

SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO Criminal Department, Central Division		
TITLE OF CASE: THE PEOPLE OF THE STATE OF CALIFORNIA V. MARCUS DELON WESSON		
TRIAL BY JURY IN THE GUILT PHASE OF A CAPITAL CASE– 14TH DAY		Case Number: F04901785-6
Judge/Temporary Judge: R. L. Putnam		Date: February 16, 2005
Court Clerk: B. Graves, M. Salas		Department: 53 Time: 8:55 a.m.
Reporter/Tape: K. Garcia, D. Dedmon		
Bailliff: H. Franco, M. Duenes		

Plaintiff: The People of the State of California	<input type="checkbox"/> Appearing	Counsel: Lisa Gamoian - Chief Deputy District Attorney	<input checked="" type="checkbox"/> Appearing
Defendant: Marcus Delon Wesson	<input checked="" type="checkbox"/> Appearing	Counsel: Peter Jones - Chief Deputy Public Defender	<input checked="" type="checkbox"/> Appearing
		Rafael Torres - Deputy Public Defender	<input type="checkbox"/> Pro Per

Pursuant to the adjournment of February 15, 2005, Court reconvenes at 8:55 a.m. The People, represented by Lisa Gamoian, Chief Deputy District Attorney, and the defendant Marcus Delon Wesson, with his counsel, Peter Jones, Chief Deputy Public Defender and Rafael Torres, Deputy Public Defender are present. All parties state they are ready to proceed.

Volume XXXVI hearing date of February 7, 2005, is certified as corrected.

Volume XXXVII, hearing date of February 8, 2005, is certified as correct.

Volume XXXVIII, hearing date of February 9, 2005, is certified as correct.

Volume XXXIX, hearing date of February 10, 2005, is certified as correct.

Outside the presence of the prospective jurors, The Court denies the challenge to excuse I26 for cause.

The Court and respective counsel begin individual questioning of Group J at 9:00 a.m.

Prospective juror J1 is questioned by the Court and respective counsel beginning at 9:00 a.m. and concludes at 9:06 a.m.

Prospective juror J3 is questioned by the Court and respective counsel beginning at 9:07 a.m. and concludes at 9:10 a.m.

Prospective juror J5 is questioned by the Court and respective counsel beginning at 9:11 a.m. and concludes at 9:19 a.m.

Prospective juror J7 is questioned by the Court and respective counsel beginning at 9:20 a.m. and concludes at 9:36 a.m.

Prospective juror J8 is questioned by the Court and respective counsel beginning at 9:37 a.m.. The Court clears the courtroom and juror J8 addresses the Court in private. The Court orders the transcript sealed pursuant to Rule of Court Section 243.1, Subdivision (d) as follows:

In this case the defendant is charged with nine (9) murders and multiple counts of rape and child abuse. There has been significant public interest and media coverage on an international scale.

Because of the seriousness of the charges in this matter, security issues related to the trial, concerns about securing a fair and impartial jury, and in order to provide a fair trial to the parties hereto: The Court finds as follows:

- (1) There is an overriding interest that overcomes the right of public access to the records being sealed;
- (2) These interests support sealing the records;
- (3) That a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
- (4) The sealing is narrowly tailored;
- (5) No less restrictive means exist to achieve the overriding interest.

and concludes at 9:47 a.m. and the courtroom is opened to the public. The Court and respective counsel further question J8 beginning at 9:47 a.m. and concludes at 9:55 a.m.

Prospective juror J2 is questioned by the Court and respective counsel beginning at 9:56 a.m. and concludes at 10:01 a.m.

Prospective juror J4 is questioned by the Court and respective counsel beginning at 10:02 a.m... The Court clears the courtroom and juror J4 addresses the Court in private. The Court orders the transcript sealed pursuant to Rule of Court Section 243.1, Subdivision (d) as follows:

In this case the defendant is charged with nine (9) murders and multiple counts of rape and child abuse. There has been significant public interest and media coverage on an international scale.

Because of the seriousness of the charges in this matter, security issues related to the trial, concerns about securing a fair and impartial jury, and in order to provide a fair trial to the parties hereto: The Court finds as follows:

- (1) There is an overriding interest that overcomes the right of public access to the records being sealed;
- (2) These interests support sealing the records;
- (3) That a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
- (4) The sealing is narrowly tailored;
- (5) No less restrictive means exist to achieve the overriding interest.

and concludes at 10:13 a.m. and the courtroom is opened to the public. The Court and respective counsel further question J8 beginning at 10:15 a.m. and concludes at 10:20 a.m. The parties stipulate to excuse J8 for cause.

Prospective juror E9 is brought into the courtroom and the Court questions prospective juror J8 about her failure to appear on February 9, 2005. The Court orders prospective juror E9 to return to the jury assembly room at 1:00 p.m.

Outside the presence of the prospective jurors, The Court and respective counsel discuss challenges for cause. Mr. Jones has no challenges at this time. Ms. Gamoian challenges the following juror for cause: J3.

The Court, after hearing and observing the prospective jurors and considering arguments of respective counsel, rules as follows: J3 is excused for cause.

