

ORIGINAL

FILED
Superior Court of California
County of Los Angeles

APR 14 2025

David W. Slayton, Executive Officer/Clerk of Court

By: E. Garcia, Deputy

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9 *Goodell, Lucien Goodell, Kathleen Simonton, Sarah Mallas, Brian Andersen, Natascha Leonardo, Erik*
10 *Vandermolen, Marta Hallowell, Arnold Van Der Molen, Eileen Cano Haag, and Joan Van Der Molen*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES – NORTHWEST DISTRICT**
13 **VAN NUYS COURTHOUSE WEST**

14 PEOPLE OF THE STATE OF CALIFORNIA,

Case No.: BA068880

15 Plaintiff,

16 v.

17 ERIK GALEN MENENDEZ,
18 JOSEPH LYLE MENENDEZ,

19 Defendants.

**VICTIMS' FAMILY MEMBERS' MOTION
TO COMPEL COMPLIANCE WITH
MARSY'S LAW
[Cal. Const. Art. I, § 28, subds. (c)(1), (f)]**

Hearing Date: April 17, 2025

Hearing Time: 8:30 a.m.

Department: S

1 **TO THE HONORABLE MICHAEL V. JESIC, JUDGE PRESIDING; AND TO THE PEOPLE**
2 **OF THE STATE OF CALIFORNIA:**

3 **I. INTRODUCTION**

4 A grotesque spectacle occurred last Friday in this Court. This Court should ensure such a
5 mockery never occurs again. Without any advance notice to the family members of victims Kitty and
6 Jose Menendez,¹ the Los Angeles District Attorney's Office gratuitously and needlessly displayed
7 horrific and gruesome photographs of the 1989 deaths of their relatives. The victims' family members
8 were shocked, sickened, and traumatized by the District Attorney's callous act. This outrageous
9 offense has had very real consequences: Terry Baralt, the 85 year old sister of victim Jose Menendez,
10 experienced such severe emotional distress from witnessing the lurid photographs that she was
11 hospitalized shortly thereafter. As of the date of this Motion, Ms. Baralt remains hospitalized. Instead
12 of seeking justice, the District Attorney victimized the victims' family members a second time.

13 The entire District Attorney's Office, including District Attorney Nathan Hochman and
14 Assistant Head Deputy District Attorney Habib Balian, owe the victims' family members an apology
15 for their scandalous behavior. Moreover, the District Attorney has made a mockery of the Victim's
16 Bill of Rights, or Marsy's Law, which provides victims with the constitutional right to be "treated with
17 fairness and respect" and to be "free from intimidation, harassment, and abuse" throughout the
18 criminal justice process, including post-conviction proceedings. Cal. Const., art. I, § 28, subd. (b)(1),
19 (7)-(8). The District Attorney was also obligated to provide the victims' family members with
20 "reasonable notice" of its intent to use such inflammatory exhibits at last weeks' post-conviction
21 proceeding. Cal. Const., art. I, § 28, subd. (b)(7). It is self-evident that the District Attorney has
22 violated the victims' family members' rights under Marsy's Law.

23 The District Attorney's behavior on April 11 constitutes an affront to victims everywhere.
24 District Attorney Hochman and Assistant Head Deputy District Attorney Balian are obligated to treat
25

26 ¹ The victims' family members are Karen Vander Molen-Copley, Erica Barbour, Anamaria Baralt, Cole
27 Milner, Sylvia Bolock, Teresita "Terry" Baralt, Diane Hernandez, Alexander Hernandez, Tamara
28 Goodell, Lucien Goodell, Kathleen Simonton, Sarah Mallas, Brian Andersen, Natascha Leonardo, Erik
Vandermolen, Marta Hallowell, Arnold Van Der Molen, Eileen Cano Haag, and Joan Van Der Molen.

1 all crime victims equally. Here, it is patently obvious that the District Attorney treated the victims'
2 family members as second-class victims, due to a **policy** disagreement between District Attorney
3 Hochman and the victims' family members. The District Attorney represents **all** victims, not simply
4 those that share the Office's policy views. In the same token, Marsy's Law provides constitutional
5 rights to **all** crime victims.

6 Due to the District Attorney's inexcusable conduct, the victims' family members have no
7 choice but to seek the intervention of this Court to enforce their rights under Marsy's Law. Cal. Const.
8 Art. I, § 28, subds. (c)(1), (f). By way of this Motion, the victims' family members respectfully seek
9 an order from this Court: (1) admonishing the District Attorney for its conduct in displaying the
10 graphic photographs on April 11, 2025, as this subjected the victims' family members to "intimidation,
11 harassments, and abuse;" and (2) requiring the District Attorney to provide the victims' family
12 members with advance notice of any exhibits or other evidence it intends to introduce at any further
13 post-conviction proceedings in this matter.

14 **II. LEGAL STANDARD**

15 Marsy's Law amended article I, section 28 of the California Constitution and provisions of the
16 Penal Code to strengthen a "broad spectrum of victims' rights[.]" *People v. Gross* (2015) 238
17 Cal.App.4th 1313, 1317-18. In particular, it guaranteed victims and their families a right "**to be treated**
18 **with fairness and respect** for his or her privacy and dignity, and to be **free from intimidation,**
19 **harassment, and abuse,** throughout the criminal or juvenile justice process. Cal. Const., art. I, § 28,
20 subd. (b)(1) (emphasis added). It further afforded victims a right to "reasonable notice of all public
21 proceedings, including delinquency proceedings, upon request, at which the defendant and the
22 prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and
23 to be present at all such proceedings." Cal. Const., art. I, § 28, subd. (b)(7). Additionally, Marsy's
24 Law provides victims with the right "to be heard, upon request, at any proceeding, including any
25 delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction
26 release decision, or any proceeding in which a right of the victim is at issue." Cal. Const., art. I, § 28,
27 subd. (b)(8).

