

AUG 18 2017

Sherri R. Carter, Executive Officer/Clerk
By Stan Kadohata, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CLARA SHORTRIDGE FOLTZ CRIMINAL JUSTICE CENTER

PEOPLE OF THE STATE OF CALIFORNIA,) Case No.: A334139
Plaintiff and Respondent,)
v.)
ROMAN RAYMOND POLANSKI,)
Defendant and Petitioner.)

In 1977, Defendant Roman Polanski was indicted by a Los Angeles County grand jury for six counts including sex offenses against a 13 year old girl. Thereafter, in an open plea, as negotiated by the parties, he pled guilty to one count of unlawful sexual intercourse with a minor. Prior to sentencing, Polanski fled the United States to Europe and has been a fugitive since 1978. A bench warrant for his immediate arrest remains outstanding.

In 2009, then-Supervising Judge of the Criminal Division, Judge Peter Espinosa, agreed to consider Defendant's motion to dismiss and conduct a full hearing on any allegations of misconduct if the Defendant appeared in person. Polanski again declined to return.

In 2010, the court, upon the Defendant's request, authorized the conditional examination of Deputy District Attorney Roger Gunson, which was taken and filed under seal. It has remained sealed since then.

Earlier this year, Polanski filed the following, viz., a "Motion to Unseal the February 26, March 9 and March 12, 2010 Sworn Testimony of Deputy District Attorney Roger Gunson"

1 (February 21, 2017); an "Ex Parte Motion Requesting Order Re: People's Position on Custody"
2 (March 6, 2017); and "Defendant Polanski's Reply to DA's Opposition to his Request to the
3 Court to Enforce its Promise to Mr. Polanski and Sentence in Conformity to California Law;
4 Request to Be Sentence in Absentia (March 17, 2017)." He also filed a "Supplemental
5 Argument" on March 23, 2017, and a "Second Supplemental Argument" on March 27, 2017. On
6 March 30, 2017, Polanski filed a "Renewed Motion to Unseal the Sworn Testimony of Deputy
7 District Attorney Roger Gunson." This last motion was filed because "various members of the
8 media and several members of the public feel aggrieved that some portion" of the case is sealed.
9 Polanski's Motions and corresponding Requests were denied by written order filed April 3,
10 2017.

11 On April 14, 2017, Polanski filed a "Motion to Reconsider Court's April 3, 2017 Order."
12 On April 18, 2017, the People filed an Opposition. On May, 3, 2017, the court again denied both
13 motions in a written order.

14 On June 2, 2017, Polanski filed a "Request to Unseal Roger Gunson's Sworn Testimony
15 to be Provided to the European Commission for the Control of INTERPOL Files." On June 7,
16 2017, Polanski filed a Supplement to his Request. The People filed a Reply to the Request on
17 June 8, 2017, opposing the Request. On June 9, 2017, the matter was argued and submitted.

18 **Request to Unseal the Transcript of the Conditional Examination of Roger Gunson**

19 In evaluating Polanski's latest request, the procedural history of the case as it relates to
20 the subject conditional examination¹ must be considered.

21 On January 28, 2010, the Defendant filed an "Application Of Defendant To Permit Filing
22 Under Seal Of Application For Conditional Examination And Order Thereon; [Proposed] Order"
23 (the "Application") In his Application, Defendant requested, pursuant to Rules 2.550 and 2.501
24

25 ¹California Penal Code §1336 provides that: "(a) When a material witness for the defendant, or for the people, is
26 about to leave the state, or is so sick or infirm as to afford reasonable grounds for apprehension that he or she will be
27 unable to attend the trial, or is a person 65 years of age or older, or a dependent adult, the defendant or the people
28 may apply for an order that the witness be examined conditionally.

(b) When there is evidence that the life of a witness is in jeopardy, the defendant or the people may apply for an
order that the witness be examined conditionally."

1 of the California Rules of Court,² leave to file documents under seal related the Defendant's
2 Request for a Conditional Examination of Roger Gunson.

3 On February 5, 2010, as noted above, Judge Espinoza, granted the Defendant's request to
4 conduct the Conditional Examination pursuant to Penal Code §§1335-1345.³ Pursuant to that
5 order, the conditional examination of former Deputy District Attorney Roger Gunson was
6 conducted and the transcript of that examination was filed and sealed pursuant to court order and
7 the requirements of statute.

8 On April 29, 2010, the Defendant filed a Motion for Examination and Copying of
9 Transcripts of Conditional Examination of Roger Gunson. On May 10, 2010, The Judge
10 Espinoza, issued an Order denying that motion.

