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FRESNO COUNTY SUPERIOR COURT

By \_\_\_\_\_ DED DEPUTY

1 George Cajiga, Fresno County Public Defender  
 2 2220 Tulare Street, Suite 300  
 3 Fresno, California 93721  
 4 Telephone: (559) 488-3546  
 5 Facsimile: (559) 262-4104  
 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)  
 Attorneys for Marcus Wesson<sup>1</sup>

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

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

Case No.: F049017856  
**Defendant Wesson's**  
**Demurrer to the**  
**First Amended Complaint**

18 Defendant Wesson demurs to the First Amended Complaint under Penal Code  
 19 section 1004, item 3: Counts 10 to 42 are not properly joined to Counts 1 to 9.

20 To be properly joined under Penal Code section 954, the counts must be either  
 21 connected together in their commission or must be of the same class.

22 The complaint does not show these crimes are connected together in their  
 23 commission. They are not of the same class: counts 1 to 9 are charges of murder, and  
 24 counts 10 to 42 are charges of child molestations and rapes.

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

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Wesson also demurs specifically to Counts 12, 13, and 30, under Penal Code section 1004, item 5. These counts contain matter which, if true, constitutes a legal bar to the prosecution, namely the statute of limitations is not met.

Wesson also demurs specifically to all counts in the First Amended Complaint that rely on Penal Code section 803, subdivision (g) to revive the statute of limitations. Penal Code section 803, subdivision (g) is an invalid ex post facto law. Accordingly, under Penal Code section 1004, item 5. These counts contain matter which, if true, constitutes a legal bar to the prosecution, namely the statute of limitations is not met.

Any demurrer must be at the time of arraignment. PC 1003.

The demurrer must be in writing, and signed by the defendant or counsel. PC 1005.

It must distinctly specify the grounds of objection. PC 1005.

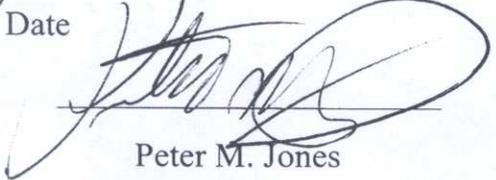
Argument on the objections must be heard immediately. PC 1006.

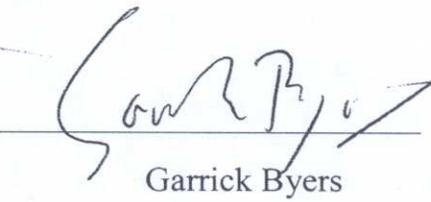
The court must rule on the demurrer. PC 1007.

If the demurrer to a complaint is sustained, the court must permit the filing of an amended complaint within such time, not exceeding 10 days, as the court may fix. PC 1007.

Respectfully Submitted,

4/8/04  
Date

  
Peter M. Jones

  
Garrick Byers

