibit 19 marked and received juror question.

Witness is excused, subject to recall.

Witness Eric Wilkins sworn to testify.

Witness excused subject to recall.

Witness Jennifer Medeiros sworn to testify.

People's exhibit 433 marked and received photo of backpack.

People's exhibit 434 marked photo of cosmetic bag.

Cross examination by Mr. Sanger.

Jurors are admonished and released for lunch break to return at 1:15 pm.

Case called, all parties present all alternates present for Paul Flores and Ruben Flores panels.

Defense exhibit 612 marked and received Calendar for May and June 1996.

Defense exhibit 613 marked and received schematic of rooms in Muir dorm first floor.

Cross exam by the Defense.

Witness is excused, subject to recall.

Stipulation regarding Defense exhibit 435 and Peoples exhibit 610 is read into the record.

People's witness Derrick Tse sworn to testify.

People's exhibit 419 diagram marked and received.

Court exhibits marked and received juror questions 20, 21, 22, 23, 24, 25.

People's exhibit 12 marked phone log for Derrick Tse.

Jurors admonished and released for break.

Case called, all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panels.

Witness Derrick Tse, previously sworn, continues testimony under cross examination by Mr. Sanger.

Court exhibits 26, 27, 28 juror questions marked and received.

Cross exam by the Defense Mr. Mesick.

Defense exhibit 614 marked and received photo of dorm room.

Defense exhibit 615 marked and received photo of dorm room.

Stipulation read into the record People's exhibits 438, 438A marked and received building schematics for Santa Lucia hall.

People clarify exhibit 12 previously marked should have been marked as 112.

Witness is excused, subject to recall.

Jurors are admonished regarding any communications regarding the case, and released for the day to return on August 4, 2022 at 10:30 am.

Out of the presence of the Jurors, the Court and Counsel discuss juror notes reviewed for the record and marked as Court exhibits.

Court in recess for the day.

Matter remains set for Jury trial long cause ongoing on August 4, 2022 at 10:30 am in Salinas, Department 4.

Matter remains set for Motion: to unseal on August 4, 2022 at 03:00 pm in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 8/4/2022 **Time: 10:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Juror 1067 in seat 5 on Ruben Flores panel is released from service.

Alternate juror 1116, randomly drawn from alternate jurors, is sworn to serve as a juror and seated in seat 5 on Ruben Flores panel.

People's witness Mario Garcia sworn to testify.

Cross examination by the Defense.

Witness is excused, subject to recall.

Court exhibit 30 marked and received juror question.

Witness Felipe Arias sworn to testify.

Court exhibit 31, 32 juror questions marked and received.

Cross examination by the Defense.

Witness is excused, subject to recall.

Jurors admonished and released for lunch, to return at 1:30 pm.

Out of the presence of the jurors, the Court and Counsel discuss the juror questions 30, 31, 32 for the record.

The Court and Counsel discuss the conduct in the audience.

Court is in recess for lunch.

Angelica Perez replaces Kristie Hanson as Court Clerk.

Now, following recess. Case is called. Appearances are stated for the record. All jurors and alternates are present for Paul Flores and Ruben Flores panels. Trial resumes.

Witness James T. Camp, previously sworn is examined by the People.

Exhibit is marked and received on behalf of the People: 407 - DMV Cal Photo for Ruben Flores & driver license history.

Exhibit is marked and received on behalf of the People: 407A - DMV Cal Photo for Ruben Flores issued 04/01/2008.

Exhibit is marked and received on behalf of the People: 407B - DMV Cal Photo for Ruben Flores issued 02/26/2003.

Exhibit is marked and received on behalf of the People: 407C - DMV Cal Photo for Ruben Flores issued 02/28/1998.

Exhibit is marked and received on behalf of the People: 407D - DMV Cal Photo for Ruben Flores issued 02/22/1994.

Exhibit is marked and received on behalf of the People: 408 - DMV Cal Photo for Susan Flores & license history.

People's Exhibit #408A is withdrawn.

Exhibit is marked and received on behalf of the People: 408B - DMV Cal Photo for Susan Flores issued 03/22/2016.