11 In the current motions, the Defendant makes arguments to the effect that the conditional
12 examination of Roger Gunson was not properly sealed. In the May 10, 2010, Order, however,
13 Judge Espinoza ruled on similar arguments as made by the Defendant. Judge Espinoza ruled that
14 the conditional examination of Roger Gunson was properly sealed pursuant to Penal Code
15 §1344. Thus, the arguments currently made by the Defendant in this case regarding the sealing
16 of the conditional examination have been previously ruled upon and Defendant now offers no
17 new arguments or authority in this regard.

18 It is well settled that "[a]n order made in one department during the progress of a cause
19 can neither be ignored or overlooked in another department." *In re Kowalski* (1971) 21
20 Cal.App.3d 67, 70. Further, "[t]he power of one judge to vacate an order made by another judge
21

22 ²Rules 2.550 and 2.551 of the California Rules of Court provide the requirements to file documents under seal. In
23 part, Rule 2.551 provides that in order to seal a document: (a) **Court approval required.** A record must not be
24 filed under seal without a court order. The court must not permit a record to be filed under seal based solely on the
agreement or stipulation of the parties.

25 (b) Motion or application to seal a record

26 (1) *Motion or application required:* A party requesting that a record be filed under seal must file a motion or an
27 application for an order sealing the record. The motion or application must be accompanied by a memorandum and a
declaration containing facts sufficient to justify the sealing

28 ³It must be noted, that in addition to the Defendant's request to seal pursuant to Rules 2.550 and 2.551, Penal Code
Section 1344 provides that a "[t]he deposition taken must, by the magistrate, be sealed up and transmitted to the
Clerk of the Court in which the action is pending or may come for trial."

1 is limited." *In re Alberto* (2002) 102 Cal.App.4th 421, 427. As Defendant has made no new
2 arguments and has presented no new authority regarding his arguments that the conditional
3 examination of Roger Gunson was not properly sealed pursuant to the Defendant's requests
4 under Penal Code Section 1334,⁴ so there is no basis by which this court can revisit that question.

5 In his current pleadings, the Defendant also asserts that "This Court and DA Jackie Lacey
6 asked the Interpol Commission to issue a Red Notice Warrant for the arrest of Roman Polanski."
7 This is not the case. As correctly indicated in the People's Reply filed June 8, 2017, the Court
8 has not made any request of INTERPOL including a request for the issuance of a "Red Notice
9 Warrant" for the Defendant's arrest.

10 In his June 7, 2017, filing, the Defendant insists that the INTERPOL Commission for the
11 Control of Files is an adjudicatory body currently investigating and conducting some form of
12 adjudication regarding this case and this Court. Without specifically commenting on the highly
13 inappropriate comments made by the Defendant in his pleadings in this regard, the Defendant's
14 statements and assertions do not accurately reflect the role of INTERPOL and the INTERPOL
15 Commission for the Control of Files.⁵

16 "Interpol is an organization of 177 member countries who share criminal information
17 with each other." (*U.S. v. Weber* (9th Cir. 2003) 320 F.3d 1047, 1048, fn. 1.)⁶ "Interpol is a
18

19 ⁴In addition to the fact that the Defendant's motions in this regard have already been ruled on in the current
20 litigation, the Defendant does not provide any authority or argument that indicate that the sealing of the Conditional
21 Examination of Roger Gunson pursuant to the Defendant's request under Penal Code §1344 and California Rules of
22 Court 2.550 and 2.551 was improper.

22 ⁵It must be noted that similar issues have occurred during the course of litigation of this case regarding the
23 Defendant's representations in pleadings asserting that European authorities were requesting the transcripts of the
24 conditional examination of Roger Gunson. In the May 10, 2010, Order, Judge Espinoza found that "[t]hough he
25 offers no authority, the defendant also urges the court to unseal the record of the conditional examination because 'it
26 is critical that the transcripts of Mr. Gunson's testimony be available to Swiss authorities in their determination of
27 the propriety of the extradition request.' Def. Motion at 4-5. The 'Swiss authorities' disagree. The Swiss justice
28 ministry has recently opined that the transcripts 'are irrelevant for the extradition proceedings.' People's Ex. A. The
29 Swiss have not requested and the law does not permit that the transcripts be unsealed." ORDER RE:
30 DEFENDANT'S MOTION FOR EXAMINATION AND COPYING OF TRANSCRIPTS OF CONDITIONAL
31 EXAM OF ROGER GUNSON, May 10, 2010.

