

COPY

)	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. BELVIN PERRY JR.
)	
Defendant.)	

MOTION TO TEST FOR DNA EVIDENCE

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys JOSE A. BAEZ, and J. CHENEY MASON, under Florida Rule of Criminal Procedure 3.220 (b)(1), hereby moves this Honorable court to test items in the possession of the State of Florida for DNA evidence and in support thereof states the following: Under F.R.C.P (b)(1), the Defense is entitled to “inspect, copy, test and photograph,” reports or statements of experts made in connection with a particular case, including results of scientific tests. Tests for Deoxyribonucleic acid clearly fall under that category.

The Defense has identified certain items of evidence it wishes those items are:

1. A canvas bag found a the recovery site and
2. The shorts that the State of Florida believes was worn by Caylee Marie Anthony.

Assistant State Attorney Jeffrey Ashton has objected to the physical location of where the defense wishes to test the items for DNA. Mr. Ashton objects and insists on the following limitations:

1. That the evidence be tested in the United States, and
2. That the lab be ASCLAD (American Society of Crime laboratory directors) certified.

The Florida Rules of Criminal Procedure and current case law do not place any such restrictions or limitations on the Defense. Mr. Ashton's rules are not binding on either this Honorable Court or the Defense.

DNA LABORATORY GENERALLY

Not all DNA laboratories are Crime labs. A vast majority of them are not. Since 1982 the American Society of Crime Laboratory Directors has been accrediting Federal, State and local crime laboratories, of the 385 crime laboratories that are accredited by ASCLD/LAB as of September 14, 2010. The list of accredited laboratories includes 191 state laboratories, 126 local agency laboratories, 24 federal laboratories, 16 international (outside the United States) laboratories and 28 private. Needless to say law enforcement has cornered the market of "CRIME LABORATORIES." For example of the 15 ASCLAD certified laboratories in the State of Florida ALL 15 are directly affiliated with governmental law enforcement. In order to conduct truly independent forensic testing many Lawyers have relied on experts from areas of academia or former law enforcement, to test evidence and draw away from the inherently biased approach of law enforcement only testing. This critical fact became a focal point in last years study by the National Academy of Sciences report. (A copy of said report has been filed in previous motions to this Honorable Court)

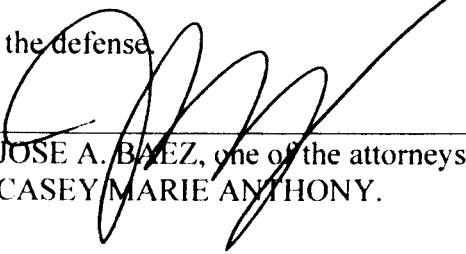
The Defense has retained DNA expert Richard Eikelenboom of Independent Forensic Services. (See Exhibit A for Mr. Eikelenboom's CV) Mr. Eikelenboom is world renowned and highly regarded as a pioneer in the field of touch DNA, an area that could prove useful to the Defense. Many laboratories in the United States have not mastered this technique, thereby

placing a severe restriction on its ability to find an expert with this expertise. Independent Forensic Services is accredited with the Dutch accreditation counsel RVA, which is a member of ILAC (International Laboratory Accreditation Cooperation), which is the premier governing body that regulates laboratories internationally. ASCLAD is also a member of ILAC, which recognizes Independent Forensic Services as meeting all standards and requirements for DNA testing.

SUMMARY

The Defense has been successful in retaining a premier and highly qualified expert that is willing to test the items of evidence *pro bono*. Yet the State of Florida insists on placing a burden on the Defense and the taxpayers of the State of Florida. There is no case law that the State can rely on in placing these restrictions nor is this limitation outlined in the Florida Rules of Criminal Procedure. In the event that this Honorable Court denies the defense's request to use Independent Forensic Services, the Defense respectfully requests that this Honorable Court approve the DNA testing and appoint National Medical Services of Willow Grove Pennsylvania. The defense also hereby waives any chain of custody arguments as to the items that the defense requests be tested.

WHEREFORE, the Defendant CASEY MARIE ANTHONY respectfully requests this Honorable Court to approve DNA testing for the defense.



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

Dated: 9/27, 2010

J. Cheney Mason

390 N. Orange Avenue, Suite 2100
Orlando, FL 32801
407-843-5785 (phone)
407-422-6858 (fax)

Jose A. Baez
The Baez Law Firm
522 Simpson Road
Kissimmee, FL 34744
407-705-2626(phone)
407-705-2625 (fax)