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FILED
 SUPERIOR COURT, METROPOLITAN DIVISION
 COUNTY OF KERN

AUG 05 2020

BY S. Grazer DEPUTY

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Attorneys for Defendant,
 Armando Cruz

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

THE PEOPLE OF THE STATE OF
 CALIFORNIA,

Plaintiff,

vs.

ARMANDO CRUZ,

Defendant.

Case No.: BF181682A

**NOTICE & DEFENSE MOTION TO
 CLOSE PRELIMINARY HEARING, ALL
 PRE-TRIAL HEARINGS, AND FOR
 PROTECTIVE ORDER.**

DEATH PENALTY CASE

Metropolitan Division

Date: 8-2-2020

Time: 8:30 AM

Dept: CC

Judge:

**TO THE ABOVE-ENTITLED COURT, THE KERN COUNTY DISTRICT
 ATTORNEY AND/OR HER REPRESENTATIVE, THE KERN COUNTY SHERIFF'S
 DEPARTMENT, & BAKERSFIELD POLICE DEPARTMENT:**

PLEASE TAKE NOTICE that on the above-stated date, time and department, or as soon
 thereafter as the matter may be heard, the defendant, ARMANDO CRUZ (hereinafter "Mr. Cruz"),
 will move that the Court (1) issue a protective order to last until further order of the Court that

- 1 -

**NOTICE & DEFENSE MOTION TO CLOSE PRELIMINARY HEARING AND ALL
 PRETRIAL HEARINGS, AND FOR PROTECTIVE ORDER.**

AUG 05 2020

1 proscribes extrajudicial statements by any lawyer, party, witness, court official, or law enforcement
2 officer concerning this case, (2) close the preliminary hearing and all pretrial hearings in this case to
3 the press and public until further order of the Court.

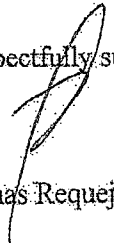
4 This motion is predicated on the following factors:

5 This case has received national, regional, and local notoriety and further comment on the
6 case by either the press, lawyers, law enforcement or the parties involved would add to the existing
7 publicity surrounding the case and clearly endanger a fair trial because of pretrial publicity. The
8 current Covid-19 pandemic would expose the defendant, defense counsel, court personnel, judges,
9 prosecutors, bailiffs, and the public to life-threatening illness.

10 This motion will be based on the attached supporting memorandum, the attached
11 declarations, the attached exhibits, all papers filed and records in this action, evidence taken at the
12 hearing on this motion, and argument at that hearing.

13
14 Dated: July 29, 2020

Respectfully submitted,

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17 Tomas Requejo, Esq.

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20 Joel G. Garcia, Esq.

21 Attorneys for Defendant, Armando Cruz
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MEMORANDUM

1. SUMMARY OF ARGUMENT

The statements released by law enforcement officials to the media have caused national, regional, and local media outlets to breathlessly report on horrific details of the instant case. Because of the information provided to the press, it is highly unlikely that Mr. Cruz will receive a fair trial given the prejudicial publicity generated so early in the case. Accordingly, this Court should close the preliminary hearing, all pretrial hearings, and issue a protective order.

2. STATEMENT OF FACTS

Mr. Cruz has been charged with special circumstances murder, kidnap to commit rape, rape by force or fear, oral copulation by force, lewd and lascivious acts with a child under 14, aggravated sexual assault, contact with a minor with intent to commit sexual offense, oral copulation with a child under 16 years old by a person over 21 years old, possession of child pornography.