Exhibit is marked and received on behalf of the People: 408C - DMV Cal Photo of Susan Flores issued 03/03/2011.

Exhibit is marked and received on behalf of the People: 408D - DMV Cal Photo for Susan Flores issued 03/06/2006.

Exhibit is marked and received on behalf of the People: 408E - DMV Cal Photo for Susan Flores issued 04/18/2001.

Exhibit is marked and received on behalf of the People: 408F - DMV Cal Photo for Susan Flores issued 02/26/1997.

Exhibit is marked and received on behalf of the People: 408G - DMV Cal Photo for Susan Flores issued 04/16/1993.

Exhibit is marked on behalf of the People: 409 - DMV Cal Photo for Ermelinda Flores & driver license history.

Exhibit is marked on behalf of the People: 409A - DMV Cal Photo for Ermelinda Flores issued 03/09/2001.

Exhibit is marked on behalf of the People: 409B - DMV Cal Photo for Ermeldinda Flores issued 01/22/1997.

Exhibit is marked on behalf of the People: 409C - DMV Cal Photo for Ermelinda Flores issued 08/26/1996.

Exhibit is marked on behalf of the People: 409D - DMV Cal Photo for Ermelinda Flores issued 02/23/1993.

Jury is admonished and recesses for 15 minutes.

Out of the presence of the Jury: Defense Motion to xxclude driver license history from Exhibits 407, 408, 409, 410 is granted.

Driver license history from People's exhibits 407, 408, 409, and 410 are withdrawn.

Exhibit 408 is withdrawn.

Now, following recess. Case is called. Appearances are stated for the record. All jurors and alternates are present for Paul Flores and Ruben Flores panels. Trial resumes.

Witness James T. Camp, previously sworn is further examined by the People.

Exhibit 410 is withdrawn.

Exhibit is marked and received on behalf of the People: 410A - DMV Cal Photo for Paul Flores issued 02/07/2020.

Exhibit is marked and received on behalf of the People: 410B - DMV Cal Photo for Paul Flores issued 12/01/2015.

Exhibit is marked and received on behalf of the People: 410C - DMV Cal Photo for Paul Flores issed 05/06/2014.

Exhibit is marked and received on behalf of the People: 410D - DMV Cal Photo for Paul Flores issed 10/02/2013.

Exhibit is marked and received on behalf of the People: 410E - DMV Cal Photo for Paul Flores issued 10/14/2011.

Exhibit is marked and received on behalf of the People: 410F - DMV Cal Photo for Paul Flores issued 03/02/2011.

Exhibit is marked and received on behalf of the People: 410G - DMV Cal Photo for Paul Flores issued 06/03/2009.

Exhibit is marked and received on behalf of the People: 410H - DMV Cal Photo for Paul Flores issued 06/27/2008.

Exhibit is marked and received on behalf of the People: 410I - DMV Cal Photo for Paul Flores issued 10/16/2007.

Exhibit is marked and received on behalf of the People: 410J - DMV Cal Photo for Paul Flores issued 02/07/2007.

Exhibit is marked and received on behalf of the People: 410K - DMV Cal Photo for Paul Flores issued 08/25/2006.

Exhibit is marked and received on behalf of the People: 410L - DMV Cal Photo for Paul Flores issued 12/28/2005.

Exhibit is marked and received on behalf of the People: 410M - DMV Cal Photo for Paul Flores issued 01/16/2003.

Exhibit is marked and received on behalf of the People: 410N - DMV Cal Photo for Paul Flores issued 01/16/2003.

Exhibit is marked and received on behalf of the People: 410O - DMV Cal Photo for Paul Flores issued 04/15/2002.

Exhibit is marked and received on behalf of the People: 410P - DMV Cal Photo for Paul Flores issed 11/16/1999.

Exhibit is marked and received on behalf of the People: 410Q - DMV Cal Photo for Paul Flores issued 09/08/1999.

Exhibit is marked and received on behalf of the People: 410R - DMV Cal Photo for Paul Flores issued 07/15/1998.

Exhibit is marked and received on behalf of the People: 410S - DMV Cal Photo for Paul Flores issued 06/16/1997.