32 ⁶"Interpol is an organization whose aims, according to its constitution, are '(a) to ensure and promote the widest
33 possible mutual assistance between all criminal police authorities within the limits of the law existing in the different
34 countries and in the spirit of the "Universal Declaration of Human Rights"; and '(b) to establish and develop all
35 institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes.' Interpol
36 Const. art. 2 (1968), Joint Appendix (J.A.) 243." (*Sami v. U.S.* (D.C. Cir. 1979) 617 F.2d 755, 758-759, abrogated

1 widely known international police organization. . . .” and that “[a] record of convictions from
2 Interpol has no more authority in the legal proceedings of the United States than records of
3 alleged convictions that may be kept by Lloyd’s of London for insurance purposes.” (*U.S. v.*
4 *Perlmutter* (9th Cir. 1982) 693 F.2d 1290, 1295 (conc. opn. of Ferguson, J.).

5 In his pleadings, the Defendant makes several references to a “Red Flag Warrant.” “A
6 Red Notice serves as an international wanted notice and provides information on the
7 identification of fugitives charged with or convicted of serious crimes. . . . Interpol does not
8 independently vet the governmental request for a Red Notice for its factual and legal
9 justification.” *U.S. v. Mohamud* (9th Cir. 2016) 843 F.3d 420, 424, fn. 5.

10 On May 18, 2017, the People also filed a Motion for Order Prohibiting Release of
11 Content of Conditional Examination. In conjunction with this Motion, an email from
12 Defendant’s counsel, Harland Braun, to Deputy District Attorney Michelle Hanisee, dated May
13 19, 2017, was submitted to the court. In this email indicated Mr. Braun stated that he intended to
14 file a copy of the contents of the conditional examination transcripts with the “Interpol Control
15 Commission in Lyon, France.”

16 In the Defendant’s “Motion to Reconsider Court’s April 3, 2017 Order” the Defendant
17 indicated that “Mr. Polanski filed the motion to unseal to test several matters. First, to determine
18 whether the DA could reasonably argue that fugitive disentitlement can deny the public’s right to
19 have access to criminal proceeding. And, second, to determine whether the Court would
20 recognize its own obligation to make all criminal proceedings available to the public.”⁷ The
21 Defendant goes on to indicate that he does not need the transcript, but wished to have the

22
23 on other grounds in *Sosa v. Alvarez-Machain* (2004) 542 U.S. 692.) “Interpol has linked offices designated by its
24 various members and its own Paris headquarters with a worldwide radio network. Congress has been informed that
25 ‘INTERPOL’s function is to provide the coordination and communications mechanism for law enforcement
26 agencies (local, state or Federal) having a foreign investigative requirement and to transmit that requirement to other
27 appropriate foreign law enforcement agencies.’ Treasury, Postal Service and General Government Appropriations
28 for Fiscal Year 1977: Hearings on H.R. 14261 before the Subcomm. on Treasury, Postal Service and General
Government of the Senate Comm. on Appropriations, 94th Cong., 2d Sess. 169 (February 24, 1976) (statement of
David R. Macdonald, Assistant Secretary of Treasury (Enforcement, Operations and Tariff Affairs)) (hereinafter
cited as 1976 Senate Appropriations Hearings). The United States’ participation in Interpol has been authorized by
statute. 22 U.S.C. s 263a (1976). The United States has designated the USNCB, formerly of the Department of
Treasury, now of the Justice Department, to act as this country’s Interpol liaison.” (*Sami v. U.S.* (D.C. Cir. 1979)
617 F.2d 755, 759, abrogated on other grounds in *Sosa v. Alvarez-Machain* (2004) 542 U.S. 692.)

⁷Polanski’s Motion to Reconsider Court’s April 3, 2017 Order, p.6

1 conditional examination unsealed as the “media and several members of the public feel
2 aggrieved.”⁸

3 As discussed above, the court has previously issued orders indicating that the transcript of
4 the conditional examination of Roger Gunson was properly sealed pursuant to Penal Code
5 Section 1334.⁹ The Defendant’s motion for the Unsealing of the Transcript of the Conditional
6 Examination of Roger Gunson has been ruled on after a full hearing (See the Court’s Order of
7 May 10, 2010). The INTERPOL European Commission is not an investigative or adjudicatory
8 body, and, in any event, has not sought access to the Gunson Transcript. The Defendant has ...
9 offered no new evidence or law in support of his renewed motion. Defendant’s June 2, 2017
10 Request to Unseal Roger Gunson’s Sworn Testimony is therefore DENIED.¹⁰

11 **Penal Code Section 1385 Dismissal “Motion”**

12 During the June 9, 2017, hearing on the Defendant’s Request to Unseal, the Defendant
13 requested that the victim in the case, Samantha Geimer¹¹ be allowed to address the court.
14 Pursuant to California Constitution Article I, §28, the Court granted this request. The victim
15 addressed the Court and described the impact that the case has had on her and the continued
16 effects that the notoriety of the case has engendered. Mr. Geimer also requested that the case be
17 dismissed, so that she would no longer have to deal with the impact of the continuing litigation.

