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Hollywood seeks a delay in release of 'Alpha Dog'

By Dawn Hobbs, News-Press Staff Writer

Pitting fair trial rights against freedom of speech, the defense lawyer for Jesse James Hollywood requested on Friday that a federal court delay the opening of a major motion picture -- a fictional account of his client's high-profile murder case -- until after the death penalty trial is over.

The planned release of "Alpha Dog" on Jan. 12, 2007, would irreparably poison viewers' minds about the capital case and make it virtually impossible for Mr. Hollywood to receive a fair trial anywhere in the country, James Blatt argued in his request for an injunction against Universal Studios Inc., filed in the U.S. District Court in Los Angeles.

"It is really offensive what happened with this case and the future dangers it presents are apparent to any rational person," Mr. Blatt told the News-Press.

"Alpha Dog" would be the first major motion picture based on a criminal case to be released before the trial in that case even begins. The film, featuring Emile Hirsch, Justin Timberlake, Bruce Willis and Sharon Stone, could have an opening-weekend take of \$14 million, according to some estimates.

A fictional account of the brutal slaying of a teenage boy in the Santa Barbara hills, "Alpha Dog" is based on material provided by the Santa Barbara County District Attorney's Office.

"In this case, we have the prosecution joining up in a partnership with a major motion picture company to produce a film according to the prosecution's version of the events, which naturally depicts Mr. Hollywood as responsible for the murder," Mr. Blatt said.

The case has captured national interest, not only because Mr. Hollywood -- who at 20 became the youngest man ever listed on the FBI's Most Wanted list -- was regularly featured on the television show "America's Most Wanted," but also because of the issues surrounding the motion picture, which have been brewing for the last year.

Lawyers for Universal could not be reached for comment Friday. The District Attorney's Office declined to comment.

In the film, Mr. Hollywood, who is now 26, is depicted as an ambitious young drug dealer and

ringleader of a group of teens who idolize the dangerous lifestyle of gangsters. His character, Johnny Truelove, is played by Mr. Hirsch.

The film premiered in January at the Sundance Film Festival in Park City, Utah. Entertainment publications have speculated that "Alpha Dog" could play in limited release in December, qualifying it for Oscar consideration

The Hollywood case illustrates a tension that underscores the tug-of-war between the accused's Sixth Amendment right to a fair trial and impartial jury against the entertainment industry's First Amendment right to publish material without prior restraint.

"It's a very significant issue in the sense that you have two powerful constitutional rights that are conflicting with modern technology," Mr. Blatt said, pointing out the public will be able to view the movie via theater, cable and satellite television, cell phone, computer and DVD

"Also, think of the public policy position that is created here," he added. "If we are to allow prosecutors and defense attorneys to create their own motion picture by divulging their files . . . to control or change the jury pool, what are we going to have here? Competing movies before the trial?"

"Alpha Dog" closely follows the prosecution's theory about the kidnapping and murder of 15-year-old Nicholas Markowitz in August 2000; however, the names and places have been changed. The teen was snatched from the streets near his West Hills home and taken to Santa Barbara where he was held captive for three days before being placed in a shallow grave off West Camino Cielo and shot with a high-powered assault rifle.

Prosecutors allege Nicholas' death was the culmination of an escalating feud between Mr. Hollywood and the teen's older half brother over a \$1,200 drug debt. Mr. Hollywood, who was on the lam until March 2005, when he was captured in a Brazilian beach town, is accused of orchestrating the crime.

The request for the injunction Friday is the latest in a string of legal maneuvers by an aggressive defense. So far, Mr. Blatt has managed to get veteran prosecutor Ron Zonen -- who successfully prosecuted Mr. Hollywood's four co-defendants -- removed from the case because he shared case material with the filmmaker of "Alpha Dog."

The Court of Appeal noted Mr. Zonen had no bad intent and was not paid for his assistance, but that he had nonetheless overstepped legal and ethical boundaries.

The movie was written and directed by Nick Cassavetes, most recently known for his Denzel Washington thriller "John Q," who obtained most of his material for "Alpha Dog" directly from the prosecutor's office.

Mr. Zonen has previously said he cooperated with the filmmaker because the movie would be "the last opportunity to get the kind of widespread publicity necessary to locate (Mr. Hollywood) and bring him to justice."

This sharing of material occurred after Mr. Zonen wrapped up his prosecution of the co-defendants in 2003 and prior to Mr. Hollywood's capture in 2005.

Although the Court of Appeal approved Mr. Blatt's request to remove the prosecutor, a motion to recuse the entire Santa Barbara County District Attorney's Office was denied.

However, last week, Mr. Blatt filed a motion with the appellate justices asking they review the matter because he's convinced Mr. Zonen's boss, Tom Sneddon, was aware of the situation. If the defense request is denied again, Mr. Blatt could take the matter to the state Supreme Court. In the filing Friday, Mr. Blatt cited other potentially prejudicial elements that he said should bar the release of the film. Mr. Cassavetes, he noted, shot footage of Mr. Zonen at the scene of the murder near Lizard's Mouth stating "his own detailed, personal views and opinions regarding the crime and its participants," a documentary of sorts to be released in conjunction with the motion picture.

The importance of a fair trial, especially in a high-stakes death penalty case, is imperative to maintain the integrity of the justice system.

"This is a case where you've had four trials already in Santa Barbara," Mr. Blatt said, referring to the convictions of his client's co-defendants, one of whom is now on San Quentin's Death Row. "There's already been massive publicity on this case. And now you have a major motion picture coming out, which I predict most people there would want to see."

It's critical that every defendant receive a fair trial, Mr. Blatt said.

"But any time you are dealing with a person's life," he said, "every precaution should be taken to make sure they receive a fair trial."