Exhibit is marked and received on behalf of the People: 410T - DMV Cal Photo for Paul Flores issued 07/29/1996.

Exhibit is marked and received on behalf of the People: 410U - DMV Cal Photo for Paul Flores issued 08/04/1993.

Cross examination by the Defense Mr. Sanger.

No cross examination by the Defense Mr. Messick.

Witness is excused.

Jury is admonished and recesses for the day.

Reconvene on Monday, August 8, 2022 at 08:30 AM in Salinas Courtroom 04 for Jury Trial - Long Cause (Ongoing).

Defendant, Ruben Flores waives right to be present for Motion to Unseal Records on August 4, 2022 at 03:00 PM.

Defendant is to remain in custody.

No bail is allowed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 8/4/2022 **Time: 3:00 PM** **Hearing: Motion**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Motion to Unseal Records.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Attorney Aaron Field for Media Coalition is present.

Deputy County Counsel Ann Duggan via video conference is present.

Arguments are presented.

Briefing schedule:

Proposed list to be filed with the court by August 12, 2022 and to counsel by August 19, 2022.

Defense Counsel, People and County Counsel to file by August 25, 2022.

Reply due by August 29, 2022.

Case is continued to Friday, September 2, 2022 at 3:00 PM in Salinas Department 4 for Hearing: Further Motion to Unseal Records and Lifting of Gag Order.

Supervised Person is to remain in custody.

No bail is allowed.

MC 510

MEDIA ACTIVITY [illegible]
CHANNEL/FREQUENCY NO. 6
PERSON SUBMITTING REQUEST [illegible] Katherine Hemelon
[illegible] 1777 Calle Joaquin, San Luis Obispo, CA 93401
[illegible] (805) 597-8404

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 08/05/2022
By Deputy: Inofuentes, Maria

San Luis Obispo County Superior Court

TITLE OF CASE: PEOPLE V. [illegible]

NAME OF JUDGE:

CASE NUMBER: [illegible]

ORDER ON MEDIA REQUEST TO PERMIT COVERAGE

AGENCY MAKING REQUEST *(name)*

1 a ☑ No hearing was held.
b. ☐ Date of hearing. Time: Dept./Div.: Room

2 The court considered all the relevant factors listed in subdivision (a)(3) of California Rules of Court, rule 1.150 *(see reverse)*

3 ☐ THE COURT FINDS *(findings or a statement of decision are optional)* ☐ Attached ☐ As follows:

THE COURT ORDERS

4. The request to photograph, record, or broadcast is
a. ☐ denied.
b. ☑ granted subject to the conditions in rule 1.150, California Rules of Court, AND the following:
(1) ☐ The local rules of this court regulating media activity outside the courtroom *(copy attached)*.
(2) ☐ The order of the presiding or supervising judge regulating media activity outside the courtroom *(copy attached)*.
(3) ☐ Payment to the clerk of increased court-incurred costs of *(specify)*: $ ☐ to be determined
(4) ☐ The media agency shall demonstrate to the court that the proposed personnel and equipment comply with California Rules of Court, rule 1.150, and any local rule or order.
(5) ☐ Personnel and equipment shall be placed ☐ as directed ☐ as indicated in the attachment ☐ as follows *(specify)*:

(6) (i) ☐ The attached statement of agreed pooling arrangements is approved.
(ii) ☐ A statement of agreed pooling arrangements satisfactory to the court shall be filed before coverage begins.
(7) ☐ This order
(i) ☐ shall not apply to allow coverage of proceedings that are continued
(ii) ☐ shall apply to allow coverage of proceedings that are continued.
(8) ☐ Other *(specify)*:

5. Coverage granted in item 4b is permitted in the following proceedings
a ☐ All proceedings, *except* those prohibited by California Rules of Court, rule 1.150, and those proceedings prohibited by further court order.
b ☐ Only the following proceedings *(specify type or date or both)*

6 ☐ The order made on *(date)*: is ☐ terminated ☐ modified as follows *(specify)*:

7 ☐ Number of pages attached

Date: 7/19/2022

Jennifer O'Keefe

(See reverse for additional information)