This case has attracted significant national, regional, and local media attention with all manner of public commentary by the police and the District Attorney's Office. It is often reported in a highly sensationalized manner. It has been widely publicized that this case is "one of the 'worst cases' Bakersfield police have ever seen." (See: *Man Pleads Not Guilty to Rape, Murder of Teen He Met Online*, CourtTV [hereafter *CourtTV*], at <https://www.court tv.com/news/man-pleads-not-guilty-to-rape-murder-of-teen-he-met-online/>). The facts of the case are described as "horrendous" and "disgusting." (See *Id.*) Images of Mr. Cruz "dressed for suicide prevention" and articles referring to Mr. Cruz wearing an "anti-suicide smock" have been widely circulated in the local media. (See *Exhibit A.*) Facts surrounding the case have also been published with news outlets citing "officials." (See *Exhibit B.*) Members of the Bakersfield Police Department have referred to the case as "especially horrific" and "graphic." (See *CourtTV.*) These statements were published on the day of the arraignment and day after arraignment. Signs reading "make him pay" were held outside the courthouse in the large crowds. (See *Exhibit B.*) Statements by District Attorney Zimmer such as

1 “[i]t’s heartening that we see a crowd like this support the victims,” further promotes the prejudicial
2 attention the case has garnered. (*See Exhibit B.*) Furthermore, social media posts regarding the
3 victim’s death have received hundreds of posts and hundreds of shares.

4 Several minutes prior to the arraignment in Department IC, multiple reporters, camera
5 operators and members of the public were present in the small courtroom. (*See Declaration.*) Mr.
6 Cruz was present in the courtroom sitting isolated from other inmates in one corner of the
7 courtroom. (*Id.*) Mr. Cruz was wearing attire significantly different from the other inmates in the
8 courtroom. (*See Id.*) Instead of providing Mr. Cruz with a standard county jail uniform, Mr. Cruz
9 was singled out and remained in his “anti-suicide smock.” (*See Id.*) Moreover, the gallery in
10 department IC, was nearly full. (*See Id.*) Camera operators, photographers, reporters, and many
11 others were present without regard for the current pandemic. (*See Id.*) Approximately 20 to 40
12 people were present in the courtroom without social distancing measures and potentially exposing all
13 those in the courtroom to Covid-19.¹ (*See Id.*)

14 News outlets that have reported on the matter include: People, Oxygen, KTLA, ABC 7,
15 KBAK/KBFX, Local TV channels 17 and 23, Univision, Bakersfield.com, Court TV, Yahoo!,
16 Dailymotion, and others. Due to the prejudicial nature of the information released and subsequently
17 published, it is highly unlikely Mr. Cruz will receive a fair trial.

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26 ¹ WHO Characterizes COVID-19 as a Pandemic, World Health Organization (Mar. 11, 2020), at
27 <https://bit.ly/2W8dwpS>; Center for Disease Control and Prevention, *Interim Guidance on*
28 *Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*
(Mar. 23, 2020), available at [https://www.cdc.gov/coronavirus/2019-ncov/community/correction-](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html)
[detention/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html).

3. ARGUMENT

3.1. THIS COURT HAS THE DUTY TO ISSUE A PROTECTIVE ORDER TO ENSURE THE ACCUSED RECEIVES A FAIR TRIAL BY A PANEL OF IMPARTIAL JURORS.

This Court has the authority, and indeed the duty, to minimize any prejudicial publicity by prohibiting extrajudicial statements of the lawyers, law enforcement, and witnesses. (*Sheppard v. Marwell* (1966) 384 U.S. 333.) The *Sheppard* case held that courts must take steps to protect the judicial process from outside influence and must also take steps to avoid publicity which may influence a prospective jury pool.

California courts have construed *Sheppard* to authorize issuance of a protective order to control pretrial publicity to assure the accused receives a fair trial. (*Hamilton v. Municipal Court* (1969) 270 Cal.App.2d 797; *Younger v. Smith* (1973) 30 Cal.App.3d 138.) In *Hamilton*, the defendants were charged with various misdemeanors stemming from a demonstration at the University of Berkeley campus. The trial court issued a protective order precluding parties from disclosing to the media information or opinions concerning the trial. Defendants violated that order by holding a press conference on the courthouse steps, and were later convicted of contempt. (*Hamilton*, at 796-797.) The defendants appealed claiming the pretrial order violated their First Amendment right of free speech. Quoting *Sheppard* at length, the court concluded the trial court had an obligation to take steps to control prejudicial pretrial publicity "where the right to a fair trial may be at issue," and described the court's authority to issue such an order as "unassailable." (*Id.* at 801.)

Accordingly, these authorities make clear the court's duty to issue a protective order in this case.

