

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 PENALTY PHASE OF A CAPITAL CASE- 1ST DAY		Case Number: F04901785-6
Judge/Temporary Judge: R. L. Putnam Court Clerk: B. Graves/ W. Anderson Reporter/Tape: D. Dedmon Bailiff: H. Franco, P. Bellefeuille		Date: June 21, 2005
		Department: 53 Time: 9:01 a.m.

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 Rafael Torres, Deputy Public Defender	<input type="checkbox"/> Pro Per <input checked="" type="checkbox"/> Appearing <input type="checkbox"/> Pro Per

Pursuant to adjournment of June 17, 2005, Court reconvenes at 9:01 a.m. The People represented by Lisa Gamoian, Chief Deputy District Attorney, and the defendant, Marcus Delon Wesson, with counsel, Peter Jones, Chief Deputy Public Defender and Rafael Torres, Deputy Public Defender are present. All parties state that they are ready to proceed. The jury is not present.

Court Reporter, Denise Dedmon is present at 9:00 a.m.

The Court and respective counsel take up the matter of scheduling for the Penalty Phase. The Court informs respective counsel that the Penalty Phase will be full days except for June 24, 2005, we will adjourn at 3:45 p.m.

The Court inquires from respective counsel if they what to argue once or twice. Lisa Gamoian, Chief Deputy District Attorney states that she will argue once and Peter Jones, Chief Deputy Public Defender states that he will argue once.

The Court addresses defense counsels objection to Police Officers from the crime scene testifying in the Penalty Phase. Matter is argued. The Court sustains the objection and will not allow the Police Officers to testify.

Peter Jones, Chief Deputy Public Defender, notifies the Court that he will not be calling Dr. Davis in the Penalty Phase.

The Court orders the jury instruction conference to be conducted at 2:00 p.m.

Outside the presence of the jury, "In chambers" conference is held at 9:18 a.m. with Lisa Gamoian, Chief Deputy District Attorney, on behalf of the People. Rafael Torres, Deputy Public Defender and Peter Jones, Chief Deputy Public Defender are present on behalf of Marcus Delon Wesson who is present with the aid of an electronic listening device.

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.

The Court trails the matter of Alleged Juror Misconduct to June 22, 2005 at 9:00 a.m.

The Court stands in recess at 9:29 a.m.

All parties are present at 2:05 p.m. and are ready to proceed.

Outside the presence of the jury and the public, The Court and respective counsel conduct a jury instruction conference as fully stated on the record.

Peter Jones, Chief Deputy Public Defender, objects to having 9 separate sets of verdict forms. Defense requests that be only one set of verdict forms. The matter is taken under advisement.

Lisa Gamoian, Chief Deputy District Attorney, states to the Court that she has not yet received all of the discovery for the Penalty Phase. The Court orders that defense provide Ms. Gamoian all discovery by 4:00 p.m. today.

The Court adjourns at 2:44 p.m. until June 22, 2005 at 9:00 a.m. for hearing on Alleged Juror Misconduct and June 22, 2005 at 1:30 p.m. for the Penalty Phase.

The defendant remains remanded to the custody of the Sheriff pending the next hearing date.

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