28 Marsy's Law "clearly demands a broad interpretation protective of victims' rights." *Santos v.*

1 *Brown* (2015) 238 Cal.App.4th 398, 418 [189 Cal.Rptr.3d 234, 248]

2 By its plain language, Marsy's Law applies to post-conviction "proceedings such as
3 resentencing requests." *Santos v. Brown* (2015) 238 Cal.App.4th 398, 420. Marsy's Law established a
4 victim's right to a "prompt and final conclusion" to postjudgment proceedings. Cal. Const., art. I, § 28,
5 subd. (b)(9).

6 Marsy's Law provides that a victim, his or her attorney or representative "may enforce the
7 rights enumerated in subdivision (b)" and that these rights "are personally enforceable by
8 victims." Cal. Const. Art. I, § 28, subds. (c)(1), (f).

9 A court possesses the inherent authority to admonish counsel for failing to comply with their
10 professional obligations or for otherwise engaging in offensive courtroom behavior. *Boysaw v.*
11 *Superior Court* (2000) 23 Cal.4th 215, 222.

12 **III. ARGUMENT**

13 The facts are straightforward and disturbing. On April 11, 2025, the People, represented by
14 Assistant Head Deputy District Attorney Habib Balian, suddenly and without any prior warning or
15 consultation with the victims' family members, displayed several horrifically gruesome photographs
16 depicting the 1989 deaths of Jose and Kitty Menendez. These photographs served no legitimate
17 purpose and were instead clearly intended to inflame emotions to achieve maximum "shock" value.
18 The District Attorney's gambit did not succeed. The Court denied the District Attorney's Office
19 request to withdraw the resentencing motion regarding Defendants Erik and Lyle Menendez.

20 The victims' family members were present in the courtroom when the District Attorney
21 displayed these graphic images. They had been provided with no advance warning that these
22 photographs would be used as exhibits at the April 11 hearing. The victims' family members were
23 severely offended and disturbed by the photographs. In particular, Terry Baralt, the 85 year old sister
24 of victim Jose Menendez, experienced such severe emotional distress from witnessing the lurid
25 photographs that she was hospitalized shortly thereafter.

26 The District Attorney's exhibition of these graphic photographs violated the victims' family
27 members' right "to be treated with fairness and respect for [their] privacy and dignity[.]" Cal. Const.,
28 art. I, § 28, subd. (b)(1). It further constituted "intimidation, harassment, and abuse," as the

1 photographs were displayed without any prior consultation with the victims' family members. *Id.*

2 Under Marsy's Law, which is to be interpreted broadly in favor of victims' rights, the victims'
3 family members had a right to "reasonable notice" of the District Attorney's intent to introduce these
4 graphic photographs. Cal. Const., art. I, § 28, subd. (b)(7). In order to prevent such a spectacle from
5 occurring again, the victims' family members request that the District Attorney provide them with
6 advance notice of any exhibits or other evidence the District Attorney's Office intends to introduce at
7 any further post-conviction proceedings in this matter.

8 Finally, the Court should admonish the District Attorney for its utter lack of consideration for
9 the victims' family members by displaying these horrific photographs. Only a public admonishment
10 will prevent the District Attorney from again engaging in such callous theatrics at the expense of the
11 real victims here – the family members of Kitty and Jose Mendendez.

12 **IV. ARGUMENT**

13 For the foregoing reasons, the victims' family members respectfully request that this Court
14 enter an order: (1) admonishing the District Attorney for its conduct in displaying the graphic
15 photographs on April 11, 2025, as this subjected the victims' family members to "intimidation,
16 harassments, and abuse" in violation of Marsy's Law; and (2) requiring the District Attorney to
17 provide the victims' family members with advance notice of any exhibits or other evidence it intends
18 to introduce at any further post-conviction proceedings in this matter.

19
20 Respectfully submitted,

21 Dated: April 14, 2025

LINER FREEDMAN TAITELMAN + COOLEY, LLP

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25 Bryan J. Freedman
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Joan Van Der Molen

PROOF OF SERVICE

STATE OF CALIFORNIA |
| **ss.**
COUNTY OF LOS ANGELES |

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1801 Century Park West, 5th Floor, Los Angeles, California 90067.

On **April 14, 2025**, I served the foregoing document(s) described as **VICTIMS' FAMILY MEMBERS' MOTION TO COMPEL COMPLIANCE WITH MARSY'S LAW** on the interested parties in this action as follows:

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*Attorneys for Defendants
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☒ **By Hand Delivery, via Express Network:** I gave said documents to the firm's regular attorney service with specific instructions to be personally delivered by hand to the offices of the addressee, addressed as set forth above. Delivery was made to the attorney or at the attorney's

1 office by leaving the documents in an envelope or package clearly labeled to identify the
2 attorney being served with a receptionist or an individual in charge of the office.

3 ☒ **By U.S. Mail:** by placing a true copy of the document(s) listed above in a sealed envelope(s),
4 with postage thereon fully prepaid, addressed as set forth below. I am "readily familiar" with the
5 firm's practice for collection and processing of correspondence and other materials for mailing
6 with the United States Postal Service. On this date, I sealed the envelope(s) containing the above
7 materials and placed the envelope(s) for collection and mailing at the address above following
8 our office's ordinary business practices. The envelope(s) will be deposited with the United States
9 Postal Service on this date, in the ordinary course of business.

10 I declare under penalty of perjury under the laws of the State of California that the above is true
11 and correct. Executed on **April 14, 2025** at Los Angeles, California.

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13 Christina Puello
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