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3.2. THE RIGHT TO A CLOSED HEARING IS GUARANTEED BY BOTH FEDERAL AND STATE LAW.

3.2.1. Penal Code Section 868 Allows the Magistrate to Close Court Proceedings From the Public.

Penal Code section 868 codifies a defendant's constitutional right to exclude the public from the preliminary hearing. Section 868 reads in part:

The examination shall be open and public. However, upon the request of the defendant and a finding by the magistrate that exclusion of the public is necessary in order to protect the defendant's right to a fair and impartial trial, the magistrate shall exclude from the examination every person except ... (court personnel).
(Pen. Code § 868.)

The purpose of the statute is to protect the accused's constitutional right to a fair jury trial. Both the United States Constitution and the California Constitution guarantee to the accused a trial by a jury that is impartial and unbiased by pretrial publicity. "The right to a trial before a fair and impartial tribunal is a basic requirement of due process." (*In re Murchison* (1955) 349 U.S. 133, 136.)

3.2.2. The U.S. Constitution And Federal Case Law Guarantee A Defendant's Right To A Fair Trial.

The Sixth Amendment to the U.S. Constitution guarantees the right to a public trial. However, the defendant's right to a fair trial is considered a "higher interest," which rebuts the presumption of openness protected by the Sixth Amendment. (*People v. Woodward* (1992) 4 Cal.4th 376, at 383.)

In 1986 the United States Supreme Court decided the leading case in this area: *Press-Enterprise v. Superior Court* (1986) 478 U.S. 1 [92 L.Ed.2d 1] (*Press-Enterprise II*). In reexamining the purpose and policies of the public right of access to preliminary hearings, the Supreme Court observed that there has been a long tradition of accessibility. In determining whether the accused's right to a fair trial overrides this qualified First Amendment right of access, the trial court must articulate a specific finding "that closure is essential to preserve higher values and is narrowly tailored to serve that interest." (*Press-Enterprise II, supra*, at 11, quoting *Press-Enterprise*

1 v. *Superior Court* (1984) 464 U.S. 501 at 510 [78 L.Ed.2d 629] (*Press-Enterprise I*).

2 *Press-Enterprise II* acknowledged that there are instances where the preliminary hearing
3 should be closed to prevent pretrial publicity from affecting the defendant's right to a fair trial. The
4 court employed a two-pronged test which provides that the proceedings should be closed "if specific
5 findings are made demonstrating that: (1) there is a substantial probability that the accused's right to
6 a fair trial will be prejudiced by publicity that closure would prevent, and (2) reasonable alternatives
7 to closure cannot adequately protect the accused's fair trial right." (*Press-Enterprise II, supra*, at 13-
8 14.) The majority in *Press-Enterprise II* acknowledge that preliminary hearings could be closed
9 solely when the court's two-pronged test was passed.

10
11 **3.3. THERE IS A SUBSTANTIAL PROBABILITY THAT AN OPEN PRELIMINARY**
12 **HEARING WOULD NOT ALLOW THE DEFENDANT TO HAVE A FAIR TRIAL**

13 There is a substantial probability that Mr. Cruz's right to a fair trial will be prejudiced by
14 further publicity in this case, even though this will only be his second court appearance. Both
15 television and newspaper stories continued to detail the police investigation and other matters
16 pertaining to this incident. Clips of Mr. Cruz's arraignment and his photograph were televised while
17 Mr. Cruz was wearing what was dubbed "anti-suicide smock." There was front page coverage in the
18 Fox 58/KBAK website of the alleged crimes. Social media has garnered hundreds of posts and
19 comments and even live-streamed the victim's vigil.

20 When, as in this case, the media has given great attention to a case before court proceedings
21 have barely begun, it is more likely that the public will be inundated with each and every detail of
22 the prosecution's case and other information during any pretrial proceedings. Defense counsel seeks
23 to minimize further dissemination of information about this case to the public. The danger that
24 misinformation and/or inadmissible or prejudicial information is publicized repeatedly is an
25 unnecessary risk at this point. Any publicity increases the danger of hostility towards the defendant
26 as well as a greater emotional response to the incident. As a result, the defendant's prospect of
27 receiving a fair trial diminishes.

