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## **Court Approves 'Alpha Dog' Release Before Trial Begins**

By Dawn Hobbs, News-Press Staff Writer

A major motion picture based on the high-profile Jesse James Hollywood murder case will be released Friday as scheduled, a federal appellate court has ruled.

This means "Alpha Dog" -- based on the prosecution's version of the kidnapping and slaying of 15-year-old Nicholas Markowitz in the Santa Barbara hills in 2000 -- will become the first film based on a criminal case to hit the big screen in the U.S. before the trial in that case even begins, according to those involved in the case.

Mr. Hollywood's lawyer, James Blatt, recently filed an emergency request with the 9th U.S. Circuit Court of Appeal to delay the film's national release until his client's death penalty trial is over -- insisting that if it's shown beforehand, it could poison the jury pool.

The ruling, released Monday, denied that request and another to expedite the appeal. Legal briefs will still be filed in the matter, with Mr. Blatt arguing that his client's right to a fair trial has been jeopardized and Universal Studios lawyer Kelli Sager asserting that the point is moot after the film has already been released.

However, Mr. Blatt told the News-Press on Tuesday, "I will try to get a ruling to change the standard." Nonetheless, he was not surprised by the 9th Circuit Court's decision: "It's difficult to take on the First Amendment. The standard for prior restraint is so tremendously high. How do you prove you can't find 12 impartial jurors?"

The legal wrangling has illustrated the underlying tension between the defendant's Sixth Amendment rights to a fair trial and the entertainment industry's First Amendment rights to publish.

In the meantime, legal briefs are due to the state Supreme Court next week on both defense and prosecution challenges to the rulings of the Second District Court of Appeal concerning recusal motions.

In October, appellate justices ordered veteran prosecutor Ron Zonen removed from the case, saying he had overstepped legal and ethical boundaries by providing files to the filmmaker while the case was still pending. The District Attorney's office is challenging that ruling.

At the same time, Mr. Blatt is challenging the appellate justices' decision not to grant his other

request to remove the entire office from the case.

The Supreme Court review is significant because, while the state's high court receives more than 10,000 petitions for review each year, less than 5 percent are granted.