

2. The State's failure to allege any facts in its indictment against Miss Anthony violates the plain language of Fla. R.Crim. P. 3.140(b), which explicitly prescribes that a charging instrument set out the "essential facts constituting the offense charged."
 - a. 3.140 (d) defines the statutory citations as an "addition" and thus supplemental to, and not constituting, the facts required in an indictment. Fla. R. Crim. P. Rule 3.140 (d).
 - b. Furthermore, the Supreme Court of Florida has held that while an indictment may track a statute, "it must be supplemented by other factual allegations which set out the acts alleged to constitute the offense with precision and particularity." *State v. Covington*, 392 So.2d 1321, 1322 (Fla.1981). Without such specifics, the indictment is "unconstitutionally vague." *Id.*
 - c. Ultimately, an indictment that omits an essential element of the crime, or is otherwise "vague, indistinct or indefinite," is fundamentally defective. Fla. R.Crim. P. 3.610; *State v. Burnette*, 881 So.2d 693, 695 (Fla. 1st DCA 2004).
3. Not only is the indictment facially defective for failure to comply with statutory provisions, it has contravened the purpose of indictments, which is to inform a defendant of the charge against him. *United States v. Bobo*, 344 F.3d 1076, 1083 (11th Cir.2003).
 - a. Without any facts to refute, Miss Anthony cannot formulate a defense. The State's indictment has only provided the accusation of premeditated murder, which can be effectuated in myriad ways.
 - b. Furthermore, the failure to provide facts violates the notice clauses of the state and federal constitution, both of which mandate that an accused be provided

both the nature and the cause of the charge against him. Art. I, § 16, Fla. Const., U.S Const. amend. VI.

- c. Finally, allowing the State to rest on a bare accusation allows it to conduct a fishing expedition. But a primary purpose of the charging instrument is to ensure that the State will never first detain a defendant and *then* devise theories on which to justify that detention. *Russell v. United States*, 369 U.S. 749, 768 (1962).
4. The bare indictment also deprecates Miss Anthony's right to a grand jury, a right to which she is entitled because this a capital proceeding.
 - a. Both the state and federal constitution provide that no person shall be tried for a capital crime without a grand jury proceeding. Art. I, § 15, Fla. Const., U.S Const. Amend. V.
 - b. Sheer logic dictates that the framers' intent, in decreeing a separate procedure for capital crimes, was not to merely remind the State to articulate the law that it claims the defendant has broken. Yet that is precisely what the State has done, rendering this constitutional provision meaningless.
5. These constitutional concerns are particularly critical given this is a capital case. Because the ultimate punishment of death is categorically different than any other punishment, the United States Supreme Court requires heightened reliability in the decisions made by a judge or jury during the course of a capital trial. *Zant v. Stephens*, 462 U.S. 862, 884 (1983).
6. However, the fundamental defectiveness of the indictment cannot be cured. The United States Supreme Court has held that indictments lacking sufficient facts to

apprise defendants of a charge cannot be cured by a bill of particulars. Any facts that the prosecutor would newly supply in the bill inherently could not be shown to have been relied on by the original grand jury. *Russell v. United States*, 369 U.S. 749, 768 (1962).

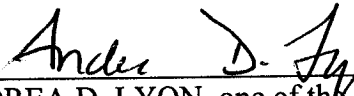
7. The test for granting relief based on a defective indictment is prejudice. 971 So.2d 957, 960 (Fla.App. 5 Dist.,2007). Prejudice, in turn, accrues when an indictment is vague enough to preclude the defendant from preparing his defense. *State v. Barnett*, 344 So.2d 863, 866 (Fla. App. 1977). This is the case here, where the indictment has provided no facts that would enable Miss Anthony to formulate a defense.

Wherefore, in the interests of Casey Marie Anthony's right to due process and a fair trial, and for the reasons cited in her accompanying memorandum of law, the Defense respectfully asks this Honorable Court to:

- a. Order the State 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 State'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 defense and prosecution's motions;
- d. Dismiss the defective indictment against Casey Marie Anthony.