JENNIFER O'KEEFE

CASE NAME: People V Flores

MC-510

CASE NUMBER: 22CR-0037124-13

FACTORS CONSIDERED BY THE JUDGE IN MAKING THIS ORDER (Rule 1.150)

1. Importance of maintaining public trust and confidence in the judicial system
2. Importance of promoting public access to the judicial system
3. Parties' support of or opposition to the request
4. Nature of the case
5. Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims
6. Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding
7. Effect on the parties' ability to select a fair and unbiased jury
8. Effect on any ongoing law enforcement activity in the case
9. Effect on any unresolved identification issues
10. Effect on any subsequent proceedings in the case
11. Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness
12. Effect on excluded witnesses who would have access to the televised testimony of prior witnesses
13. Scope of the coverage and whether partial coverage might unfairly influence or distract the jury
14. Difficulty of jury selection if a mistrial is declared
15. Security and dignity of the court
16. Undue administrative or financial burden to the court or participants
17. Interference with neighboring courtrooms
18. Maintaining orderly conduct of the proceeding
19. Any other factor the judge deems relevant

PROHIBITED COVERAGE (Rule 1.150)

This order does not permit photographing, recording, or broadcasting of the following in the court:

1. The jury or the spectators
2. Jury selection
3. A conference between an attorney and a client, witness, or aide
4. A conference between attorneys
5. A conference between counsel and the judge at the bench ("sidebars")
6. A proceeding closed to the public
7. A proceeding held in chambers

MEDIA PERSONNEL AND EQUIPMENT (Rule 1.150)

NOTE: These requirements apply unless the judge orders otherwise. Refer to the order for additional requirements.

1. No more than one television camera
2. No more than one still photographer
3. No more than one microphone operator and no obtrusive microphones or wiring
4. No operator entry or exit or other distraction when the court is in session
5. No moving equipment when the court is in session
6. No distracting sounds or lights
7. No visible signal light or device that shows when equipment is operating
8. No disruption of proceedings, nor public expense, to install, operate, or remove modifications to existing sound and lighting systems
9. No media agency insignia or marking on equipment or clothing

SANCTIONS FOR VIOLATING THIS ORDER (Rule 1.150)

Any violation of this order or rule 1.150 is an unlawful interference with the proceedings of the court. The violation may result in an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions.

MC-500

MEDIA AGENCY (name): KSBY
CHANNEL/FREQUENCY NO.: 6
PERSON PERMITTING REQUEST (name): Kathrene Herndon
ADDRESS: 1772 Calle Joaquin, San Luis Obispo, CA 93401
TELEPHONE NO.: (805) 597-8404

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 08/05/2022
By Deputy: Inofuentes, Maria

San Luis Obispo County Superior Court

PEOPLE VS FLORES

CASE NUMBER: 22CR-3711, 3710

MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST

1. **PORTION OF THE PROCEEDINGS TO BE COVERED** *(e.g., particular witnesses at trial, the sentencing hearing, etc.)*
Broll of empty courtroom where Flores trial is held

2. **DATE OF PROPOSED COVERAGE** *(specify)*: 7-19-22 . *(File this form at least five court days before the proposed coverage date. If not feasible, explain good cause for noncompliance):*

3. **TYPE OF COVERAGE**
   a. [✓] TV camera and recorder
   b. [ ] Still camera
   c. [ ] Motion picture camera
   d. [✓] Audio
   e. [ ] Other *(specify):*

4. [ ] **SPECIAL REQUESTS OR ANTICIPATED PROBLEMS** *(specify).*

5. [ ] **INCREASED COSTS.** This agency acknowledges that it will be responsible for increased court-incurred costs, if any resulting from this media coverage *(estimate)*: $
   [ ] Amount unknown

6. **PROPOSED ORDER.** A completed, proposed order on Judicial Council form MC- 510 is attached *(required by Cal Rules of Court, rule 1.150).*

CERTIFICATION

I certify that if the court permits media coverage in this case, all participating personnel in this media agency will be informed of and will abide by the provisions of California Rules of Court, rule 1.150, the provisions of the court order, and any additional restrictions imposed by the court.

