

STATE OF FLORIDA

v.

CASEY MARIE ANTHONY,  
Defendant.

)  
) In the Circuit Court of the  
) Ninth Judicial Circuit, in and for  
) Orange County, Florida  
)  
) Case No.: 482008-CF-0015606-O  
) Division 16  
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**MOTION TO PRECLUDE THE STATE'S IMPERMISSIBLE, GENDER BIASED,  
REQUEST FOR IMPOSITION OF THE DEATH PENALTY**

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COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through undersigned counsel, who respectfully asks this Honorable Court to secure her rights as guaranteed by the Sixth, Eighth, and Fourteenth Amendments of the United States Constitution and Article I, Sections 9, 16, 17, 21 and 22 of the Florida Constitution by precluding the State from seeking the death penalty for an impermissible reason. In support thereof, Miss Anthony states the following:

1. The judiciary has the authority to intervene in matters of prosecutorial discretion, such as the decision to seek the death penalty, when the State has an impermissible motive. *See State v. Donner*, 500 So.2d 532, 533 (Fla. 1987).
2. Given the requirement of heightened reliability in capital cases, this Court must ensure that the State's decision to seek the death penalty is not driven by an impermissible motive. *See Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).
3. The State's case against Miss Anthony lacks the evidence necessary to support a good faith basis for their decision to seek the death penalty. The State's decision

to seek the death penalty, without evidentiary support, violates Miss Anthony's constitutional right to a fair trial and due process. Miss Anthony's previous Motion, and supporting Memorandum of Law, to Preclude the Death Penalty Procedures, filed September 30, 2009, and denied on December 18, 2009, is incorporated here by reference.

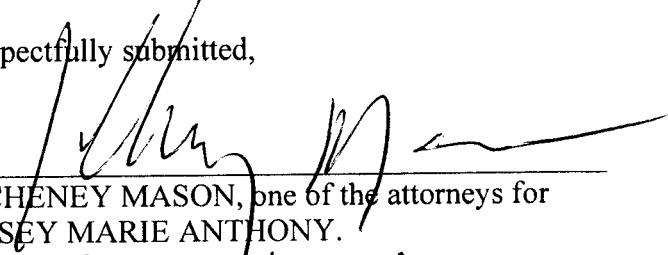
4. There exists an inherent bias against women accused of crimes, reflected in both society and in the court system. Women are not traditionally thought of as being capable of the same types of violent crime that men are. For this reason, women who are accused of violent crimes are tried not only for the facts of the crime, but also for their non-conformity with traditional gender expectations. The bias is even greater against mothers, especially in instances where something happens to their child. In American society, mothers are often thought to be responsible anytime an injury occurs to their child, regardless of their individual actions.
5. The societal bias against women provides the State with a way of deflecting attention away from the insufficiency of the evidence in Miss Anthony's case. By focusing on the degree of Miss Anthony's non-conformity with traditional gender expectations, and given the intense media scrutiny in the case, the State appears to be relying on an impermissible motive for reversing the prior decision not to seek the death penalty, instead choosing to seek to execute Miss Anthony.
6. The State, specifically Orange County, has failed to seek the death penalty against a large number of men, accused of killing children. Evidence, uncovered by the defense, without having access to the expansive records kept by the State, appears to show a pattern of Orange County prosecutors disproportionately

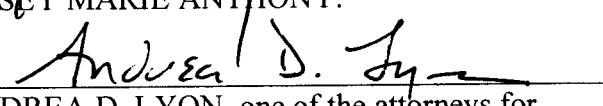
seeking the death penalty against women. *See supporting Memorandum of Law.*  
For this reason, the burden should shift to the State to show conclusively that the decision to seek to execute Miss Anthony is not based on an impermissible, gender-biased, motive.

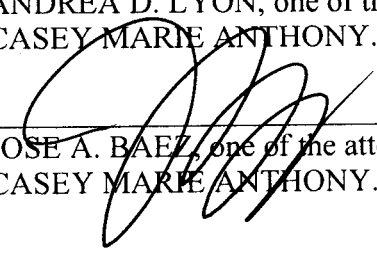
WHEREFORE, for the foregoing reasons, the Defense, in the interest of protecting Miss Anthony's constitutional rights, respectfully requests this Honorable Court to preclude the State from impermissibly seeking the death penalty and to:

- 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. In this response, the State should have the burden of showing that they are not seeking the death penalty because of impermissible motives, and should be compelled to present more than conclusory statements in this regard;
- 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 State's motions;

Respectfully submitted,

  
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CASEY MARIE ANTHONY.

  
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ANDREA D. LYON, one of the attorneys for  
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Dated: April 28, 2010

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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 28 day of April, 2010.



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