WHEREFORE, the Defendant CASEY MARIE ANTHONY respectfully requests this Honorable Court to enter an order to dismiss the defective indictment.

Respectfully submitted,



ANDREA D. LYON, one of the attorneys for
CASEY MARIE ANTHONY.

JOSE A. BAEZ, one of the attorneys
for CASEY MARIE ANTHONY.

Dated: September ____, 2009

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and /or U.S. Mail on this _____ day of October, 2009.

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)	In the Circuit Court of the
)	Ninth Judicial Circuit, in and for
)	Orange County, Florida
STATE OF FLORIDA)	
)	Case No.: 482008-CF-0015606-O
v.)	Division 16
)	
CASEY MARIE ANTHONY,)	Hon. Stan Strickland
)	
Defendant.)	
)	

**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS
DEFECTIVE INDICTMENT**

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys ANDREA D. LYON and JOSE A. BAEZ, and respectfully submits this Memorandum of Law in support of her Motion to Dismiss the Defective Indictment. In support whereof, Miss Anthony states as follows upon information and belief:

STATEMENT OF FACTS

On October 14, 2008, the State of Florida charged Miss Anthony with a seven count indictment, including the premeditated murder, permanent disfigurement, and criminal neglect of her daughter, Caylee Anthony. *See* Exhibit A. Notably missing from the indictment were any facts - even allegations – that would indicate a basis for the State’s charge on these three counts. *Id.*

SUMMARY OF THE ARGUMENT

The State’s indictment against Miss Anthony must be dismissed. Rather than set out the “essential facts constituting the offense charged” as Florida state law explicitly decrees, the indictment simply - charges an offense. Fla. R.Crim. P. 3.140(b). Yet conclusory statements do not suffice, failing to satisfy not only this statute, but a key constitutional principle on which the

Anglo-American system of criminal law relies: that an accused be informed of the charge against him. Fla. Const. art. I, § 16; U.S. Const. Amend. VI. In simply alleging that one has committed a crime, without anything more, the State in effect shifts the burden to the accused to prove that he has not in fact committed the crime. Instead of refuting facts that the State has laid out, the defendant is refuting an empty accusation, an exercise not unlike trying to prove a negative.

The reasons for requiring more from an indictment than just a bare accusation are manifold, not the least of which is to prevent the State from conducting a fishing expedition. Ill-defined charges leave “the prosecution free to roam at large-to shift its theory of criminality so as to take advantage of each passing vicissitude of the trial and appeal.” *See Russell v. United States*, 369 U.S. 749, 768 (1962). To prevent such an injustice, the Defense respectfully moves this Honorable Court to dismiss the indictment.

ARGUMENT

I. THE INDICTMENT IS DEFECTIVE FOR FAILURE TO COMPLY WITH STATUTORY REQUIREMENTS.

Florida law defines an indictment as a “plain, concise, and definite written statement of the essential facts constituting the offense charged.” Fla. R. Crim. P. 3.140(b). It further prescribes that “[i]n addition, each count shall recite the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated.” Fla. R. Crim. P. Rule 3.140(d). An indictment that omits an essential element of the crime, or is otherwise “vague, indistinct or indefinite,” is fundamentally defective. Fla. R.Crim. P. 3.610; *State v. Burnette*, 881 So.2d 693, 695 (Fla. 1st DCA 2004).

The plain language of the Florida Rule of Criminal Procedure 3.140 renders the indictment defective. Fla. R.Crim. P. 3.140. In direct contravention of 3.140(b), the indictment

is wholly devoid not only of “essential” facts, but any facts at all. Fla. R.Crim. P. 3.140(b). Count 1, for example, in its entirety reads, “The Grand Jurors of the County of Orange, duly called, impaneled, and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that Casey Marie Anthony, between the 15th day of June, 2008 and the 16th day of July, 2008, in said County and State, did, in violation of Florida Statute 782.04(1)(a)(1), from a premeditated design to effect the death of Caylee Marie Anthony, a human being, unlawfully kill Caylee Marie Anthony.” *See* Exhibit A.

