

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

**STATE OF FLORIDA,
Plaintiff,**

**CASE NO.: 482008-CF-0015606-O
Judge Perry**

vs.

**CASEY MARIE ANTHONY,
Defendant.**

**MOTION IN LIMINE REGARDING SPECULATION
AS TO DEFENDANT'S KNOWLEDGE**

COMES NOW THE Defendant, CASEY MARIE ANTHONY, by and through her attorneys J. CHENEY MASON and JOSE BAEZ and moves this Court for entry of its Order in Limine prohibiting any testimony related to the speculation as to Defendant's Knowledge, and shows:

1. Texas Equusearch President, Mr. Tim Miller, has purportedly stated his "opinion" to investigative Detective Allen, and/or others, that he thought that the Defendant was on particular occasions, "...about to mark on a map where the body was".
2. Such speculation is totally unfounded, irrelevant, and immaterial, and should in no way be admitted or testified to by any witness.
3. The speculation opinion by Mr. Miller, any investigative Agent, or any other person similarly making such allegations, would be pure speculation, and have no probative value, whatsoever. Any assumed "probative value" would be outweighed in its prejudice to Defendant, as prohibited by Florida Statute Chapter 90.403.

MEMORANDUM OF LAW IN SUPPORT OF MOTION IN LIMINE

A motion in limine is used to shorten trial, simplify issues, and reduce the potential for mistrial, thereby moving the case toward a conclusion on the merits. *Rosa v. Fl. Power & Light Co.*, 636 So. 2d 60 (Fla. 2d DCA 1994); *See also* § 90.403, Fla. Stat. (2009) (“Relevant evidence is inadmissible if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence.”). Further, “[a] motion in limine ... is generally used to prevent the introduction of improper evidence, the mere mention of which at trial would be prejudicial.” *Dailey v. Multicon Development, Inc.*, 417 So. 2d 1106 (Fla. 4th DCA 1982); *Adkins v. Seaboard Coast Line R. Co.*, 351 So. 2d 1088 (Fla. 2d DCA 1977).

Additionally, Florida Statute § 90.105 provides, “[t]he court shall determine preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence.” Also, § 90.104(2) provides “[i]n cases tried by a jury, a court shall conduct proceedings, to the maximum extent practicable, in such a manner as to prevent inadmissible evidence from being suggested to the jury by any means.” Based upon due process, a fair trial, an impartial jury, and effective assistance of counsel, Ms. Anthony is entitled to a hearing and ruling on the following issue before the selection of a jury.

STATEMENT OF THE FACTS

Based on Discovery Materials provided by the State, it is alleged that the Defendant was being questioned at home about Caylee and presented with a map. She was asked to mark where body would be found. She did not respond.

ARGUMENT

Any reference to the map and request must be excluded from trial in order to protect Ms. Anthony's right to a fair trial. Any alleged probative value is substantially outweighed by its potential prejudicial effect on the jury.

I. PRESENTING A MAP AND THE REQUEST IS IRRELEVANT AND HAS NO TENDENCY TO PROVE OR DISPROVE A MATERIAL FACT AT ISSUE, AS THE DEFENDANT DID NOT RESPOND.

The test of admissibility is relevancy. *Reddish v. State*, 167 So. 2d 858, 861 (Fla. 1964); FLA. STAT. § 90.401 (2009). Relevant evidence is evidence that has "any logical tendency to prove or disprove a fact" in issue. *State v. Taylor*, 648 So. 2d 701, 704 (Fla. 1995). Although evidence tending to prove or disprove one material element of an offense is relevant, whether the map was suggested to Defendant is irrelevant and has no tendency to prove or disprove a material fact at issue in this capital criminal prosecution. Specifically, Ms. Anthony has been charged with Capital First Degree Murder, Aggravated Child Abuse, and four counts of Providing False Information to a Law Enforcement Officer. (Indictment). Evidence that she declined to do as Mr. Miller and/or others desired does not tend to prove any element of the offenses for which she is charged and, thus, is inadmissible as irrelevant.

II. ANY ALLEGED PROBATIVE VALUE OF THE INTRODUCTION OF THE ALLEGED MAP PRESENTATION IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE TO MS. ANTHONY.

As stated above, this issue is irrelevant to the charges in the present case. However, if this Honorable Court does deem such testimony somewhat relevant, such testimony must still be excluded. FLA. STAT. § 90.403 (2009) (Relevant evidence is inadmissible if its probative value is

substantially outweighed by the danger of unfair prejudice, confusion of the issues, misleading the jury or needless presentation of cumulative evidence). In *Huhn v. State*, 511 So. 2d 583, 588 (Fla. 4th DCA 1987).

In the present case, any purported probative value is tenuous, and thereby more worthy of exclusion. There are no allegations that the map scenario actually could prove anything.

CONCLUSION

Therefore, in the interests of Casey Marie Anthony's constitutional rights, the Defense respectfully asks this Honorable Court to:

- a. Order the Prosecution to file a response motion and memorandum of law within thirty days of the filing of this motion and accompanying memorandum of law;
- b. Allow the defense ten business days from the Prosecution's filing of its responsive motion and memorandum of law to file a reply motion and memorandum of law;
- c. Set a hearing date, at which time this Honorable Court may hear arguments relating to the motions; and
- d. Grant her Motion in Limine to Exclude Evidence of the alleged map scenario;
- e. If this Honorable Court denies the instant Motion in Limine, Ms. Anthony reserves the right to renew this motion at trial.

Respectfully Submitted,



J. CHENEY MASON, attorney for
CASEY MARIE ANTHONY.

JOSE A. BAEZ, attorney for
CASEY MARIE ANTHONY.

Dated: 12.21, 2010

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