18 The statement of the victim in this matter is strong evidence of the actual and very real
19 impact that sexual assault has on the survivor of sexual assault. In this case Ms. Geimer was a
20 victim of serious crimes committed by the Defendant when she was thirteen years old, and
21 Defendant was in his early 40s. Her statement is dramatic evidence of the long lasting and
22

23 ⁸Renewed Motion to Unseal the Sworn Testimony of Deputy District Attorney Roger Gunson, p.2.

24 ⁹ORDER RE: DEFENDANT’S MOTION FOR EXAMINING AND COPYING THE TRANSCRIPTS OF THE
25 CONDITIONAL EXAM OF ROGER GUNSON. May 10, 2010.

26 ¹⁰If INTERPOL or any governmental agency requests a copy of this transcript and proof of that request is provided
27 or sufficient evidence is presented of an ongoing adjudication requiring the transcript that is the subject of this
28 motion, the court will consider and respond to those requests as submitted through appropriate channels and
procedures.

¹¹The court would not normally include name of a victim in a sexual assault case, however Ms. Geimer has filed
several pleadings and made numerous public statements identifying herself as the victim in this case.

1 traumatic effect these crimes, and Defendant's refusal to obey court orders and appear for
2 sentencing, is having on her life. After the victim's statement, Defense counsel made a motion
3 to dismiss the underlying case pursuant to Penal Code §1385. The People vigorously objected to
4 the Defendant's motion.

5 Penal Code §1385 provides that a judge, on his or her own motion, or upon the
6 application of the prosecuting attorney, may dismiss a criminal action in furtherance of justice.
7 As has been stated in this case, Section 1385 "does *not* confer any right of relief upon the
8 defendant." (*People v. Barraza* (1994) 30 Cal.App.4th 114, 121; *People v. Ritchie* (1971) 17
9 Cal.App.3d 1098, 1104.) The appellate decision in the instant case held that not only does
10 defendant have no right to make such a motion, but "the trial court has *no obligation* to make a
11 ruling, under section 1385." (*Polanski v. Superior Court* (2009) 180 Cal.App.4th 507, 527-528;
12 *People v. Carmony* (2004) 33 Cal.4th 367, 375.)

13 Additionally, the court may *not* dismiss the case merely because it would be in the
14 victim's best interest. (*People v. Superior Court (Long)* (1976) 56 Cal.App.3d 374, 379.) Even
15 if dismissal would help protect the victim, "[s]ociety has an interest in even handed justice,
16 which can be satisfied only by continuing the prosecution in this case." (*Id.* at p. 380.) Nor is it
17 appropriate to dismiss a case simply to preserve judicial resources or accommodate judicial
18 convenience. (*People v. Hernandez* (2000) 22 Cal.4th 512, 525.)

19 Indeed, the very issue raised in the Defendant's current motion was fully discussed in
20 *People v. Polanski* (2010) 180 Cal.App.4th 507. In 2008, Polanski's counsel filed a request
21 asking this court, on its own motion to dismiss the case pursuant to Penal Code §1385. That
22 request was based on the same issues and arguments that have again been raised by Polanski's
23 current counsel during the most recent litigation in this case. In both the 2008 motion and the
24 instant motion, the Defendant based his request, in part, on the victim's statements concerning
25 the impact of the ongoing case and her request that the case be dismissed.¹²

26 On February 17, 2009, a hearing was held on the Defendant's motions, including a
27

28 ¹²In his 2008 motion, the Defendant submitted declaration of the victim in which she asked for the case to be dismissed.

1 request to dismiss under Penal Code §1385. Judge Espinoza ruled that the Defendant must be
2 present at any proceeding regarding his case, pursuant to the outstanding bench warrant, Penal
3 Code §977,¹³ and the fugitive disentitlement doctrine.

4 In affirming Judge Espinoza's rulings, in *Polanski, supra*, the Second District Court of
5 Appeal denied Polanski's requests and held that "[a] defendant has no right to make a motion,
6 and the trial court has no obligation to make a ruling, under section 1385. But he or she does
7 have the right to 'invite the court to exercise its power by an application to strike a count or
8 allegation of an accusatory pleading, and the court must consider evidence offered by the
9 defendant in support of his assertion that the dismissal would be in furtherance of justice.'"

10 *Polanski*, 180 Cal.App.4th 507,527.

11 In the instant litigation, counsel for Defendant did not ask the court to make its own
12

13
14 ¹³Penal Code Section 977 provides:

15 (a) (1) In all cases in which the accused is charged with a misdemeanor only, he or she may appear by
16 counsel only, except as provided in paragraphs (2) and (3). If the accused agrees, the initial court
appearance, arraignment, and plea may be by video, as provided by subdivision (c).