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- 7 -

**NOTICE & DEFENSE MOTION TO CLOSE PRELIMINARY HEARING AND ALL
PRETRIAL HEARINGS, AND FOR PROTECTIVE ORDER.**

1 **3.4. BECAUSE THERE ARE NO REASONABLE ALTERNATIVES, NO REMEDY**
2 **SHORT OF CLOSURE OF THE PRELIMINARY HEARING WILL PROTECT**
3 **DEFENDANT'S RIGHT TO A FAIR TRIAL.**

4 Remedies short of closure must be explored before the trial court may close a criminal
5 proceeding to the public. (*Ortega v Superior Court* (1982) 135 CA3d 244.)

6 There are no reasonable alternatives to closure which would adequately protect Mr. Cruz's
7 right to a fair trial. The basis for this sentiment is obvious. The attitude and the magnitude of the
8 publicity which has and will continue to emanate from this case is overwhelming. The fact that
9 alternatives may not succeed was well recognized in *San José Mercury-News v. Municipal Court*
10 (1982) 30 Cal.3d 498. In that case, the court discussed dangers associated with failure to close the
11 preliminary hearing in high publicity cases. The dissemination of information that is prejudicial
12 because it is misleading, inflammatory, or inadmissible at trial is one consideration. Factual,
13 relevant information that is prejudicial because it taints the jury pool is another. These are concerns
14 that persist through pretrial hearings as well.

15 Furthermore, we are facing a serious and urgent public health crisis. On March 11, 2020, the
16 World Health Organization officially classified COVID-19, a new strain of coronavirus, as a global
17 pandemic.² On January 21, 2020, Washington State announced the first confirmed case of
18 coronavirus in the United States.³ As of July 29, 2020, COVID-19 has infected over 4,339,997
19 people across the United States, leading to at least 148,866 deaths.⁴

20 On March 4, 2020, California's Governor Newsome declared a State of Emergency.
21 Additional protective measures have been taken including, social distancing, non-essential business
22 closed, restrictions on group gatherings, and masks are required when in public.

23 As of July 29, 2020, there are 475,305 of positive cases of COVID-19 in California alone and

24 ² *WHO Characterizes COVID-19 as a Pandemic*, World Health Organization (Mar. 11, 2020), at
25 <https://bit.ly/2W8dwpS>.

26 ³ *First Patient With Wuhan Coronavirus Is Identified in the U.S.*, The New York Times (Jan. 21,
27 2020), at <https://www.nytimes.com/2020/01/21/health/cdc-coronavirus.html>.

28 ⁴ *Coronavirus Disease 2019 ((COVID-19)*, Centers for Disease Control and Prevention (July 29,
2020), at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (updating
regularly).

1 8,715 fatalities.⁵

2 To prevent new infections, the CDC strongly recommends the following actions: thorough
3 and frequent handwashing, cleaning surfaces with Environmental Protection Agency approved
4 disinfectants, keeping at least 6 feet of space between people, quarantine procedures, and social
5 distancing.⁶

6 Any pretrial hearings allowing for the media and the public in the courtroom, not only
7 jeopardizes the defendant's right to a fair trial by tainting the jury pool, but is also a public health
8 hazard and would be contrary to current public policy. The courtrooms do not allow for social
9 distancing and expose defense counsel, court personnel, prosecutors, witnesses and judges to Covid-
10 19.

11 A continuance of trial is about the only remedy for excessive publicity that is available in the
12 instant case. However, compelling a defendant to request a continuance in order to elude the
13 prejudice of inflammatory publicity denies him his constitutional and statutory rights to a speedy
14 trial. (*San Jose Mercury-News v. Municipal Court*, *supra*, at pp. 511-514.) Accordingly, this Court
15 should close all pretrial hearings and the preliminary hearings to the public.

