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(ENDORSED)  
**FILED**  
JAN 17 2017

~~DAVID H. YAMASAKI~~  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY G. COLDENSON DEPUTY

Attorneys for Plaintiff

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  
DATE: January 17, 2017  
TIME: 9:00 AM  
DEPT: 40  
TIME EST.: 5 MINUTES  
  
PEOPLE'S RESPONSE  
TO GARCIA'S MOTION FOR  
A CONTINUANCE UNDER PC 1050

The People are in agreement with counsel that DNA evidence is significant in this trial and that the defense is entitled to a sufficient opportunity to examine such evidence. The People are also entitled to the still outstanding defense discovery of their DNA and other expert testimony. Since this issue was last discussed, the People have received no new discovery.

In order to inform its position with respect to this motion the People inquired with counsel regarding the outstanding discovery. While it appears more penalty phase discovery may be revealed by the defense this coming week in the form of report by Dr. Gretchen White, there is still no timeline for any discovery from Skip Palenik, Peter Barnett and Dr. Henry Lee. In fact, Mr. Lopez has asked the People to produce more evidence to Mr. Palenik, not previously requested for further analysis.

1           The People agree that there is good cause for a short continuance to evaluate the material  
2 recently provided as well as to provide the defense some time to comply with its own discovery  
3 obligations. The People suggest January 30, 2017, with any outstanding motions or hearings to be  
4 heard in the interim.

5           For a complete record, with respect to the material recently provided to defense counsel,  
6 the Court should be aware of the following facts. After reading the report of defense expert Marc  
7 Taylor, the People discussed with the Santa Clara County Crime Lab its updated interpretation  
8 guidelines as they apply to this case that had taken effect in July or August 2016. Mr. Taylor's  
9 report was based in part upon the defense's September 2016 request for the Y-filer validation data.  
10 That data and the newly amended interpretation protocols that were updated in July 2016 were  
11 provided to the defense in September 2016.<sup>1/</sup> As a result, the defense has had the Y-filer data for  
12 at least three months, indeed Mr. Taylor quotes from it.

13           In December 2016, the People met with representatives of the Crime Laboratory who had  
14 reviewed Mr. Taylor's report. At those meetings, it was made clear to this prosecutor that the new  
15 interpretation guidelines for the Y-STR results would be evaluated differently than under the  
16 previous guidelines. It was decided at that meeting that *all* inculpatory DNA results would be  
17 evaluated under the new interpretations guidelines that were implemented, whether for autosomal  
18 or the Y-STR testing in this case. Because the defense had not received the updated interpretation  
19 guidelines for autosomal DNA testing,<sup>2/</sup> regardless of any request, the People produced the material  
20 on January 10, 2017. That date was later than hoped due to the two working days that the County  
21 Building was shut down (Jan 5<sup>th</sup> and 6<sup>th</sup>) due to failure of an electrical transformer.

22           The report documenting the analysis of the inculpatory samples under the updated  
23 interpretation guidelines was hand-delivered to the defense on January 13, 2017. There are no  
24 changes to the autosomal interpretations. As noted in Court last week, the Y-STR results under

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26           <sup>1/</sup> While not directly relevant to his motion, the defense had not previously requested this  
27 material, instead their requests had been related to the Identifiler Plus validation data.

28           <sup>2/</sup> The updated guidelines had not been requested nor were they in effect for any  
significant DNA testing in the case and they are not retroactive.

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the new guidelines would be inconclusive whereas previously a statistic was provided. The fact that the People made no mention of the Y-STR results in the People's trial brief should give this Court a sense of their necessity and probative value in the People's case along with the fact that the defense has had the Y-filer data since September 2016.

DATED: January 15, 2017

Respectfully Submitted,

JEFFREY F. ROSEN  
District Attorney

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