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Los Angeles Superior Court

NOV 23 2011

John A. Clarke, Executive Officer/Clerk
By DeLeon Deputy

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 **PEOPLE OF THE STATE OF**
14 **CALIFORNIA,**

15 Plaintiff,

16 vs.

17 **CONRAD MURRAY,**

18 Defendant.

19 Case No: SA073164

20 **SENTENCING MEMORANDUM**

21 TO: THE HONORABLE MICHAEL PASTOR, DEPARTMENT 107, LOS ANGELES
22 COUNTY SUPERIOR COURT, DEFENDANT CONRAD MURRAY AND DEFENSE COUNSEL.

23 Please take notice that on November 29, 2011, at 8:30 am, or as soon thereafter as this
24 matter can be heard in Department 107 of the above entitled court, the People will move this
25 court to sentence the defendant to state prison, impose all requisite fines, and impose an
26 appropriate order for restitution.

27 This motion will be based upon this sentencing memorandum, the pleadings in the
above entitled matter, the trial transcripts, victim impact statements, and upon any such further
evidence as may be introduced at the sentencing hearing.

I.

INTRODUCTION

On November 7, 2011, a jury convicted the defendant of Penal Code section 192(b), involuntary manslaughter, for causing the death of Michael Jackson.

II.

FACTS

On April 6, 2009, the defendant ordered 35 vials of propofol to administer to Michael Jackson. On April 28, 2009, the defendant ordered another 65 vials of propofol. On May 12, 2009, the defendant ordered an additional 65 vials of propofol. Finally, on June 10, 2009, the defendant ordered another 90 vials of propofol. In total, the defendant ordered over 4 gallons of this anesthetic drug and, according to the defendant, he administered it to Michael Jackson on a nightly basis for over two months.

On June 25, 2009, the defendant again administered propofol, as well as benzodiazepines, to Michael Jackson. The defendant then abandoned the victim and proceeded to make phone calls to various individuals. When the defendant finally bothered to direct his attention back to the victim, Michael Jackson was no longer breathing. However, instead of immediately summoning emergency personnel who could have rendered appropriate resuscitative care, the defendant spent his time concealing evidence and focusing on his own well-being rather than the well-being of Michael Jackson. In fact, the defendant waited at least 20 minutes before instructing anyone to summon emergency aid.

Then, when emergency help arrived, the defendant lied about the drugs he had administered to Michael Jackson. Still again, upon arriving at the Ronald Reagan UCLA Medical Center, the defendant lied about the drugs he had administered.

At his jury trial, the defendant personally chose not to testify on his own behalf. However, prior to and during trial, he chose to conduct multiple media interviews. In each of these interviews, the defendant has very clearly stated that he bears no responsibility for

1 Michael Jackson's death. Moreover, the defendant has continued to express concern only for
2 his individual plight and portrays himself, not the decedent, as the victim.

3 Specifically, the defendant, when asked if he felt guilty that Michael Jackson had died,
4 stated "I don't feel guilty because I did not do anything wrong." (Exh. A, clip 1). Then, when
5 asked if it was reckless to abandon Michael by leaving him alone in the room, the defendant
6 responded "no, no." (Exh. A, clip 2).

7 During his media interview, the defendant goes on to explain his lies to the police by
8 saying that he never mentioned being on multiple phone calls because the police "never asked
9 me" and he (the defendant) "did not think it was important." (Exh. A, clip 3).

10 Finally, the defendant consistently blames the victim for his own death, even going so far
11 as to characterize himself (the defendant) as being "entrapped" by the victim (Exh. A, clip 4),
12 and as someone who suffered a "betrayal" at the hands of the victim. (Exh. A, clip 5).

13
14
15 **III.**

16 **THE DEFENDANT SHOULD BE SENTENCED TO THE MAXIMUM SENTENCE OF 4 YEARS**

17 **IN STATE PRISON**

18 Penal Code section 192(b) provides for a sentencing range of a low term of 2 years, a
19 mid-term of 3 years, and a high term of 4 years.

20 Pursuant to Penal Code section 1170(b) and California Rules of Court 4.420 – 4.422, the
21 court has discretion to impose one of the three authorized prison terms. In determining the
22 appropriate sentence, the court may consider circumstances in aggravation and mitigation, as
23 well as any other factor reasonably related to the sentencing decision. In considering the
24 available options and the relevant factors, the People request this court impose the high term of
25 4 years in state prison.
26
27

1 A. The crime involved great violence, great bodily harm, threat of great bodily harm, or
2 other acts disclosing a high degree of cruelty, viciousness, or callousness (California
3 Rules of Court 4.421(a)(1)).