16
17 **3.5. A PROTECTIVE ORDER DIRECTING THOSE INVOLVED WITH THIS CASE**
18 **NOT TO RELEASE INFORMATION CONCERNING THE CASE IS NECESSARY**
19 **BECAUSE OTHERWISE THERE IS A REASONABLE LIKELIHOOD THAT**
20 **INFORMATION CONCERNING THE CASE WOULD MAKE IT DIFFICULT TO**
21 **IMPANEL AN IMPARTIAL JURY AND WOULD PREVENT A FAIR TRIAL.**

22 The test for determining the necessity of an order restraining the attorneys in this case from
23 discussing the case with the news media is whether there is a "reasonable likelihood" that
24 information concerning the case would make it difficult to impanel an impartial jury and would tend

25 ⁵ *Covid-19 by the Numbers*, California Department of Public Health (July 29, 2020), at
26 <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx> (updating
27 regularly).

28 ⁶ Center for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus
Disease 2019 (COVID-19) in Correctional and Detention Facilities* (Mar. 23, 2020), available
at [https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-
correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html).

1 to prevent a fair trial. (*Younger v Smith* (1973) 30 CA3d 138, 160.)

2 Court orders may also restrain a wide range of persons besides the parties. (*Sheppard v*
3 *Maxwell* (1966) 384 US 333, 86 S Ct 1507 (witnesses, court staff, and law enforcement officers
4 coming under court's jurisdiction).)

5 Defendant in this case asks this Court to ensure his right to a fair trial by ordering all
6 attorneys, parties, investigators, witnesses, court officials (including, but not limited to, clerks,
7 reporters, and bailiffs), and law enforcement officials connected with this case, not to discuss any of
8 the following:

- 9 1. Statements concerning the existence or possible existence of any documents, exhibits, or
10 other demonstrative evidence, the admissibility of which may have to be determined by the
11 Court;
- 12 2. Any purported extrajudicial statements of the defendant;
- 13 3. Statements as to the nature, source, or effect of any purported evidence alleged to have been
14 accumulated as a result of the investigation of this matter;
- 15 4. The release of any documents, exhibits, or any evidence, the admissibility of which may have
16 to be determined by the Court;
- 17 5. An opinion or comment for public dissemination as to the weight, value, or effect of any
18 evidence as tending to establish guilt or innocence of the defendant;
- 19 6. Any statement as to the identity of any prospective witness, or his or her probable testimony,
20 or the effect thereof; or
- 21 7. Any opinions or comments as to the nature, source, effect, or admissibility of any testimony,
22 or probable testimony in any pretrial proceeding related to this matter.

23
24 In this case, law enforcement has selectively disclosed information that promotes their view
25 of the case to the press. The public certainly would believe that the police would have superior
26 knowledge about the case. The media has quoted officials extensively and, thus have concluded that
27 the police detectives are a reliable and persuasive source.
28

1 Information leaks pose a serious and imminent threat to Mr. Cruz's right to a fair trial with
2 impartial jurors. The situation is deteriorating quickly, and the main source of the problem is the
3 media's spin on commentary by the police. It is not known what other opinions or information may
4 be revealed by law enforcement in their zeal to "keep the public informed"—and secure a
5 conviction.

6 This is one of the most highly publicized cases to hit this community in the recent past. It
7 has generated local, statewide, and national media attention. The case has been reported on
8 extensively in media print, television, and on-line. In short, there is probably not a single person in
9 the County of Kern that has not been exposed to the prejudicial publicity.

10 The danger is particularly acute where, as here, the police engage dialogue with the press
11 disclosing (1) their opinions regarding the case, (2) inferences they have drawn from the evidence,
12 (3) potentially inaccurate and inadmissible information, and (4) speculative, unsubstantiated
13 "motives" which are then reported in a highly sensationalized manner. It is very likely that even
14 objective, neutral-minded potential jurors will be subconsciously affected by the media's spin on
15 disclosure of information by the police. Accordingly, this Court should issue a protective order.

16
17 **4. CONCLUSION**

18 For the above-stated reasons, the defendant asks this Court to close the preliminary hearing
19 and all future pre-trial hearings to the press and public, and issue a protective order directed to the
20 parties, their attorneys, court personnel, and others connected with the case.