Date: 7-19-22

Kathrene Herndon
(TYPE OR PRINT NAME)

Kathrene Herndon
(SIGNATURE)

Telephone No: (805) 471-0152

Assignment Editor
(TITLE OR POSITION IN MEDIA AGENCY)

NOTICE OF HEARING *(A hearing is optional.)*

A HEARING will be held as follows

Date	Time	Dept./Div.:	Room:
Address of the Court			

Clerk, by _____, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: Location: Department 4

Date: 8/8/2022 **Time: 8:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panels.

Juror 932 (seat 12) Ruben Flores panel, is ill and released today.

Alternate juror 1089 is sworn as a trial juror and is now seated in seat 12 on Ruben Flores panel.

People's witness Timothy Davis sworn to testify.

People's exhibit 49 marked and received sketch of Crandall Way.

People's exhibit 50 previously marked is received photo of front driveway view of Crandall Way.

People's exhibit 55 previously marked is received photo of side view of Crandall Way.

People's exhibit 87 marked diagram of Cal Poly.

People's exhibit 87A marked diagram of Cal Poly.

Court exhibit 33 marked and received juror question.

Jurors admonished and released for break.

Case called, all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panel.

Witness Timothy Davis, previously sworn, resumes testimony under direct examination.

People's exhibit 87, 87A are received.

Cross examination by the Defense, Mr. Sanger.

Cross examination by the Defense Mr. Mesick.

Court exhibits 34, 35 marked and received juror questions.

Redirect by the People.

Court exhibits 36, 37, 38 marked and received juror questions.

Witness is excused subject to recall.

Jurors admonished and released for lunch to return at 1:30 pm.

Case called, out of the presence of the jurors, the Court and Counsel discuss for the record the matter of replacement juror for illness on Ruben Flores panel, and the juror questions received today that have been addressed.

Mr. Sanger makes motion for mistrial for prosecutorial misconduct.

Motion for mistrial is respectfully denied.

Case called, all parties present, all jurors and alternate jurors for Paul Flores and Ruben Flores panel present.

Witness Jeromy Moon sworn to testify.

Cross examination by the Defense, Mr. Sanger.

Witness excused, subject to recall.

Witness James Camp, recalled to testify, previously sworn.

Cross examination by the Defense Mr. Sanger.

Witness excused, subject to recall.

Witness Lawrence Kennedy sworn to testify.

Jurors admonished and released for break.

Case called all parties present, all jurors and alternates present for Paul Flores and Ruben Flores panel.

Court exhibit 39 marked and received juror question.

Witness Lawrence Kennedy, previously sworn, resumes testimony under direct examination.

People's exhibit 12 marked and received photo of Paul Flores with eye injury.

Cross examination by the Defense Mr. Sanger.

Jurors are admonished and released for the day to return at 10:30 am on Tuesday, August 9, 2022.

Case remains set for Jury trial long cause ongoing on August 9, 2022 at 10:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.

DAN DOW
DISTRICT ATTORNEY
STATE BAR # 237986
COUNTY OF SAN LUIS OBISPO
COURTHOUSE ANNEX, 4TH FLOOR
SAN LUIS OBISPO, CA 93408
TELEPHONE: (805) 781-5800

FILED IN COURT
8-3-22
CLERK OF THE SUPERIOR COURT
BY _____ DEPUTY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
DEPARTMENT 4

THE PEOPLE OF THE STATE OF CALIFORNIA Plaintiff, vs. **PAUL RUBEN FLORES** DOB: 10/22/1976 ID NO. D000182939 **RUBEN RICARDO FLORES** DOB: 04/09/1941 ID NO. D000445617 AKA RUBEN FLORES Defendants.	COURT CASE NO. 22CR003712 AND 22CR003713 STIPULATION TO ADMIT A PORTION OF THE CAL POLY ACADEMIC CALENDAR DEPICTING SUMMER QUARTER 1994 THROUGH SUMMER QUARTER 1996 AS PEOPLE'S TRIAL EXHIBIT #435 AND DEFENSE'S TRIAL EXHIBIT #610 Appearance Date: August 3, 2022

IT IS HEREBY STIPULATED between the parties that pages 19 thru 21 of the Academic Calendar for Cal Poly San Luis Obispo for the summer 1994 quarter through the summer 1996 quarter be admitted as the People's Trial Exhibit #435 and Defense Trial Exhibit #610.