4 Every single night the defendant administered propofol, which by the defendant's own
5 admission took place nightly for at least two months, the defendant was acting with a complete
6 disregard for the well-being of Michael Jackson. The defendant was literally risking Mr.
7 Jackson's life every night. Unfortunately, the defendant's disregard for Mr. Jackson continued
8 and, on June 25, 2009, the defendant's criminal negligence killed Michael Jackson. This
9 tragedy occurred because of the defendant's callous and dismissive treatment of Michael
10 Jackson's well-being. The defendant acted with his own interests in mind and completely
11 abandoned Michael Jackson in every sense of the word. The defendant's extreme disregard for
12 the risk of death that his actions created and his extreme callousness toward the safety of
13 Michael Jackson justifies the high term of 4 years in state prison.

14
15 B. The victim was particularly vulnerable (California Rules of Court 4.421(a)(3)).

16 Due to the actions of the defendant, Michael Jackson was a particularly vulnerable victim
17 at the time of his death. The defendant had repeatedly subjected Michael Jackson to a
18 dangerous, unprecedented pharmaceutical experiment whereby the defendant provided and
19 administered propofol on a nightly basis for over two months. Moreover, the defendant was
20 simultaneously administering various benzodiazepines throughout this period. All the while, the
21 defendant failed to provide any of the proper monitoring equipment or additional personnel that
22 would have been able to save Michael Jackson's life. Instead, the defendant created an
23 extremely dangerous situation for the victim. Once the defendant administered this potentially
24 lethal cocktail of drugs, Michael Jackson's life was literally in the hands of the defendant.
25 However, while Michael Jackson lay in this most vulnerable state, the defendant abandoned
26 him. The victim's vulnerability, compounded by the fact that the defendant directly created the
27 level of vulnerability, justifies imposition of the high term of 4 years in state prison.

1 C. The manner in which the crime was carried out indicates planning, sophistication, or
2 professionalism (California Rules of Court 4.421(a)(8)).

3 Although this crime occurred as a result of criminal negligence, the evidence reveals in
4 no uncertain terms that the defendant knew what he was doing was wrong and took multiple
5 steps to hide his activity.

6 For example, the defendant requested the propofol be shipped to his medical clinic in
7 California when, in fact, the defendant did not have a clinic in California. Instead, the evidence
8 revealed the propofol was being delivered to the apartment of one of the defendant's girlfriends.
9 Additionally, the defendant intentionally failed to maintain medical records so as not to have any
10 written record of his criminal negligence. Once the defendant discovered he had killed Mr.
11 Jackson, he then proceeded to clean up the crime scene rather than focus on proper
12 resuscitative efforts for Michael Jackson. The defendant then repeatedly lied about what he had
13 done. Still later, when interviewed by LAPD, the defendant made no mention of the various
14 emails, text messages, or phone calls that were taking place at the time Michael Jackson was
15 dead or dying. Instead, the defendant claimed he only left Mr. Jackson for two minutes to use
16 the restroom. All of these actions display planning and sophistication both before and after the
17 crime that was utilized for the sole purpose of protecting the defendant and hiding the truth.
18 This planning and sophistication justifies a high term sentence of 4 years in state prison.

19
20 D. The defendant took advantage of a position of trust or confidence to commit the
21 offense (California Rules of Court 4.421(a)(11)).

22 The doctor-patient relationship is a special relationship premised on the patient's trust
23 that a doctor will act with sound medical judgment to do what is best for the patient. The
24 defendant repeatedly violated this trust. The defendant acted with his own interests in mind.
25 Specifically, he agreed to provide and administer propofol to Michael Jackson with the
26 expectation of receiving a paycheck of \$150,000 a month. While doing so, Michael Jackson
27 was under the belief that he would be safe so long as he was appropriately monitored.

1 However, this monitoring never took place. Instead of utilizing his medical knowledge and
2 training to provide Mr. Jackson with proper medical care, the defendant acted as an employee
3 and as a drug dealer and completely corrupted the trust necessary in a proper doctor-patient
4 relationship. These actions mandate a sentence of 4 years in state prison.

5
6 **IV.**

7 **RESTITUTION**

8 **A. Legal Background**

9 On June 8, 1982, the "Victim's Bill of Rights" was passed. This initiative amended the
10 California Constitution to read:

11
12 It is the unequivocal intention of the People of the State of California that
13 all persons who suffer losses as a result of criminal activity shall have the
14 right to seek and secure restitution from the persons convicted of the crimes
15 causing the losses they suffer. California Constitution, art. I, section 28(b)(13)(A).

16 Additionally, California Constitution, article I, section 28(e) defines a crime victim as:

17 Any person who suffers direct or threatened physical, psychological, or financial
18 harm as a result of the commission or attempted commission of a crime or
19 delinquent act. The term "victim" also includes the person's spouse, parents,
20 children, siblings, or guardian, and includes a lawful representative of a crime
21 victim who is deceased...

22 Finally, pursuant to Penal Code section 1202.4(f), the defendant is required to pay
23 restitution whenever the victim has suffered economic loss as a result of the defendant's
24 criminal conduct.