The entire charge merely tracks the language of the statute, leaving Miss Anthony to draw her own conclusions as to how the statute applies to her. However, 3.140 (d) defines the statutory citations as an “addition” and thus supplemental to, and not constituting, the facts required in an indictment. Fla. R. Crim. P. Rule 3.140 (d).

Case law confirms that simply tracking the language of the relevant statute will not satisfy the statutory requirement of alleging concrete facts in a charging instrument. For example, in *Covington*, the state charged the defendants with violating anti-fraud provisions. *State v. Covington*, 392 So.2d 1321, 1322 (Fla.1981). At issue was the adequacy of the information, stating that the defendants “did directly or indirectly engage in transactions, practice or course of business with regard to the sale of the bonds of Lake Padgett Estates East Road and Bridge District, Extension No. 3, Pasco County, Florida, which operated as a fraud or deceit upon the said bondholders in connection with their purchase of the said bonds ... contrary to Chapter 517.301(1)(c).” *Id.* at 1323. The defendants asserted that the information was defective, and the Supreme Court of Florida agreed, affirming the lower court’s ruling that the information was insufficiently particular. *Id.* at 1324. An indictment or information may track a statute, it held, but “it *must* be supplemented by other factual allegations which set out the acts alleged to

constitute the offense with precision and particularity.” (emphasis supplied). *Id.* Without particular factual allegations, the Court reasoned, the information failed to convey notice of the accusations with sufficient precision and was impermissibly, even “unconstitutionally,” vague. *Id.*

Such concerns are even more critical in a capital case as they are in one involving a non-violent crime, where the maximum potential sentence is no more than a prison term and more likely a hefty fine. *Covington’s* warnings are directly applicable to the case at bar, in which the charging instrument simply imported the language of the statute and added no facts. *Id.* Indeed, in *Covington* the instrument at least made mention of the specific transactions (“sale of the bonds of Lake Padgett Estates”) which purportedly constituted the alleged crime, and the court still found that it was vague. *Id.* at 1323. Here there is no such mention –the indictment simply contains the accusation of the crime. *See* Exhibit A. When an instrument containing *some* facts fails the particularity test for failing to allege enough facts to put the defendant on notice, surely there can be no question as to the sufficiency of that instrument alleging none at all. *See also United States v. Walker*, 490 F.3d 1282, 1296 (11th Cir. 2007)); *United States v. Bobo*, 344 F.3d 1076, 1083 (11th Cir. 2003) (holding that indictments tracking the language of the relevant statute are sufficient only if they provide a statement of facts sufficient to give notice).

Attached to this motion and memorandum is Exhibit B which illustrates the sharp contrast of Miss Anthony’s indictment with what is a standard indictment against Leonard Patrick Gonzalez, Sr. of Florida. Whereas Miss Anthony’s indictment is devoid of facts she could address, Mr. Gonzalez’s indictment notifies him of the basis for his charge. *Id.* He is accused of invading the home of his victim, and of then murdering him during the midst of the invasion. He is further charged with committing this murder with a firearm, and of doing so on

the precise date of July 9, 2009. *Id.* This indictment stands in sharp contrast to the one against Miss Anthony, which does not even purport to give a basis for the charge against her.