17 (2) If the accused is charged with a misdemeanor offense involving domestic violence, as defined in
18 Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, the accused shall be present
for arraignment and sentencing, and at any time during the proceedings when ordered by the court for the
purpose of being informed of the conditions of a protective order issued pursuant to Section 136.2.

19 (3) If the accused is charged with a misdemeanor offense involving driving under the influence, in an
20 appropriate case, the court may order a defendant to be present for arraignment, at the time of plea, or at
sentencing. For purposes of this paragraph, a misdemeanor offense involving driving under the influence
shall include a misdemeanor violation of any of the following:

21 (A) Subdivision (b) of Section 191.5.

22 (B) Section 23103 as specified in Section 23103.5 of the Vehicle Code.

23 (C) Section 23152 of the Vehicle Code.

24 (D) Section 23153 of the Vehicle Code.

25 (b) (1) Except as provided in subdivision (c), in all cases in which a felony is charged, the accused shall be
26 personally present at the arraignment, at the time of plea, during the preliminary hearing, during those
portions of the trial when evidence is taken before the trier of fact, and at the time of the imposition of
sentence. The accused shall be personally present at all other proceedings unless he or she shall, with leave
of court, execute in open court, a written waiver of his or her right to be personally present, as provided by
27 paragraph (2). If the accused agrees, the initial court appearance, arraignment, and plea may be by video, as
provided by subdivision (c).

28 (2) The accused may execute a written waiver of his or her right to be personally present, approved by his
or her counsel, and the waiver shall be filed with the court. However, the court may specifically direct the
defendant to be personally present at any particular proceeding or portion thereof.

1 motion pursuant to Penal Code §1385, but instead made a motion to dismiss the case pursuant to
2 that section. Despite the patent lack of standing on Defendant's part, the court has considered
3 the Defendant's motion as a request to the court as described above, based upon the testimony of
4 the victim.

5 The current evidence before the court, however, does not differ from the evidence
6 presented and discussed in the prior litigation and in *People v. Polanski* (2010) 180 Cal.App.4th
7 507. The only difference now is that the Defendant, through counsel, has expanded his *ad*
8 *hominem*¹⁴ attacks against Judge Espinoza and Judge Fidler to include Judge James Brandlin
9 and this court.

10 Yet, as the Court of Appeal expressly held in 2009, Polanski had "no legal standing to
11 make a motion under the express terms of section 1385", (*Polanski supra*, 180 Cal.App.4th at p.
12 553), Defendant Polanski's current Penal Code §1385 motion is barred under the law of the case
13 doctrine. "The law of the case doctrine holds that when an appellate opinion states a principle
14 or rule of law necessary to the decision, that principle or rule becomes the law of the case and
15 must be adhered to through its subsequent progress in the lower court and upon subsequent
16 appeal." (*People v. Superior Court (Plascencia)* (2002) 103 Cal.App.4th 409, 432.)

17 The Defendant's request for a dismissal of the case, juxtaposed with his continued refusal
18 to obey court orders, is a fundamental issue in this case and was discussed in *Polanski*: "If the
19

20 ¹⁴The *ad hominem* argument is a logical fallacy described . . . as follows: "Instead of addressing the issue presented
21 by an opponent, [the *ad hominem*] argument makes the opponent the issue. It shifts attention from the argument to
22 the arguer; instead of disproving the substance of what is asserted, the argument attacks the person who made the
23 assertion." (citation omitted). The *ad hominem* argument is also known as the *fallacy of personal attack*, the *appeal*
to personal ridicule, and the *argumentum ad hominem*. (citations omitted). The Character of legal Reasoning, 61
Wash & Lee L. Rev. 733, 739.

24 *Ad hominem* arguments are a disfavored form in legal argument and may give rise to sanctions: "Appellants'
25 counsel's bombastic *ad hominem* attacks have no place in an appellate brief and are potentially sanctionable
26 behavior." "An opening brief is not an appropriate vehicle for an attorney to 'vent his spleen', . . . This is because,
27 once the brief is filed, both the opponent and the state must expend resources in defending against and processing
28 the appeal. Thus, an unsupported appellate tirade is more than just words on paper; it represents a real cost to the
opposing party and to the state." (*Pierotti v. Torian* (2000) 81 Cal.App.4th 17, 32-33 [awarding sanctions for
frivolous arguments unsupported by the record made in an opening appellate brief].) "Ad hominem arguments, of
course, constitute one of the most common errors in logic: Trying to win an argument by calling your opponent
names . . . only shows the paucity of your own reasoning." (*Huntington Beach City Council v. Superior Court*
(2002) 94 Cal.App.4th 1417, 1430, 115 Cal. Rptr. 2d 439.)