////

////

IT IS SO STIPULATED.

Date: August 3, 2022

Christopher G. Peuvrelle, DDA

Date: August __, 2022

Robert M. Sanger — Attorney for Defendant, Paul Ruben Flores

Date: August 3, 2022

Harold V. Mesick — Attorney for Defendant Ruben Ricardo Flores

ACADEMIC CALENDAR

Please note: This is not intended to be construed as an employee work calendar. Please refer to the Class Schedule for the 1996-97 Academic Calendar.

SUMMER QUARTER 1994

June 20	Monday	Beginning of university year Beginning of summer quarter Summer quarter classes begin
July 1	Friday	End of second week of instruction Last day to drop a class
July 4	Monday	Academic holiday – Independence Day Observed
July 5	Tuesday	Last day to add a class Last day to register late and pay late registration fee
July 11	Monday	End of third week of instruction – Census date
August 8	Monday	End of seventh week
August 26	Friday	Last day of classes
August 29–September 2	Monday–Friday	Final examination period
September 2	Friday	End of summer quarter
September 3–11	Saturday–Sunday	Academic Holiday

FALL QUARTER 1994

September 12	Monday	Beginning of fall quarter (faculty only)
September 19	Monday	Fall quarter classes begin
September 30	Friday	End of second week of instruction Last day to drop a class
October 3	Monday	Last day to add a class Last day to register late and pay late registration fee
October 7	Friday	End of third week of instruction – Census date
November 4	Friday	End of seventh week of instruction
November 11	Friday	Academic holiday – Veterans' Day
November 23–27	Wednesday–Sunday	Academic holiday – Thanksgiving
December 2	Friday	Last day of classes
December 5–9	Monday–Friday	Final examination period
December 10	Saturday	Mid-Year Commencement End of fall quarter
December 11–January 2	Sunday–Sunday	Academic holiday

WINTER QUARTER 1995

January 3	Tuesday	Beginning of winter quarter Winter quarter classes begin
January 16	Monday	Academic holiday – Martin Luther King, Jr. Birthday Observance
January 17	Tuesday	End of second week of instruction Last day to drop a class
January 18	Wednesday	Last day to add a class Last day to register late and pay late registration fee
January 24	Tuesday	End of third week of instruction – Census date
February 20	Monday	Academic holiday – George Washington's Birthday Observance
February 21	Tuesday	End of seventh week of instruction
March 13	Monday	Last day of classes
March 14–18	Tuesday–Saturday	Final examination period
March 18	Saturday	End of winter quarter
March 19–26	Sunday–Sunday	Academic holiday

SPRING QUARTER 1995

March 27	Monday	Beginning of spring quarter
		Spring quarter classes begin
April 7	Friday	End of second week of instruction
		Last day to drop a class
April 10	Monday	Last day to add a class
		Last day to register late and pay late registration fee
April 14	Friday	End of third week of instruction
		Census date
May 12	Friday	End of seventh week of instruction
May 29	Monday	Academic holiday – Memorial Day
June 2	Friday	Last day of classes
June 5–9	Monday–Friday	Final examination period
June 10	Saturday	Commencement
		End of spring quarter
		End of university year (faculty only)
June 11–June 18	Sunday–Sunday	Academic Holiday

SUMMER QUARTER 1995

June 19	Monday	Beginning of university year
		Beginning of summer quarter
		Summer quarter classes begin
June 30	Friday	End of second week of instruction
		Last day to drop a class
July 3	Monday	Last day to add a class
		Last day to register late and pay late registration fee
July 4	Tuesday	Academic holiday – Independence Day Observance
July 10	Monday	End of third week of instruction
		Census date
August 7	Monday	End of seventh week of instruction
August 25	Friday	Last day of classes
August 28–September 1	Monday–Friday	Final examination period
September 1	Friday	End of summer quarter
September 2–17	Saturday–Sunday	Academic holiday