The “fundamental defectiveness” of Miss Anthony’s indictment is further underscored by the *Leonetti* case. *Leonetti v. State*, 418 So.2d 1192, 1194 (Fla.App. 5 Dist., 1982). Searching for words to convey why the information at hand was so defective, the court ultimately likened it to one just like Miss Anthony’s, opining that the information was “as constitutionally deficient as would be one which merely charged that one ‘did in violation of Florida Statute 784.04 commit the crime of murder.’ ” *Id.* at 1194. That the court cited this type of a bare indictment only hyperbolically, as a seemingly clear and indisputable example of what *not* to do, speaks for itself. *Id.*

II. THE INDICTMENT IS DEFECTIVE FOR FAILURE TO COMPLY WITH CONSTITUTIONAL REQUIREMENTS.

The ramifications of the inadequate indictment extend beyond violating statutory precepts on their face. In disregarding the clear statutory directives to allege adequate facts and provide a basis for its formal accusation against Miss Anthony, the state is essentially dismissing the constitutionally mandated requirements of the notice clause. Fla. Const. art. I. § 16; U.S. Const. Amend. VI. But the notice clause is not a suggestion – it is a mandate that protects the due process to which all citizens are entitled, no matter how outwardly unsavory. Allowing the state to flout this mandate empowers it to drum up accusations and detain citizens at will, all the while constructing a theory about why it detained them in the first place. This is wholly unacceptable for at least two reasons: first, it precludes the accused from marshaling a defense. Second, it allows the state to detain citizens for *no reason*, simply an empty charge.

A. Miss Anthony cannot formulate a defense.

The purpose of an indictment is to inform the defendant of a charge. *United States v.*

Bobo, 344 F.3d 1076, 1083 (11th Cir.2003). But there is no such informing in the indictment here. How, then, must Miss Anthony defend herself? Disturbingly, the State only provides the accusation of premeditated murder, which can be effectuated in myriad ways. Is Miss Anthony to try to dream up all these ways and marshal a defense to them all? Provide alibis for every potential scenario, every date and time the State might consider in the range of dates they discuss? The prospect is absurd. The upshot is that Miss Anthony languishes in prison while the State can test out and weigh different theories, so that when the chosen theory is finally revealed Miss Anthony will have to scramble to mount a defense. This gives the State an advantage to which it is not entitled; it need not place every single detail in the indictment, but due process demands that it supply the basics of what, where, and how. That it has not is entirely untenable, and directly contravenes the established law that a “citizen accused of committing a crime, no matter how heinous or reprehensible it may be in the eyes of society, is entitled to be informed as to the nature of the charge against him and afforded the opportunity to prepare his defense prior to being put on trial.” *Reyes v. State*, 253 So.2d 907, 908 (Fla.App. 1971).

B. The State is shifting the burden.

The State has not merely failed to allege enough facts to enable defense preparations. In failing to allege any facts at all, the State has effectively shifted the burdens of pleading and proof, simply charging a crime and inviting Miss Anthony to prove that she did not commit it. But what, exactly, is Miss Anthony to refute? One cannot simply make a blanket assertion of innocence and hope it will stick, although that is perhaps the only logical response to a blanket assertion of guilt. Refuting a general accusation is an impossible task, akin to proving a negative, and this is one of the key reasons that the burden of proof is on the state - for it is the State that initiates the case after all, and frames it. See *Schaffer ex rel. Schaffer v. Weast*, 546

U.S. 49, 56 (2005) (“The burdens of pleading and proof with regard to most facts have been and should be assigned to the plaintiff who generally seeks to change the present state of affairs and who therefore naturally should be expected to bear the risk of failure of proof or persuasion.”). Standard protocol is that the State alleges a cause of action, and then the accused attempts to refute that. Here there is no “cause” of action - only action.

Ultimately, it is not alleged that in providing this defective indictment, the State’s motives derive from bad faith. But there is no good faith exception to due process violations. More importantly, good faith sets the stage for constitutional erosion just as surely as bad faith - perhaps more so because good faith exceptions, more easily rationalized, are not as apt to be noticed.

C. Incomplete Compliance Renders the Indictment Meaningless

The inadequate indictment in this case has enabled the State to escape its duty of providing notice to Miss Anthony, as established above. Because it is so bare, it also fails to guard against the very government oppression that indictments are intended to prevent. *Russell v. United States*, 369 U.S. 749, 768 (1962). And yet, because it is nonetheless an indictment in name it ultimately imbues the State’s case with legitimacy.

