

SUPERIOR COURT, STATE OF CALIFORNIA, COUNTY OF STANISLAUS

IN THE PEOPLE OF THE STATE CALIFORNIA VS. SCOTT LEE PETERSON

NATURE OF HEARING: FINDINGS ON SEALING ORDERS Case # 1056770

JUDGE: A. GIROLAMI
Clerk: J. Carvalho

Bailiff: L. Sweatman
Reporter: none

Date: 12/5/03
Modesto, California

Appearances: none

At the December 3, 2003, hearing in this matter, the Court considered the request of the Print Media to unseal the previously sealed affidavits in support of the arrest and search warrants, the previously sealed autopsy report, and the Print Media's opposition to the Court's conditional sealing of certain evidence introduced at the Preliminary Hearing. As to the latter, which consists of six photographs of the decedents (Exhibits 130, 131, dd, ee, ff, and gg), the Court understands that the Print Media is not seeking copies, but only the opportunity to examine them.

The Court, having considered the Points and Authorities submitted (the People's motion filed 12/2/03; the Print Media's motion filed 12/1/03; and the Defendant's Motion filed 12/2/03) and the arguments of counsel, hereby declines to unseal the previously sealed materials and seals the previously conditionally sealed Preliminary Hearing evidence.

Regarding the previously sealed materials (affidavits and autopsy report), the Court finds that the facts and findings leading to the sealing orders of May 30, 2003, and June 27, 2003, are still applicable and viable and they are therefore incorporated herein. Also, the Fifth District Court of Appeals opinions filed on May 5, 2003 in F042848 and July 30, 2003 in F043260 provide ample direction to the Court in this regard.

Even though there has been an extensive Preliminary Hearing in this case, and the Defendant has been held to answer, there continues to be considerable ongoing investigation that can be, and would be, prejudiced by the release of these documents. In addition, the Defendant's right to a fair trial would be prejudiced by the release of these documents. The Preliminary Hearing has not resulted in a change of circumstance such as would require the unsealing of these materials, especially as they have not yet been introduced into evidence.


Regarding the conditionally sealed evidence from the Preliminary Hearing, there is a clear legislative intent (CCP 129 and GC 6276.34) to maintain the privacy of autopsy photographs. However, even without considering this statutory authority, under California Rules of Court Rule 243.1, the Court finds that there is an overriding interest that supports the sealing of the autopsy photographs. Certainly the families of the decedents are entitled to considerable deference that these photographs not be made public

fodder for the prurient interests of the curious. The Court is satisfied that the family's privacy interests overcome any public right to access to these autopsy photos.

Having personally examined the photographs, the Court finds that it would be highly disturbing to a family member if this evidence were disseminated to the media, even if copies of the photographs were not provided. The overriding interest of decedents' family in maintaining the privacy of the autopsy photographs will clearly be prejudiced if the items are not sealed.

Additionally, the testimony given at the Preliminary Hearing regarding the autopsy constituted a less restrictive means of informing the public of the contents of these graphic photos. Lastly, as previously noted, the investigation is still ongoing and any release would hamper that investigation and potentially prejudice the Defendant's right to a fair trial.

Dated: December 5, 2003


A. Girolami
Judge of the Superior Court

Copy sent to:

Rick Distaso, DDA
Office of the District Attorney
Courthouse
Modesto, California

David Harris, DDA
Office of the District Attorney
Courthouse
Modesto, California

Mark Geragos, Esq.
350 South Grand Avenue
39th Floor
Los Angeles, California 90071
Fax: 213-625-1600

Charity Kenyon, Esq.
2500 Venture Oaks Way, Suite 220
Sacramento, California 95833
Fax: 916-779-7120