1 trial court had acceded to Polanski's request that the criminal proceedings be dismissed, he
2 would of course had accepted that ruling. But under the preapprehension circumstances facing
3 the trial court when it ruled, the court lacked any ability to enforce any judgment it might render
4 if it declined to dismiss the action--because a dissatisfied Polanski would simply remain abroad.
5 This is the 'heads I win, tails you'll never find me' dynamic that arises when a fugitive seeks to
6 undercut criminal proceedings against himself or herself without being subject to the criminal
7 justice system. This fundamental enforceability problem is at the core of the disentitlement
8 doctrine." (180 Cal.App.4th at 537.)

9 Additionally, a consideration of the oral arguments made by Defendant's counsel
10 compels the same result. The Defendant in this matter stands as a fugitive and refuses to comply
11 with court orders. As eloquently described by Ms. Geimer, his conduct continues to harm her
12 and compounds the trauma of the sexual assault committed against her that gave rise to this
13 case.¹⁵

14 The defendant continues to stand in a position that is at the core of the fugitive
15 disentitlement doctrine. The only thing that has changed in the posture of this case is that the
16 defendant, through counsel, continues to extend his *ad hominem* attacks to each judicial officer
17 assigned to the matter and those attacks by counsel become more inappropriate with each
18 subsequent pleading filed by the Defendant.¹⁶ Such conduct is not the basis for the relief
19 requested by the Defendant.

20 The Defendant's renewed request to dismiss pursuant to Penal Code §1385 is also
21 DENIED. Clerk to give notice.

22
23 Dated: 8-18-17



24
25
26
27
28

SCOTT M. GORDON

SCOTT M. GORDON
Supervising Judge, Criminal Division

¹⁵It must be noted that a court may not dismiss a case merely because it would be in the victim's best interest. (*People v. Superior Court (Long)* (1976) 56 Cal.App.3d 374, 379.)

¹⁶This conduct extends to propounding inappropriate questions to the court "on behalf of Roman Polanski's British solicitors." Which, as indicated at the hearing, are not entertained by the court.

BRAUN & BRAUN LLP
10250 CONSTELLATION BOULEVARD, SUITE 1020
LOS ANGELES, CALIFORNIA 90067

1 Harland W. Braun, Esq. [CASBN 41842]
2 BRAUN & BRAUN LLP
3 10250 Constellation Boulevard, Suite 1020
4 Los Angeles, California 90067
5 Telephone: (310) 277-4777
6 Facsimile: (310) 507-0232
7 Email: harland@braunlaw.com

8 Attorneys for Defendant
9 ROMAN RAYMOND POLANSKI

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

AUG 18 2017

Sherri R. Carter, Executive Officer/Clerk
By Stan Kadohata, Deputy

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

ROMAN RAYMOND POLANSKI,

Defendant.

Case No. A 334139

ROMAN POLANSKI'S
SUGGESTIONS RE RESOLUTION
OF A FOUR-DECADE OLD CASE

Place: Department 100
Foltz Criminal Courts Building

INTRODUCTION

Neither ROMAN POLANSKI nor his counsel have ever questioned or justified the 1977 conduct which led to the conviction in this case. Counsel for Mr. Polanski has questioned the honesty and integrity of *some* members of the criminal justice system as have an appellate court in California, a judicial inquiry in Switzerland, a Polish Regional in Krakow, Poland and the Supreme Court in Warsaw Poland.

1.

Polanski/Fldgs.19

DEFENDANT ROMAN POLANSKI'S SUGGESTION RE RESOLUTION OF FOUR-DECADE OLD CASE

1 Despite these many allegations of prior judicial misconduct, Roman Polanski hopes
2 the current Court has the wisdom and competence to resolve this ancient case. Given Ms.
3 Geimer's personal appeal to the Court, the successful resolution of this case becomes more
4 important. With this goal in mind, Mr. Polanski wishes to briefly review the history of his
5 case, discuss its present status, and suggest possible resolutions.

6 STATUS OF THE CASE

7 Roman Polanski pled guilty in 1978 to a violation of Penal Code Section 261.5,
8 commonly called unlawful sexual intercourse. In late 1978 the maximum punishment after
9 the sentencing reform was 24 months custody with 50% credit for a net sentence of 12
10 months.

11 A Los Angeles Superior Court judge represented to Mr. Polanski that, should he
12 receive a favorable probation report, he would be placed on probation. The judge thereafter
13 reneged on his promise but promised Mr. Polanski that, if he agreed to a custody
14 diagnostic study, his time in the study would be his total custody time when he was
15 eventually sentenced. After serving 43 days in custody, the same judge again broke his
16 promise and stated that he would send Mr. Polanski to state prison for up to 50 years, but
17 promised to recall the sentence once the publicity died down. These facts are undisputed
18 and have been verified by defense counsel Douglas Dalton, victim's counsel Lawrence
19 Silver and prosecutor Roger Gunson.

