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FILED
SEP 30 2016

DAVID A. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY _____ DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
)
Plaintiff,)
)
v.)
)
ANTOLIN GARCIA-TORRES,)
)
Defendant.)
_____)

Criminal Case No. 213515

PEOPLE'S SECOND SUPPLEMENTAL
MOTIONS *IN LIMINE*

The People move to exclude reference to writings found in two separate notebooks that the defense has previously improperly attributed to Sierra LaMar. The suspect writings are without sufficient foundation under Evidence Code section 1400, irrelevant, and admission would violate Evidence Code section 352 as they necessitate an undue consumption of time, confusion of the issues, and, assuming relevance and foundation, are substantially more prejudicial than probative. Because the defense would be the proponent of the evidence it is their obligation to show to this Court the admissibility of the evidence. EC §§403(a), 1400. Depending on the defense proffer to authenticate the writings, the People may ask for a hearing under section 402(b) so the Court can determine the existence of the necessary facts to admission.

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1 **A. Writing in Spanish Notebook [E/I #171466]**

2 The defense may attempt to offer a note found in a notebook that said, “I hate my life no
3 ever sees this I will be in San Francisco by 3/16/12.” The People object to this distraction because
4 there is no credible evidence the note was written by Sierra.

5 Sierra’s sister will testify that it is not Sierra’s writing. See EC §1416. Additionally, the
6 note is not in the same handwriting as writing that obviously does belong to Sierra in the same and
7 other seized materials. See Evid. Code §1417; *Devereaux v. Frazier Mountain Park & Fisheries*
8 (1967) 248 Cal.App.2d 323 (handwriting expert is not required). While the defense may argue that
9 the notebook belonged to Sierra, because the notebook was seized by school officials after having
10 been removed from Sierra’s locker by unknown students who had been found to be writing in it,
11 the requisite foundation that the note was written by Sierra is highly suspect. By the time the
12 notebook was seized by police eight days after Sierra’s abduction, it was well known by the
13 students that Sierra has disappeared on March 16, 2012. The note is an obvious prank. Given all
14 the other evidence that Sierra planned a normal school day on March 16, 2012, it is simply
15 unfathomable that she would plant such an obvious and easily discoverable clue as to her alleged
16 true intention when all the other notes and communications she had leading up to March 16, 2012,
17 would have to be have been elaborately placed deceptions.

18 While not binding on this Court with respect to admissibility, the following were the
19 findings of Judge Williams regarding this particular note at the *Johnson* motion.

20 A comparison of this writing with the other writing in the notebook strongly
21 suggests to me that the note regarding this running away was not written by Sierra
and, therefore, it was not exculpatory evidence.

22 [Vol. 20 at 285:9-12.] While the People acknowledge that the overwhelming evidence is contrary
23 to the note and as a result there is likely little useful value (or harm) in its admission, the fact
24 remains that, as the proponent of the evidence, the defendant is obligated to show that a reasonable
25 jury could conclude Sierra is the author. On the facts of this particular note, they can make no such
26 showing and as a result, it should be excluded.

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