FALL QUARTER 1995

September 11	Monday	Beginning of fall quarter (faculty only)
September 18	Monday	Fall quarter classes begin
September 29	Friday	End of second week of instruction
		Last day to drop a class
October 2	Monday	Last day to add a class
		Last day to register late and pay late registration fee
October 6	Friday	End of third week of instruction
		Census date
November 3	Friday	End of seventh week of instruction
November 10	Friday	Academic holiday – Veterans' Day
November 22–26	Wednesday–Sunday	Academic holiday – Thanksgiving
December 1	Friday	Last day of classes
December 4–8	Monday–Friday	Final examination period
December 9	Saturday	Mid-Year Commencement
		End of fall quarter
December 10–January 1	Sunday–Monday	Academic holiday

WINTER QUARTER 1996

January 2	Tuesday	Beginning of winter quarter Winter quarter classes begin
January 15	Monday	Academic holiday – Martin Luther King, Jr. Birthday Observance
January 16	Tuesday	End of second week of instruction Last day to drop a class
January 17	Wednesday	Last day to add a class Last day to register late and pay late registration fee
January 23	Tuesday	End of third week of instruction Census date
February 20	Monday	Academic holiday – George Washington's Birthday Observance
February 21	Tuesday	End of seventh week of instruction
March 11	Monday	Last day of classes
March 12–16	Tuesday–Saturday	Final examination period
March 16	Saturday	End of winter quarter
March 17–24	Sunday–Sunday	Academic holiday

SPRING QUARTER 1996

March 25	Monday	Beginning of spring quarter Spring quarter classes begin
April 5	Friday	End of second week of instruction Last day to drop a class
April 8	Monday	Last day to add a class Last day to register late and pay late registration fee
April 12	Friday	End of third week of instruction Census date
May 10	Friday	End of seventh week of instruction
May 27	Monday	Academic holiday – Memorial Day
May 31	Friday	Last day of classes
June 3–7	Monday–Friday	Final examination period
June 8	Saturday	Commencement End of spring quarter End of university year (faculty only)
June 9–16	Sunday–Sunday	Academic Holiday

SUMMER QUARTER 1996

June 17	Monday	Beginning of university year Beginning of summer quarter Summer quarter classes begin
June 28	Friday	End of second week of instruction Last day to drop a class
July 1	Monday	Last day to add a class Last day to register late and pay late registration fee
July 4	Thursday	Academic holiday – Independence Day
July 8	Monday	End of third week of instruction Census date
August 5	Monday	End of seventh week of instruction
August 16	Friday	Last day of classes
August 26–August 30	Monday–Friday	Final examination period
August 30	Friday	End of summer quarter
August 31–September 15	Saturday–Sunday	Academic Holiday



SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY
240 CHURCH STREET
SALINAS, CA 93901
831-775-5400

MINUTE ORDER

Case Number: 22CR003712

People of the State of California vs. Paul Ruben Flores

Honorable: **Jennifer Jean O'Keefe** Courtroom Clerk: **Kristie Ann Hanson**
Courtroom Reporter: **Stefani Cortopassi, CSR11993** Location: Department 4

Date: 8/9/2022 **Time: 10:30 AM** **Jury Trial: Long Cause (Ongoing)**

Charges:
001 PC187(a)-Murder First Degree Felony 1st Degree

Nature of proceedings: Jury trial long cause ongoing.

Deputy District Attorney Chris Peuvrelle is present.

Defendant appears in custody.

Defendant appears with Attorney Robert Sanger.

Case called, all parties present, all jurors and alternates present with exception of juror 202 on Paul Flores panel.

The Court and Counsel will be in session out of the presence of the jurors regarding legal matters.

Jurors and alternates are thanked and admonished and released for the day to return on August 10, 2022 at 08:30 am.

Case remains set for Jury trial long cause ongoing on August 10, 2022 at 08:30 am in Salinas, Department 4.

Defendant is to remain in custody.

No bail is allowed.