25 **B. Factual Background**

26 In order to ascertain the appropriate amount of restitution due to the victim in this case,
27 the People requested information from the Estate of Michael Jackson. Specifically, the People
requested the projected personal earnings of Michael Jackson for his 50-show sold out concert
series. Additionally, the People requested the amount of money expended for the memorial

1 service, funeral, and burial of Michael Jackson.

2 The Estate has complied with that request and has submitted a letter which is attached
3 as Exhibit B. The Estate estimates Michael Jackson's projected earnings for the 50-show O2
4 concert series to be \$100,000,000.

5 Additionally, the Estate estimates the costs of the memorial service, funeral, and
6 associated expenditures to be \$1,821,871.65.

7
8 C. Michael Jackson's three minor children, Prince, Paris, and Blanket, are victims and are
9 entitled to restitution

10 Michael Jackson's three minor children are victims under the law and are thus entitled to
11 seek and secure restitution from the defendant.

12 1. Wages or lost profits

13 Prior to his untimely death, Michael Jackson was preparing for a 50-show, sold out
14 concert series at the O2 Arena in London. Michael Jackson's minor children are entitled to
15 "wages or profits lost due to injury incurred by the victim." (Penal Code section 1202.4(f)(3)(D)).
16 Accordingly, the People have attached Exhibit B to assist the court in fashioning an appropriate
17 restitution order.

18 2. Burial and funeral expenses

19
20 Additionally, Michael Jackson's minor children are entitled to recover restitution for
21 burial, funeral and related expenses. The People again ask the court to utilize Exhibit B in
22 fashioning an appropriate order.

23 3. Interest and attorney fees and collection costs

24 The defendant should also be ordered to pay interest, at the rate of 10% per annum, that
25 accrues as of the date of loss. In the case at hand, this 10% rate of interest should accrue as of
26 the date of June 25, 2009. Additionally, the defendant should be ordered to pay attorney's fees
27

1 and other costs of collection accrued by a private entity on behalf of the victim. (Penal Code
2 sections 1202.4(f)(3)(G) and 1202.4(f)(3)(H)).

3 V.

4 CONCLUSION


5 As this court correctly noted on the date of the jury's verdict, "Dr. Murray has been
6 convicted of a crime involving homicide. This is not a crime involving mistake of judgment. This
7 is not a crime involving administration of drugs, per se. This is a crime where the end result was
8 the death of a human being." (Trial Transcript, November 7, 2011, p. 10516).

9 The defendant has displayed a complete lack of remorse for causing Michael Jackson's
10 death. Even worse than failing to accept even the slightest level of responsibility, the defendant
11 has placed blame on everyone else, including the one person no longer here to defend himself,
12 Michael Jackson.

13 Due to the actions and decisions of the defendant alone, Michael Jackson is dead. Due
14 to the actions and decisions of the defendant alone, Michael Jackson's family lost a son, a
15 brother, and a father. Due to the actions and decisions of the defendant alone, justice requires
16 the defendant be sentenced to state prison for 4 years, be ordered to pay appropriate restitution
17 to Michael Jackson's children, and be ordered to pay all requisite fines under the law.

18
19 Respectfully submitted,

20
21 
22 _____
23 David Walgren
24 Deputy District Attorney

25 
26 _____
27 Deborah Brazil
Deputy District Attorney



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November 23, 2011

VIA ELECTRONIC MAIL

David Walgren, Esq.
DWalgren@da.lacounty.gov

Re: Michael Jackson

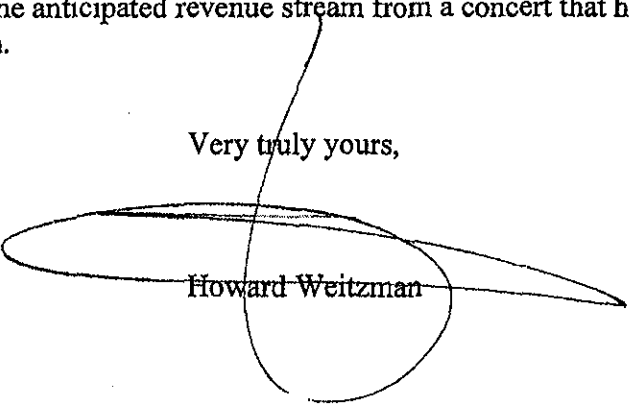
Dear Mr. Walgren:

This letter will confirm that the Estate incurred costs and expenses for Michael Jackson's memorial service, funeral and associated expenditures in the approximate amount of \$1,821,871.65.

If Michael Jackson had survived, and performed all 50 concerts scheduled at the O2 for the period they were booked, he was projected to make \$100,000,000 in revenue.

The above information is a combination of monies actually spent and some very sophisticated projections on the anticipated revenue stream from a concert that had been sold out before Mr. Jackson's death.

Very truly yours,



Howard Weitzman

HW

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