The Court stands in recess at 10:25 a.m. until 10:47 a.m.

Court Reporter Denise Dedmon replaces Kristi Garcia at 10:47 a.m.

Prospective juror J9 is questioned by the Court and respective counsel beginning at 10:47 a.m. and concludes at 10:59 a.m.

Prospective juror J10 is questioned by the Court and respective counsel beginning at 11:00 a.m. and concludes at 11:11 a.m.

Prospective juror J11 is questioned by the Court and respective counsel beginning at 11:11 a.m., and concludes at 11:19 a.m.

Prospective juror J13 is questioned by the Court and respective counsel beginning at 11:20 a.m. and concludes at 11:38 a.m.

Prospective juror J14 is questioned by the Court and respective counsel beginning at 11:38 a.m. and concludes at 11:56 p.m.

Outside the presence of the prospective jurors, The Court and respective counsel discuss challenges for cause. Mr. Jones challenges the following jurors for cause: J9, J10 and J14. Ms. Gamoian challenges the following juror for cause: J13.

The Court, after hearing and observing the prospective jurors and considering arguments of respective counsel, rules as follows: J9, J10, J13 and J14 are excused for cause.

The Court stands in recess at 12:05 p.m.

Court Reporter Kristi Garcia replaces Denise Dedmon at 1:30 p.m.

Respective counsel stipulate to excuse the following prospective jurors for cause: K2, K3, K12 and K22.

Prospective juror J15 is questioned by the Court and respective counsel beginning at 1:32 p.m. and concludes at 1:39 p.m.

Prospective juror J17 is questioned by the Court and respective counsel beginning at 1:40 p.m. and concludes at 1:47 p.m.

Prospective juror J18 is questioned by the Court and respective counsel beginning at 1:48 p.m. and concludes at 2:00 p.m.

Prospective juror J19 is questioned by the Court and respective counsel beginning at 2:01 p.m. and concludes at 2:10 p.m.

Prospective juror J22 is questioned by the Court and respective counsel beginning at 2:11 p.m. and concludes at 2:12 p.m. Parties stipulate to excuse for cause due to a language barrier.

Prospective juror E9 is questioned by the Court and respective counsel beginning at 2:16 p.m. and concludes at 2:26 p.m.

Outside the presence of the prospective jurors, The Court and respective counsel discuss challenges for cause. Mr. Jones challenges the following prospective jurors for cause: J18, J19 and E9. Ms. Gamoian has no challenges at this time.

The Court, after hearing and observing the prospective jurors and considering arguments of respective counsel, rules as follows: J22 and E9 are excused for cause. J19 is denied. J18 is taken under advisement.

The Court stands in recess at 2:32 p.m. until 2:52 p.m.

Court Reporter Denise Dedmon replaces Kristi Garcia at 2:52 p.m.

Prospective juror J26 is questioned by the Court and respective counsel beginning at 2:52 p.m. and concludes at 3:04 p.m. The Court clears the courtroom and juror J26 addresses the Court in private beginning at 3:04 p.m. The Court orders the transcript sealed pursuant to Rule of Court Section 243.1, Subdivision (d) as follows:

In this case the defendant is charged with nine (9) murders and multiple counts of rape and child abuse. There has been significant public interest and media coverage on an international scale.

Because of the seriousness of the charges in this matter, security issues related to the trial, concerns about securing a fair and impartial jury, and in order to provide a fair trial to the parties hereto: The Court finds as follows:

- (1) There is an overriding interest that overcomes the right of public access to the records being sealed;
- (2) These interests support sealing the records;
- (3) That a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
- (4) The sealing is narrowly tailored;
- (5) No less restrictive means exist to achieve the overriding interest.

and concludes at 3:07 p.m. and the courtroom is opened to the public.

Prospective juror J27 is questioned by the Court and respective counsel beginning at 3:08 p.m. and concludes at 3:15 p.m.

Prospective juror J28 is questioned by the Court and respective counsel beginning at 3:16 p.m. and concludes at 3:26 p.m.

Prospective juror J30 is questioned by the Court and respective counsel beginning at 3:27 p.m. and concludes at 3:40 p.m.

Prospective juror J32 is questioned by the Court and respective counsel beginning at 3:41 p.m. and concludes at 3:51 p.m.

The Court and respective counsel discuss challenges for cause. Mr. Jones challenges the follow prospective jurors for cause: J28, J30 and J32 Ms Gamoian has no challenges at this time.

The Court, after hearing and observing the prosective jurors and hearing arguments of respective counsel, rules as follows: J30 and J32 are excused for cause. J28 is denied.

The Court advises respective counsel that a second panel of 200 prospective juror are summoned to appear at 1:30 p.m. on February 22, 2005. Requests for hardship will be heard beginning at 1:30 p.m on February 23, 2005.

Court adjourns at 3:58 p.m. until February 17, 2005, at 9:00 a.m. for further jury selection.

The defendant, Marcus Delon Wesson, remains in the custody of the Sheriff of Fresno County.

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