20 Mr. Polanski fled California because he did not trust the lying judge. Although
21 prosecutor Roger Gunson believed that the judge should never have made the promises of
22 leniency and Mr. Polanski should have been sent to state prison, he has publicly and under
23 oath verified the judge's promises. Mr. Gunson has stated he would have fled himself
24 under the same circumstances.

25 The District Attorney has twice attempted to extradite Mr. Polanski. The Swiss
26 extradition failed because this court refused to provide the Swiss authorities with the sworn

1 deposition of prosecutor Gunson. The Polish extradition failed because Judge Mazur in the
2 Krakow Regional Court concluded in a 200 page analysis that this court could not be
3 trusted to handle Mr. Polanski honestly and that Mr. Polanski had already served more
4 time in custody than he was promised by this Court.

5 It is undisputed that Mr. Polanski was promised that his 43 day custody time in the
6 diagnostic study would be his total custody time at sentencing. It is undisputed that Mr.
7 Polanski has completed 334 days [10 ¾ months]in custody according to the prosecution.
8 To date, even the prosecution has not claimed that Mr. Polanski owes any more time in
9 custody.

10 On June 9, 2017, the victim in the case, Samantha Geimer, a grandmother in her
11 mid-fifties, appeared and explained she has been tormented for decades by the prosecution
12 and the court's handling of this case. She begged the court to end this case so that she
13 would not have to explain it to her young grandchildren.

14 The Court is considering a 40-year-old case with 83-year-old defendant who has
15 already served more than three times the time in custody this court had promised. The
16 victim, now a 50-year-old grandmother, has beseeched this court to end the case. Many
17 legal experts have opined that any competent judicial system should be able to resolve this
18 case. To make a resolution possible, Mr. Polanski wishes to make some suggestions which
19 can end the case and honor Ms Geimer's request.

20 21 FLIGHT FROM LOS ANGELES

22 The apparent barrier to resolving this criminal case is the fact that Mr. Polanski fled
23 California in 1978. This barrier continues to exist because most members of the Los
24 Angeles criminal justice system either never knew or have forgotten why Mr. Polanski
25 fled. There is also the unjustified fear that resolving Mr. Polanski's case could encourage
26 other defendants to flee.

1 But Mr. Polanski was never prosecuted for the crime of unlawful fight because his
2 flight was not unlawful. His flight was legally and morally justified by the outrageous
3 misconduct of a judge who twice lied to him and then threatened him with a fifty [50]
4 years in state prison.

5 *Unlike virtually every other defendant*, Polanski had a subjective reasonable belief
6 of the need to flee California in 1978 as verified by prosecutor Roger Gunson. Mr.
7 Polanski's fear of an unhinged criminal justice system in Los Angeles has been reinforced
8 by its refusal to provide the Swiss authorities with the transcript of prosecutor Gunson's
9 sworn testimony, as well as the extensive analysis by Judge Mazur in his Krakow decision
10 a copy of which has been filed with this court. The Court of Appeals in California
11 suggested that Mr. Polanski be sentenced in absentia-- a suggestion thwarted by the
12 "discretion" of the trial judge which has now been exposed as bogus by the emails from the
13 presiding judge.

14 Despite the legal justification for Mr. Polanski's flight, his failure to appear in Los
15 Angeles has been used as an excuse for the DA and the court system to avoid accepting the
16 legal and moral responsibility for the conduct documented in the long history of this case.

17 Mr. Polanski is a citizen of both France and Poland. As a Polish citizen, he asks the
18 court to study the analysis of Judge Mazur in Krakow with the understanding that he made
19 his decision despite the intense anti-judicial campaign by the new Neo-Fascist government
20 in Poland. The new government made Mr. Polanski's case a campaign issue and even
21 changed the statute of limitations to appeal Judge Mazur's decision to the Supreme Court
22 in Warsaw. In turn, the Supreme Court in Warsaw had the courage to defy the intense
23 pressure from the Neo-Fascist government and affirmed Judge Mazur's decision. The
24
25
26

1 Polish judges who decided his case risked their judicial careers to do what they believed
2 was just; this Court apparently only faces incoherent news conferences by Gloria Allred.¹
3

4 PROPOSED RESOLUTIONS

5 Roman Polanski suggests the following possible solutions:

6 1. Sentencing in Absentia:

7 The California Court of Appeals suggested that Mr. Polanski be
8 sentenced in absentia and apparently the District Attorney's office at oral argument agreed.
9 Mr. Polanski was promised 43 days in custody as a condition of probation. Mr. Polanski
10 has already done 334 days in custody as calculated by the Los Angeles District Attorney.
11 Mr. Polanski suggests that the Court sentence him in absentia to 334 days so that the
12 public will understand his actual sentence rather than be misled by the 43 days promised
13 Mr. Polanski in 1978. Such a resolution will leave intact Mr. Polanski's felony conviction
14 and will honor the request by Ms. Geimer that her four-decade long torment be ended.