1. The indictment fails to guard against government oppression.

Ill-defined charges, the Supreme Court has held, enable the prosecution to detain suspects at will, experimenting with various theories before deciding on the one most likely to win. *Id.* at 768. In forcing the government to establish its cause of action, indictments protect against such threats. It is no coincidence that the ultimate authority mandating indictments is the Fifth Amendment, the very purpose of which is to keep the government in check: “no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or

indictment of a Grand Jury.” U.S. Const. amend. V. This language is echoed in Florida’s constitution, also requiring a grand jury indictment for capital proceedings. Fla. Const. art. I. § 15.

In failing to allege any actual facts, the State has rendered the indictment requirement a mere formality. As applied here, it serves no function except to simply list out statutes that Miss Anthony could very well have looked up on her own. Surely the intent of the framers, in decreeing a separate procedure for capital crimes, was not to merely remind the State to articulate the law that it claims the defendant has broken.

Rather, as established in *Russell*, the purpose of a charging instrument is to ensure that the State will never first detain a defendant and *then* devise theories on which to justify that detention. *Russell v. United States*, 369 U.S. 749, 768 (1962). This purpose is at least as compelling in a capital case. The failure to properly charge a defendant “gives the prosecution free hand on appeal to fill in the gaps of proof by surmise or conjecture,” and this concern is directly applicable here, where the prosecution in a sense is backwards. *Id.* at 768. Instead of starting with the crime and figuring out who did it, the State has essentially started with who did it, and is now trying figure out what crime she might have committed. That this is a capital case, thus requiring heightened reliability per the Eight Amendment and the Supreme Court, makes this even more unacceptable. U.S. Const. Amend. VIII; *Zant v. Stephens*, 462 U.S. 862, 884 (1983).

2. The indictment wrongly legitimizes proceedings

As established above, the statutory and constitutional purposes of the indictment have not been served. But because the State provided the indictment in form, if not function, on the surface it appears that the State has complied. Even though notice was not given nor a cause of

action stated, on the outside it appears as though the State's allegation has withstood the scrutiny of indictment requirements. Thus, in purporting to charge Miss Anthony with the indictment - in name - the State's own case has acquired additional legitimacy. The State can profess to have complied with constitutional mandates, and yet the very tool that was designed to screen out bogus charges and protect the rights of the accused covers up the fact that those rights were ultimately disregarded. *See* U.S. Const. Amend. V.; Fla. Const. art. I. § 15.

The gravity of a capital charge is almost certainly what compelled the constitutional provisions for indictments. Therefore, compliance must be measured by more than whether a writing merely purports to be an indictment.

III. THE INDICTMENT'S FUNDAMENTAL DEFECTIVENESS CANNOT BE CURED.

This indictment is defective because it fails to comply with statutory requirements as established in Section A, and because it deprecates constitutional rights as established in Section B.

The United States Supreme Court has held that a defective indictment cannot be saved by a bill of particulars. In *Russell*, the Supreme Court assessed an indictment's sufficiency based on whether it contained the elements of the offense to be charged and adequately apprised the defendant of what he must be prepared to meet. *Russell v. United States*, 369 U.S. 749, 768 (1962). The court found that the indictment lacked sufficient facts to apprise the defendant of the charge. *Id.* at 769. It further ruled the indictment could not be cured by a bill of particulars because any facts that the prosecutor would newly supply in the bill inherently could not be shown to have been relied on by the original grand jury. Rather, the prosecutor would necessarily be substituting his own findings for the grand jury's. *Id.* at 770. This was unacceptable in light of the court's finding that "when Congress provided that no one could be

prosecuted under 2 U.S.C.A. 192 except upon an indictment, Congress made the basic decision that only a grand jury could determine whether a person should be so charged.” *Id.* In allowing the prosecutor to provide new facts that the grand jury had not assessed, the defendant would be “deprived of a basic protection which....the grand jury was designed to secure.” *Id.* Thus, the court reversed the defendant’s conviction. *Id.* at 772.

