

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

CASE NO.: 48-2008-CF-0015606-O
DIVISION: 16 (JUDGE BELVIN PERRY)

vs.

CASEY MARIE ANTHONY,
Defendant.

DEFENDANT'S REPLY TO STATE'S RESPONSE
REGARDING ADMISSIBILITY OF 911 CALLS

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her undersigned attorney, and as and for her reply to the State's Response regarding the 911 Motions shows as follows:

1. While your undersigned acknowledges the high quality of research by the prosecuting attorney in this cause regarding the above captioned issue, there are factual disputes that may require an evidentiary hearing before the Court can render a proper ruling.

2. Essentially, the State has argued that the 911 calls, or portions thereof, would be admissible against objections as to the hearsay by suggesting that they would not be offered to prove the truth and/or they were either spontaneous statements or excited utterances by the Defendant's mother, Cindy Anthony.

3. Depositions taken in this case on Thursday, June 17, 2010, shed some critical light on the State's theory and the whole question of admissibility of the 911 tapes.

4. Essentially, a co-worker/supervisor for Cindy Anthony, Ms. Debbie Polisano, and co-worker with Cindy Anthony, Mr. Charles Crittenden, both testified essentially as follows:

a. They worked with and knew Cindy Anthony well prior to the circumstances and events giving rise to this litigation.

- b. On the material date in question, Cindy received a phone call from her husband, George Anthony, that he had received notification by Certified Mail that the automobile customarily driven by the Defendant was in the impound lot with the police department.
- c. According to Cindy's open discussion with these two witnesses, she made arrangements to meet George at a bank to obtain the cash funds necessary to redeem the impounded automobile.
- d. Cindy and George met at the impound lot for that purpose and discovered, in the car, the baby seat, backpack, and alleged "favorite doll" of Caylee.
- e. After such findings, Cindy returned to work and revealed both to Ms. Polisano and Mr. Crittenden the above essential facts.
- f. After discussing the issues with her co-workers, Cindy Anthony discussed the smell of the car with both Debbie Polisano and Charles Crittenden and told them that George Anthony had said that the car smelled like a dead body had been it. She was then advised by Debbie Polisano to go home and, further, they suggested that she call the police. However, Cindy did not go home, and, to the contrary, she informed her employers that she had more work to do, then returned to her desk and began working. The regional manager was then forced to go to Cindy Anthony's desk and ordered her to leave work.
- g. Cindy Anthony then went home and found Amy Huizenga's phone number. She then called Amy Huizenga and made arrangements to pick her up at the Florida Mall. After picking Ms. Huizenga up, they proceeded

to Tony Lazzaro's apartment, where they found the Defendant.

- h. Cindy then took Amy Huizenga home and proceeded to an Orange County Sherriff's Office Sub-Station. Only after finding out it was closed did she then make her first 911 call. Whereupon, after reflection and thought, she made her second 911 call and fabricated that her car was stolen and that the Defendant had stolen it, despite the fact that the Defendant had full permission and a license to use the vehicle. They then drove to the Anthony's home and, approximately a half-hour later, made the third 911 call. The alleged "excited utterances" transpired at that time.

5. Notwithstanding what your undersigned will presume are good faith representations made by the prosecutor in this case in her pleadings, it appears that independent witnesses (listed on the State's Witness List), through their recent depositions, have established that statements and declarations made by Cindy were made after apparently several hours of reflection and consideration, as well as discussions with co-workers in obtaining suggestions as to her course of conduct. They, therefore, could not qualify as spontaneous or excited utterances.

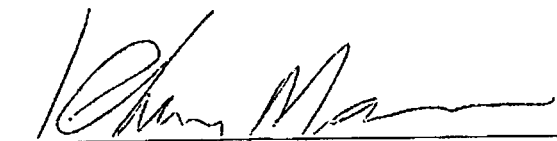
6. Additionally, Cindy Anthony, in the past week, appeared on national television and, in response to inquiry about her "statements" that the car smelled like a dead body (or words to that effect), declared that she only made that up in an effort to cause the police to come more quickly to her residence for investigation. Such an admission, by itself, establishes that her statements were contrived, considered, reflected on, and not, therefore, entitled to be admitted as an exception to a hearsay rule, or as either a spontaneous or excited utterance.

7. Your undersigned respectfully suggests that an ultimate decision in this regard may require an evidentiary hearing that should be conducted some time prior to the actual trial.

WHEREFORE, the Defendant prays this Court either grant the Defendant's Motion in Limine, thus denying the positions taken by the State, unless appropriate additional predicates can be made at trial, or, alternatively, conduct an evidentiary hearing where the full circumstances can be subject to full confrontation in cross examination.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail and/or electronic mail and/or facsimile to Jeff Ashton, Esq. and Linda Drane-Burdick, Esq. at the Office of the State Attorney, 415 N. Orange Avenue, Orlando, Florida 32801 this 12th day of June, 2010.



J. CHENEY MASON, ESQ.

Florida Bar No.: 0131982

J. CHENEY MASON, P.A.

390 N. Orange Avenue, Suite 2100

Orlando, Florida 32801

Telephone: 407-843-5785

Facsimile: 407-422-6858

and

JOSE A. BAEZ, ESQ.

THE BAEZ LAW FIRM

522 Simpson Road

Kissimmee, Florida 34744

Telephone: 407-705-2626

Facsimile: 407-705-2625

and

ANDREA D. LYON, ESQ.

Director, Center for Justice in Capital Cases

DePaul University College of Law

25 E. Jackson Boulevard, Suite 1050

Chicago, Illinois 60604

Telephone: 312-362-8402

Facsimile: 312-362-6918

Attorneys for Defendant