15 2. Return to Los Angeles for Sentencing:

16 Based on history of this case, the litigations in Switzerland and Poland
17 and the remarks in the decision of the California Court of Appeal, this Court should
18 recognize that Mr. Polanski has a *subjective* fear of being arrested and incarcerated
19 unjustly in Los Angeles. In the Court's file, there is an uncontradicted sworn declaration
20 by a court official that years ago the judges in Los Angeles had agreed to "let Mr. Polanski
21 cool his heels in the county jail," while awaiting sentencing even though they agreed that
22 he owed no more time in custody. Whether true or not, this allegation is one of the reasons
23 Mr. Polanski does not trust the Los Angeles court system. Although Mr. Polanski accepts
24

25 ¹ Ms. Allred uses baseless claims against Mr. Polanski to generate publicity. In May 2010, she had Charlotte
26 Lewis claim she was molested by Mr. Polanski when she was 16. Lewis was immediately discredited by her own 1999
27 interview where she claimed she slept with multiple stars in Hollywood and that she seduced Mr. Polanski in Paris when
28 she was of legal age. In August 2017 Ms. Allred unveiled "Robin" who claims to have sex with Mr. Polanski in 1973
and who was outraged by Ms. Geimer's forgiveness.

1 responsibility for his conduct, he believes the court system should accept *some*
2 responsibility for its conduct in his case.

3 Therefore, Mr. Polanski suggests the following:

4 a. That the Los Angeles Superior Court honor its own promise
5 that Mr. Polanski would do 43 days in custody as part of his eventual sentencing. That the
6 court accepts the DA's representation that Mr. Polanski has already completed 334 days in
7 custody.

8 b. That the court recall its Arrest Warrant for 90 days, which
9 would allow Mr. Polanski to come to Court and be sentenced to the 334 days which he has
10 already served. Mr. Polanski has been arrested three times on this case including Los
11 Angeles, Switzerland, and Poland. Because he does not owe any additional custody time to
12 the court, there would be no purpose in an additional arrest other than to assert personal
13 jurisdiction.

14 This resolution should satisfy the Court's concern that every defendant must return
15 to court for sentencing, leave Mr. Polanski's conviction intact, and satisfy Ms. Geimer's
16 request that the case be terminated.

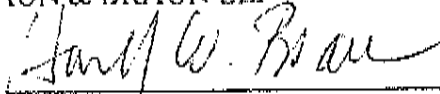
17 **CONCLUSION**

18 This case is 40-years-old, with an 83-year-old defendant, and a 50-year-old victim
19 requesting that the matter be resolved. Mr. Polanski was promised 43 days in custody and
20 has already served 334 days. It appears that a resolution of this case should be quite
21 simple. Mr. Polanski has proposed possible solutions and asks the court to seriously
22 consider his suggestions.

23 Dated: August 18, 2017

Respectfully submitted,

24 BRAUN & BRAUN LLP

25 By: 
26 Harland W. Braun, Attorneys for Defendant

27 6.

28 Polanski/Pldgs.19

1
2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

4 I am employed in the County of Los Angeles, State of California. I am over the age
5 of 18 and not a party to the within action; my business address is 10250 Constellation
6 Boulevard, #1020, Los Angeles, CA 90067.

7 On August 18, 2017, I served the foregoing document described as DEFENDANT
8 ROMAN POLANSKI'S SUGGESTION RE RESOLUTION OF FOUR-DECADE OLD
9 CASE on interested parties in this action by placing a true copy thereof enclosed in a
10 sealed envelope with postage thereon fully prepaid in the United States mail at Los
11 Angeles, California, addressed as follows:

12 Michele Hanisee, Deputy District Attorney
13 Major Crime Division
14 211 West Temple Street, Suite 1100
15 Los Angeles, CA 90012
16 mhanisee@da.lacounty.gov

17 (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed
18 in the United States mail at Los Angeles, California.

19 (BY FACSIMILE TRANSMISSION) I caused such document to be sent by
20 facsimile transmission to the number listed above.

21 (EMAIL/ELECTRONIC TRANSMISSION) I caused such document to be sent by
22 email/electronically to the email address listed above.

23 (STATE) I declare under penalty of perjury under the laws of the State of California
24 that the above is true and correct.

25 (FEDERAL) I declare that I am employed in the office of a member of the bar of
26 this court at whose direction the service was made.

27 