

RECEIVED  
FRESNO COUNTY  
SUPERIOR COURT

1 George Cajiga, Fresno County Public Defender  
2 2220 Tulare Street, Suite 300  
3 Fresno, California 93721

2004 APR 19 PM 4: 18

April 21, 2004, 8:30 A.M.  
Department 60  
Est. time 30 min.

4 Telephone: (559) 488-3546  
5 Facsimile: (559) 262-4104

Def. in custody:  
Transportation order

Requested  
**FILED**

6 Peter M. Jones / State Bar # 105811/ PD # 0024  
7 Garrick Byers / State Bar # 104268 / PD # 0010  
8 E-mail [pjones@fresno.ca.gov](mailto:pjones@fresno.ca.gov) ; [gbyers@fresno.ca.gov](mailto:gbyers@fresno.ca.gov)  
9 Attorneys for Marcus Wesson<sup>1</sup>

APR 19 2004

FRESNO COUNTY SUPERIOR COURT  
By  DEPUTY

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF FRESNO  
12 CENTRAL DIVISION

13 The People of the State of California,  
14 Plaintiff,  
15 vs.  
16 Marcus Wesson,  
17 Defendant

Case No.: F049017856

**Wesson's Second Brief re:  
Sealed Search Warrant Records.**

***The Fresno Bee's "Standing" Cases  
are All Readily Distinguishable***

- 18 TO: (1) The Honorable Judge of the Above-Entitled Court,  
19 (2) The People of the State of California by and through its attorney, the  
20 District Attorney of Fresno County,  
21 (3) The Fresno County Police Department, by and through its attorney, Sr.  
22 Deputy Fresno City Attorney Larry Donaldson, and  
23

24  
25 **COPY** 

26 <sup>1</sup> Other members of Wesson's defense team include Ralph Torres and Michael O. Castro.

1 (4) The McClatchy Company doing business and *The Fresno Bee*,  
2 (hereafter referred, to, simply, as *The Fresno Bee*) by and through its  
3 attorney Bruce Owdom.  
4

5 The defendant, Marcus Wesson, respectfully requests leave to add to his Brief re:  
6 Sealed Search Warrant Records, the following.

7 The cases cited by *The Fresno Bee* in its March 30 motion titled "*The Fresno*  
8 *Bee's Opposition to Sealing of Search Warrant* are all inapposite to this case.

9 All of the cases *The Fresno Bee* cites are cases where the news media wanted  
10 access to the courtroom, or transcripts that were already on file in that case.

11 In our case, by contrast, the media has full access to the courtroom, and the  
12 records *The Fresno Bee* seeks have not been filed, and may never be filed, in this case.

13 True, *The Fresno Bee* seeks search warrants, affidavits, returns, and related  
14 material that, to be sure, were and are part of the Fresno Police Department's  
15 investigation of this case. But they have been filed, under court seal, in four different  
16 cases,, W04912037-9, W04912038-7, W04912039-5, and W04912450-4.

17 *The Fresno Bee* cites *Globe Newspaper, Inc. v. Superior Court* (1982) 457 U.S.  
18 596, *Richmond Newspapers Inc. v. Virginia* (1980) 448 U.S. 555, and *Tribune*  
19 *Newspapers West, Inc. v. Superior Court* (1985) 172 Cal.App.3d 443. But those cases all  
20 concerned exclusion of the news media from ongoing courtroom proceedings. Those  
21 cases do not apply here.

22 *The Fresno Bee* also cites *Press-Enterprise v. Superior Court (Press-Enterprise*  
23 *I)* (1984) 464 U.S. 501, and *Press-Enterprise v. Superior Court (Press-Enterprise I)*  
24 (1984) 464 U.S. 501. But those cases concerned closed court hearings, and denial of the  
25 release of transcripts of those hearings. Again, they do not apply here.  
26

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25 release of transcripts of those hearings. Again, they do not apply here.  
26

PROOF OF SERVICE BY MAIL  
(1013a, 2015.5 C.C.P.)

State of California     )  
                                  )  
County of Fresno        )

I am a citizen of the United States of America and am employed in the county aforesaid; I am over the age of eighteen years and not a party to the within above-entitled action; my business address is 2220 Tulare Street, Suite 300, Fresno, California 93721.

On the 19 day of April, 2004, I served the attached WESSON'S BRIEF RE: SEALED SEARCH WARRANT RECORDS. THE FRESNO BEE'S "STANDING" CASES ARE ALL READILY DISTINGUISHABLE on the following in said action:

By personal delivery of a true copy thereof on the office of the Fresno County District Attorney, c/o District Attorney Lisa Gamoian.

and by (1) placing a true copy thereof in a sealed envelope with postage thereon fully prepaid in the United States Post Office mailbox in the City of Fresno, County of Fresno, State of California, addressed as follows: and (2) by sending a facsimile to the number stated.

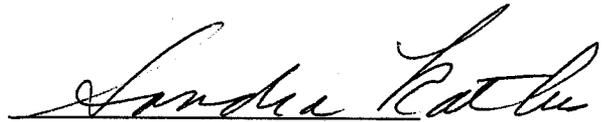
Fresno Police Department by and through its attorney:  
Larry A. Donaldson - Sr. Deputy City Attorney  
2600 Fresno St.  
Fresno, California 93721-3602  
Facsimile: (559)488-1084

The McClatchy Company, doing business as The Fresno Bee, by and through its attorney:  
Bruce Owdom, Esq.  
Dietrich, Glasrud, Mallek, & Aune  
5250 N. Palm Avenue, Suite 402  
Fresno, California 93704  
Facsimile: (559) 435-8776

That there is delivery service by United States mail at the place so addressed or that there is a regular communication by mail between the place of mailing and the place so addressed.

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

Dated: April 19, 2004.



RECEIPT OF A COPY OF THE FOREGOING DOCUMENT IS ACKNOWLEDGED.

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

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