21 Dated: July 29, 2020

22 Respectfully submitted,

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26 Tomas Requejo, Esq.
Attorneys for Defendant, Armando Cruz

27
28
Joel G. Garcia, Esq.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

ARMANDO CRUZ,

Defendant.

Case No.: BF181682A.

[PROPOSED] PROTECTIVE ORDER.

Dept. _____

GOOD CAUSE HAVING BEEN SHOWN, IT IS THE ORDER of this Court that no member of the press or public (outside of those persons permitted to attend under Penal Code section 868) will be allowed to be present at any pretrial proceeding in this matter without the express permission of this Court, unless the proceeding is declared by this Court to be an open or public session.

IT IS THE FURTHER ORDER of this Court that this order applies to the following persons: parties to this action; attorneys connected with this case as defense counsel or as prosecutors; other attorneys; judicial officers or employees; witnesses; public officials, including but not limited to the chief of police and the sheriff; and any agent, deputy, or employee of the persons just described.

IT IS THE FURTHER ORDER of this Court that the persons described above not to do the following things:

1. Release or authorize the release for public dissemination of any purported extrajudicial statement of the defendant in this case; release or authorize the release of any documents, exhibits, or any evidence, the admissibility of which may have to be determined by the Court;
2. Make any statement for public dissemination as to the existence or possible existence of any document, exhibit, or any other evidence, the admissibility of which may have to be

1 determined by the Court;

- 2 3. Express outside of court an opinion or make any comment for public dissemination on the
3 weight, value, or effect of any evidence as tending to establish guilt or innocence of the
4 defendant;
- 5 4. Make any statement outside of court as to the nature, substance, or effect of any testimony
6 that has been given, except as set forth below;
- 7 5. Issue any statement concerning the identity of any prospective witness, or his or her probable
8 testimony, or the effect thereof; or
- 9 6. Make any out-of-court statement as to the nature, source, or effect of any purported evidence
10 alleged to have been accumulated as a result of the investigation of this matter; however, a
11 witness may discuss any matter with any attorney of record or agent thereof.

12
13 This order does not apply to any of the following items:

- 14 1. Factual statements concerning the accused's name, age, residence, occupation, and family
15 status;
- 16 2. The following specific circumstances of the arrest: the time and place of the arrest, the
17 identity of the arresting and investigating officers and agencies, and the length of the
18 investigation;
- 19 3. The nature, substance, and text of the charge;
- 20 4. Quotations from, or any reference without comment to, public records of the court in the
21 case, or to other public records or communications previously disseminated to the public;
- 22 5. The scheduling and result of any stage of the judicial proceeding held in open court in an
23 open or public session;
- 24 6. A request for assistance in obtaining evidence;
- 25 7. Any information about any person not in custody who is sought as a possible suspect or
26 witness;
- 27
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1 8. Any statement aimed at warning the public of any possible danger as to such person not in
2 custody; or

3 9. A request for assistance in obtaining the names of possible witnesses.

4 This order is not intended to preclude any witnesses from discussing any matter in
5 connection with the case with any of the attorneys representing the defendant or the People, or any
6 representative of such attorneys.

7
8 The above orders are to remain in effect until further order of this Court.

9
10 Date: _____

11 Name: _____

12 Judge of the Superior Court
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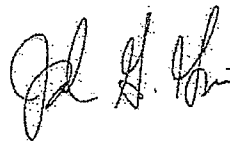
DECLARATION

I, JOEL G. GARCIA, declare that:

1. I am one of the attorneys for the defendant, Armando Cruz, in this action.
2. On July 7, 2020, I was present for Mr. Cruz's arraignment in Department IC of the Metropolitan Division Courthouse of the Kern County Superior Court.
3. Upon my arrival to the courthouse, I observed between 50-100 people gathered outside the courthouse.
4. Upon my entrance into Department IC, there was between 20-40 people in the courtroom. Reporters, camera operators, members of the public, court staff, inmates, and attorneys were present. Prior to the arraignment, I was not made aware of media presence at arraignment. Social-distancing was not followed by many in the courtroom because the gallery was too small to allow for 6 feet between those sitting in the gallery.
5. In Department IC, I observed Mr. Cruz wearing anti-suicide attire and a face mask. He was sitting in a different part of the courtroom and his anti-suicide attire was very distinct compared to other inmates that were present.
6. Members of the media photographed Mr. Cruz and recorded Mr. Cruz in the anti-suicide attire.