The instant case is analogous to *Russell*. The federal and state constitutions, like the statute in *Russell*, have provided that a capital case cannot be prosecuted except upon indictment. U.S. Const. Amend. V; Fla. Const. art. I. § 15. This reflects the intent of the framers of the Fifth Amendment that the accused in a capital case only be charged upon the finding of a grand jury. But the indictment on which the grand jury based its decision is devoid of facts, and thus any supplemental facts that the prosecutor supplies in a bill of particulars can not be shown to have been in the minds of the original grand jurors. *See* Exhibit A. Like in *Russell*, the prosecutor would then be necessarily substituting his own findings for the jury’s. This then would deprive Miss Anthony of the basic protection of the grand jury to which the Fifth Amendment entitles her. To prevent such an injustice, the indictment against Miss Anthony must be dismissed.

Bradley v. State provides that the test for granting relief based on a charging instrument is prejudice. 971 So.2d 957, 960 (Fla.App. 5 Dist.,2007). Prejudice, in turn, accrues when an indictment is vague enough to preclude the defendant from preparing his defense. *State v. Barnett*, 344 So.2d 863, 866 (Fla. App. 1977). A “vague” indictment in the case of *Barnett* was one that one simply tracked the language of the statute, and was thus “woefully short on facts.” *Id.* at 864. It was therefore dismissed.

Barnett’s reasoning is applicable to the instant case. *Id.* Miss Anthony’s indictment is

also short on facts- and in fact lacks them entirely. As well, it also only tracks the statute. It therefore is vague enough to prevent any defense preparations, the inability of which, per *Barnett*, prejudices Miss Anthony. *Id* Under *Bradley*, then, the indictment must be dismissed. 971 So.2d at 960.

CONCLUSION

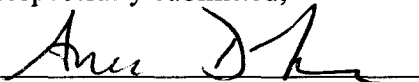
The State's indictment against Miss Anthony is devoid of facts, thus violating statutory law. It neither provides notice nor states a cause of action, thus violating constitutional law. Furthermore, because it is lacking in facts, Miss Anthony cannot prepare a defense and is thereby prejudiced.

Wherefore, in the interests of Casey Marie Anthony's right to due process and a fair trial, the Defense respectfully asks this Honorable Court to:

- a. Order the State 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 State'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 defense and prosecution's motions;
- d. Dismiss the defective indictment against Casey Marie Anthony.

WHEREFORE, the Defendant CASEY MARIE ANTHONY respectfully requests this Honorable Court to enter an order to dismiss the defective indictment.

Respectfully submitted,



ANDREA D. LYON, one of the attorneys for
CASEY MARIE ANTHONY.

JOSE A. BAEZ, one of the attorneys
for CASEY MARIE ANTHONY.

Dated: October ____, 2009

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and /or U.S. Mail on this _____ day of October, 2009.

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EXHIBIT A

INDICTMENT AGAINST CASEY MARIE ANTHONY

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

SPRING TERM, 2008

THE STATE OF FLORIDA

VS.

CASEY MARIE ANTHONY

**INDICTMENT
CASE NUMBER #**

DIVISION -

- 1. FIRST DEGREE MURDER (CAPITAL)**
- 2. AGGRAVATED CHILD ABUSE (F1-L9)**
- 3. AGGRAVATED MANSLAUGHTER OF A CHILD (F1-L10)**
- 4. PROVIDING FALSE INFORMATION TO A LAW ENFORCEMENT OFFICER**
- 5. PROVIDING FALSE INFORMATION TO A LAW ENFORCEMENT OFFICER**
- 6. PROVIDING FALSE INFORMATION TO A LAW ENFORCEMENT OFFICER**
- 7. PROVIDING FALSE INFORMATION TO A LAW ENFORCEMENT OFFICER**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

The Grand Jurors of the County of Orange, duly called, impaneled and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that CASEY MARIE ANTHONY, between the 15th day of June, 2008 and the 16th day of July, 2008, in said County and State, did, in violation of Florida Statute 782.04(1)(a)(1), from a premeditated design to effect the death of CAYLEE MARIE ANTHONY, a human being, unlawfully kill CAYLEE MARIE ANTHONY.

