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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiffs, vs. MICHAEL JOSEPH JACKSON, Defendant.	Case No. 1133603 MOTION TO LIMIT CROSS-EXAMINATION OF MACAULAY CULKIN (Evidence Code Section 352) Honorable Rodney S. Melville Date: TBD Time: 8:30 am Dept: SM 8

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SANTA BARBARA, TOM SNEDDON, AND DEPUTY DISTRICT ATTORNEYS GERALD FRANKLIN, RON ZONEN, GORDON AUCHINCLOSS AND MAG NICOLA:

Please take notice that the Defendant does hereby move and will further move on a date determined by the Court, at 8:30 a.m., or as soon thereafter as counsel may be heard in

ORIGINAL

Department 8 of the above entitled court, for an order restrict the prosecution from cross-examining Macaulay Culkin regarding the charges pending against him. This motion is based on Evidence Code Section 352.

This motion is based on this Notice of Motion, and the Memorandum of Points and Authorities attached hereto, the papers, records and files in this case, and such other matters as may be received by the Court at or after the hearing scheduled on this motion.

Dated: May 10, 2005

Respectfully submitted,

COLLINS, MESEREAU, REDDOCK & YU
Thomas A. Mesereau, Jr.
Susan C. Yu

SANGER & SWYSEN
Robert M. Sanger
Stephen K. Dunkle

By: _____
Robert M. Sanger
Attorneys for Defendant
MICHAEL JOSEPH JACKSON

MEMORANDUM OF POINTS AND AUTHORITIES

I.

THE COURT SHOULD PROHIBIT CROSS-EXAMINATION OR REFERENCE TO ANY PENDING CHARGES AGAINST MR. CULKIN BECAUSE THE CHARGES ARE NOT RELEVANT TO CREDIBILITY OR ANY ISSUE IN THE PRESENT CASE

It is anticipated, based on conversations with Macaulay Culkin's lawyer and on public comments by Mr. Culkin, that he will testify that the allegations of Phillipe Lamarque, Blanca Francia, and Adrian McManus, regarding Mr. Jackson and Mr. Culkin are false. He will testify that no lewd conduct occurred. Mr. Culkin will testify that his relationship with Mr. Jackson was appropriate. This testimony is relevant to rebut the false allegations made by the prosecution's Section 1108 witnesses.

According to publicly available news reports, Macaulay Culkin is accused of illegally possessing marijuana and prescription medicine in Oklahoma.[1] The news reports indicate that the next court date is June 8, 2005 and that the proceeding is still in a pre-trial posture. The prosecution should be prohibited from inquiring about these charges. The charges are irrelevant to Mr. Culkin's testimony regarding his experiences with Mr. Jackson a decade ago.[2] Mr. Culkin has consistently denied in public statements that molestation occurred. Furthermore charges themselves do not involve moral turpitude. As such, the Court should prohibit the prosecution from cross-examination or any reference to the charges on the grounds that the charges are irrelevant, and, even if there was some probative value, the probative value is outweighed by danger of undue prejudice and undue consumption of time. (Evidence Code Section 352.).

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[1] Unlike the in the case of a prosecution witness with pending criminal charges, the pending charges are not material to the witness' motivation for testifying.

[2] Therefore, it is not necessary for Mr. Culkin to refuse to answer based on his Fifth Amendment privilege. However, if the Court were to disagree with this analysis we will cross that bridge when we come to it.

II.

CONCLUSION

For the reasons stated above, the Court should restrict the prosecution from cross-examining Mr. Culkin regarding the charges pending against him.

Dated: May 10, 2005

COLLINS, MESEREAU, REDDOCK & YU
Thomas A. Mesereau, Jr.
Susan C. Yu

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Robert M. Sanger
Stephen K. Dunkle

By: _____
Robert M. Sanger
Attorneys for Defendant
MICHAEL JOSEPH JACKSON

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 233 East Carrillo Street, Suite C, Santa Barbara, California, 93101.

On May 10, 2005, I served the foregoing document MOTION TO LIMIT CROSS EXAMINATION OF MACAULEY CULKIN the interested parties in this action by depositing a true copy thereof as follows:

Tom Sneddon
District Attorney
312 East Cook Street
Santa Maria, CA 93454
568-2398

____ **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.

__X__ **BY FACSIMILE** - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties [SEE ABOVE]

__X__ **BY HAND** - I caused the document to be hand delivered to the interested parties at the address above.

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

Executed May 10, 2005 at Santa Maria, California.

BOBETTE TRYON