I declare under penalty of perjury of the laws of the state of California that the foregoing is true and correct.

Executed on this 29th day of July 2020, at Los Angeles, California.

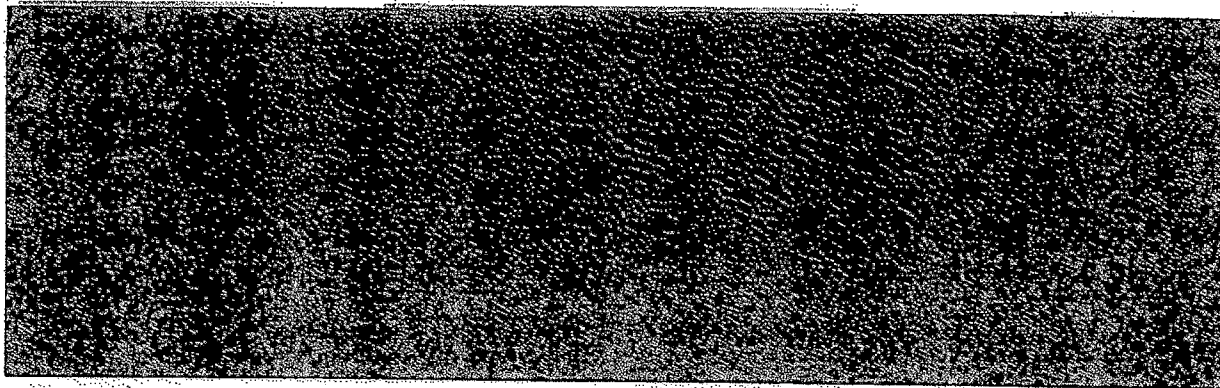


JOEL GARCIA, Declarant

Exhibit A

Court documents detail tragic night 13-year-old Bakersfield girl was raped and killed

7/8/20, 11:22 AM



By: Bayan Wang

Posted at 9:26 AM, Jul 08, 2020 and last updated 10:29 AM, Jul 08, 2020

BAKERSFIELD, Calif. — The 13-year-old Bakersfield girl who was killed early Thursday morning met her suspected killer, 24-year-old Armando Cruz through social media, Kern County court documents show.

[REDACTED] and Cruz communicated on social media for about a week, sending nude photos back and forth, according to documents. Officials say Cruz had 20 photos of [REDACTED] in his possession.

Recent Stories from turnto23.com

Rebound

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Exhibit B

https://www.bakersfield.com/news/community-rallies-for-█ outside-court-as-suspect-in-her-death-arraigned/article_e8c97608-c0b3-11ea-bcd5-47638fd93df3.html

FEATURED

Community rallies for █ outside court as suspect in her death arraigned

By QUINN WILSON qwilson@bakersfield.com
Jul 7, 2020



Dressed for suicide prevention, Armando Cruz, 24, of Inglewood, was arraigned in Kern County Superior Court on Tuesday. Alex Horvath / The Californian

MORE INFORMATION



+12

"You couldn't help but love her." Community remembers girl as arrest made in her alleged murder

+10 PHOTO GALLERY: Suspect in █ death appears in court

As Armando Cruz, the suspected killer of 13-year-old █, pleaded not guilty to all 12 felony charges against him in Kern County Superior Court Tuesday afternoon, more than 100 community members gathered to demand justice for the teen.

Kern County District Attorney Cynthia Zimmer filed charges against Cruz and will personally prosecute him. Cruz's first-degree murder charge includes four special circumstances that include kidnapping and sexual assault, which can carry the death penalty or life in prison without the possibility of parole if he is convicted.

"(The severity of the charges) is something we'll discuss with the family," Zimmer said during a news conference after the arraignment. "We'll discuss with the family and come back and announce that decision in court at a later time."