COUNT TWO

And the Grand Jurors of the County of Orange, duly called, impaneled and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that CASEY MARIE ANTHONY, between the 15th day of June, 2008 and the 16th day of July, 2008, in said County and State, did knowingly or willfully, in violation of Florida Statute 827.03(2) cause great bodily harm, permanent disfigurement or permanent disability to CAYLEE MARIE ANTHONY, a child under 18 years of age, by intentionally inflicting physical injury upon CAYLEE MARIE ANTHONY, or by intentionally committing an act or actively encouraging another person to commit an act which could reasonably be expected to result in physical injury to CAYLEE MARIE ANTHONY.

COUNT THREE

And the Grand Jurors of the County of Orange, duly called, impaneled and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that CASEY MARIE ANTHONY, between the 15th day of June, 2008 and the 16th day of July, 2008, in said County and State, did willfully or by culpable negligence, in violation of Florida Statutes 782.07(3) and 827.03(3), while a caregiver to CAYLEE MARIE ANTHONY, a child under 18 years of age, fail or omit to provide CAYLEE MARIE ANTHONY with the care, supervision and services necessary to maintain CAYLEE MARIE ANTHONY'S physical and mental health, or fail to make a reasonable effort to protect CAYLEE MARIE ANTHONY from abuse, neglect or exploitation by another person, and in so doing caused the death of CAYLEE MARIE ANTHONY.

COUNT FOUR

The Grand Jurors of the County of Orange, duly called, impaneled and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that CASEY MARIE ANTHONY, on the 16th day of July, 2008, in said County and State, did, in violation of Florida Statute 837.055, knowingly and willfully give false information to YURI MELICH, a law enforcement officer with the ORANGE COUNTY SHERIFF, who was conducting a missing person investigation, with the intent to mislead YURI MELICH or impede his investigation, to-wit: that CASEY MARIE ANTHONY was employed at Universal Studios Orlando during the year 2008.

COUNT FIVE

The Grand Jurors of the County of Orange, duly called, impaneled and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that CASEY MARIE ANTHONY, on the 16th day of July, 2008, in said County and State, did, in violation of Florida Statute 837.055, knowingly and willfully give false information to YURI MELICH, a law enforcement officer with the ORANGE COUNTY SHERIFF, who was conducting a missing person investigation, with the intent to mislead YURI MELICH or impede his investigation, to-wit: that CASEY MARIE ANTHONY left the child CAYLEE MARIE ANTHONY at the Sawgrass Apartments, 2863 South Conway Road, Apt. 210, Orlando, Florida with a person identified as ZENAIDA FERNANDEZ-GONZALEZ on June 9, 2008 or any subsequent date.

COUNT SIX

The Grand Jurors of the County of Orange, duly called, impaneled and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that CASEY MARIE ANTHONY, on the 16th day of July, 2008, in said County and State, did, in violation of Florida Statute 837.055, knowingly and willfully give false information to YURI MELICH, a law

enforcement officer with the ORANGE COUNTY SHERIFF, who was conducting a missing person investigation, with the intent to mislead YURI MELICH or impede his investigation, to-wit: that CASEY MARIE ANTHONY informed persons identified as JEFFREY MICHAEL HOPKINS and JULIETTE LEWIS, former Universal Studios Orlando employees, of the disappearance of the child CAYLEE MARIE ANTHONY between June 9, 2008 and July 16, 2008.