Judge Colette M. Humphry denied bail for Cruz, 24, of Inglewood, as he faced her dressed in a tan anti-suicide smock.

█ family members wanted to organize a gathering outside of the courthouse to support the family, according to attendee Travis West. Some in attendance declined to provide comment on the situation, saying they held "brutal" sentiments for Cruz.

A group of [REDACTED] former teachers from Fairview Elementary were in attendance outside the courthouse. All expressed their shock over the situation and spoke about what a friendly person [REDACTED] was to others.

"I've known her for six years," said teacher Elizabeth Curychague. "She was known by all of the teachers. She would say 'Hi' to everybody, even if she didn't know who you were."

Teacher Rainn Edwards said she knew the circumstances were suspicious when she heard of [REDACTED] disappearance. The fact that [REDACTED] left her inhaler behind at home was an indicator of foul play, she said.

"She was in the nurse's office doing her breathing treatments enough that I remember it," Edwards said. "We knew she was not a runaway. She would not have left her inhaler. She was lured out."

Police have said [REDACTED] was last seen at about 11:30 p.m. July 1. Police have not said whether her body has been recovered or the manner in which she died.

Attendees brought handmade signs reading "Make him pay" and "Justice for [REDACTED]". One sign read "[REDACTED] Bakersfield's daughter."

Angel Lee, founder of Bakersfield Black Magazine, spoke at the gathering about her experience of being kidnapped as a teenager and her thoughts on its prevalence in Kern County.

"My perspective is that it's the grace of God my kidnapper brought me back," Lee said. "Kern County is not a sweet spot that pedophiles can come into our community and take advantage of our children."

"That's what it's become."

Lee preached monitoring children's activities online as well as teaching children self defense. She also called for people to raise awareness for all missing children, especially the ones not in the media spotlight.

Cruz will have a preliminary hearing at 9 a.m. July 30, according to the Superior Court's website.

"It's heartening that we see a crowd like this support the victims," Zimmer said. "I appreciate the fact that you (those at the gathering) care that a child was killed and that we will do our best to bring justice to the family of the victim."

PROOF OF SERVICE

I, Joel G. Garcia, declare:

I am a citizen of the United States; I am over the age of eighteen years and not a party to the within-entitled action. That on 08/05/2020, I served a copy of the within:

[X] DEFENSE MOTION TO CLOSE PRELIMINARY HEARING & ALL PRE-TRIAL HEARINGS, AND FOR PROTECTIVE ORDER.

To be served on the following:

- ☒ Kern County Superior Court, Metropolitan Division,
1415 Truxtun Ave. Bakersfield, CA 93301 – Dept. PH, FAX: (661) 868-4884
- ☒ Kern County District Attorney's Office,
1215 Truxtun Ave., Basement, Bakersfield, CA 93301
- ☒ Kern County Sheriff, _____
- ☒ Bakersfield Police Department, _____

The documents were served by the following means:

☒ **By Personal Service.** I personally delivered the documents to the persons listed above. (1) For a party represented by an attorney, deliver was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

☐ **By U.S. Mail.** I deposited the sealed envelope or package with the United States Postal Service, with the postage fully paid, addressed to the persons listed above and in the mail at _____

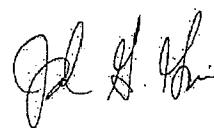
☒ **By Fax Transmission.** Based on an agreement of the parties to accept by fax transmission, I faxed the documents to the persons at the fax numbers listed above. No error was reported by the fax machine I used. A copy of the record of the fax transmission was printed and attached.

I declare under penalty of perjury that the foregoing is true and correct;

Executed 08/05/2020, at Los Angeles, California.

Joel G. Garcia

Print Name


Declarant Signature

FAX

FROM

Joel Garcia
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Los Angeles
California 90015

Phone (833) 647-3373 * 101
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TO

Kern County Criminal Felony Clerk
Kern County Superior Court - Metropolitan Division

Phone
Fax Number +16618684884

AUG 05 2020

DATE 08/05/2020

NOTE

Please see attached motion for felony matter.

CONFIDENTIAL, please notify sender if you are not the intended receiving party of this communication.