COUNT SEVEN

The Grand Jurors of the County of Orange, duly called, impaneled and sworn to inquire and true presentment make in and for the body of the County of Orange, upon their oaths do present that CASEY MARIE ANTHONY, on the 16th day of July, 2008, in said County and State, did, in violation of Florida Statute 837.055, knowingly and willfully give false information to YURI MELICH, a law enforcement officer with the ORANGE COUNTY SHERIFF, who was conducting a missing person investigation, with the intent to mislead YURI MELICH or impede his investigation, to-wit: that CASEY MARIE ANTHONY received a phone call from the child CAYLEE MARIE ANTHONY on July 15, 2008 at approximately 12:00 pm.

A TRUE BILL

Foreman of the Grand Jury

As authorized and required by law, I have advised the Grand Jury returning this indictment.

LAWSON LAMAR, STATE ATTORNEY
Ninth Judicial Circuit of Florida

Filed and presented in Open Court, in the presence of the Grand Jury this ____ day of October, 2008.

LYDIA GARDNER
Clerk of the Circuit Court

By: _____
Deputy Clerk

EXHIBIT B

INDICTMENT AGAINST LEONARD PATRICK GONZALEZ, SR.

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR
ESCAMBIA COUNTY, FLORIDA**

**AT THE SPRING TERM HEREOF,
IN THE YEAR OF OUR LORD,
TWO THOUSAND NINE**

INDICTMENT

(SUPERCEDING INFORMATION FILED ON 7/31/09 IN CASE NUMBER 2009CF003249A)

COUNT 1: THE GRAND JURORS OF THE STATE OF FLORIDA, LAWFULLY SELECTED, IMPANELED AND SWORN, INQUIRING IN AND FOR THE BODY OF THE COUNTY OF ESCAMBIA UPON THEIR OATHS AS GRAND JURORS, DO PRESENT THAT **LEONARD PATRICK GONZALEZ, SR, on or about July 9, 2009**, at and in **Escambia County, Florida**, did unlawfully from a premeditated design to effect the death of a human being, to-wit: **BYRD BILLINGS**, or while engaged in the perpetration of or in an attempt to perpetrate a felony, to-wit: **Home Invasion Robbery**, did kill and murder said **BYRD BILLINGS** by **shooting him with a firearm**, and in the process thereof did use, carry or possess a weapon, to-wit: **a firearm**, in violation of Sections 782.04 and 775.087, Florida Statutes. **(CF)**

COUNT 2: THE GRAND JURORS OF THE STATE OF FLORIDA, LAWFULLY SELECTED, IMPANELED AND SWORN, INQUIRING IN AND FOR THE BODY OF THE COUNTY OF ESCAMBIA UPON THEIR OATHS AS GRAND JURORS, DO PRESENT THAT **LEONARD PATRICK GONZALEZ, SR, on or about July 9, 2009**, at and in **Escambia County, Florida**, did unlawfully from a premeditated design to effect the death of a human being, to-wit: **MELANIE BILLINGS**, or while engaged in the perpetration of or in an attempt to perpetrate a felony, to-wit: **Home Invasion Robbery**, did kill and murder said **MELANIE BILLINGS** by **shooting her with a firearm**, and in the process thereof did use, carry or possess a weapon, to-wit: **a firearm**, in violation of Sections 782.04 and 775.087, Florida Statutes. **(CF)**

COUNT 3: THE GRAND JURORS OF THE STATE OF FLORIDA, LAWFULLY SELECTED, IMPANELED AND SWORN, INQUIRING IN AND FOR THE BODY OF THE COUNTY OF ESCAMBIA UPON THEIR OATHS AS GRAND JURORS, DO PRESENT THAT **LEONARD PATRICK GONZALEZ, SR, on or about July 9, 2009**, at and in **Escambia County, Florida**, did unlawfully enter a dwelling located at **9717 Mobile Highway** with the intent to commit a robbery, and did commit a robbery of **BYRD BILLINGS**, an occupant therein, and in the course of committing the offense, the said **LEONARD PATRICK GONZALEZ, SR** did carry and actually possess a firearm, to-wit: **a firearm**, in violation of Sections 812.135(1) and (2)(a) and 775.087, Florida Statutes. **(F1PBL-L10)**