

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

CASE NUMBER 2008-CF-15606

STATE OF FLORIDA,  
Plaintiff,

v.

CASEY MARIE ANTHONY,  
Defendant.

ORDER DENYING MOTION FOR PROTECTIVE  
ORDER WITH RESPECT TO PENALTY PHASE DISCOVERY

This matter came to be heard on May 11, 2010 on the Motion for Protective Order With Respect to Penalty Phase Discovery, filed April 28, 2010.

The defense argued Florida Rule of Criminal Procedure 3.220 does not require pre-trial disclosure of penalty phase discovery materials, so there should be no requirement to provide a list of mitigation witnesses prior to trial. The state argued the defense chose to participate in discovery, which triggered reciprocal obligations that include the sentencing phase of a capital trial, citing *Booker v. State*, 634 So. 2d 301, 302 (Fla. 5th DCA 1994).

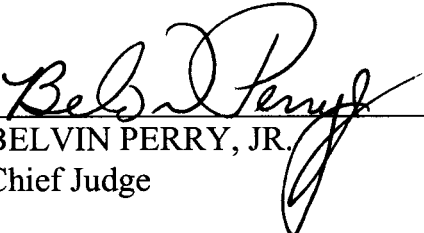
This Court is bound by *Booker* and notes that another district court of appeal issued a similar opinion in *State v. Clark*, 644 So. 2d 556 (Fla. 2d DCA 1994).

It is hereby ORDERED AND ADJUDGED:

1. The Motion for Protective Order With Respect to Penalty Phase Discovery is DENIED.

2. If a particular witness will face public harassment, the defense may file a specific motion regarding that witness and the Court will consider a restriction on public disclosure of the name and address.

DONE AND ORDERED in chambers at Orlando, Orange County, Florida this  
11th day of May 2010.

  
BELVIN PERRY, JR.  
Chief Judge

Certificate of Service

I certify that a copy of the foregoing Order Denying Motion for Protective Order With Respect to Penalty Phase Discovery has been provided this 11th day of May 2010 to the following:

- Linda Drane Burdick, Jeffrey L. Ashton, and Frank George, Assistant State Attorneys, 415 North Orange Avenue, Orlando, Florida 32801
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- J. Cheney Mason, Esquire, J. Cheney Mason, P.A., 390 North Orange Avenue, Suite 2100, Orlando, Florida 32801
- Andrea Lyon, Esquire, Director, Center for Justice in Capital Cases, DePaul University College of Law, 1 East Jackson Boulevard, Chicago, Illinois 60604
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Jill Gay  
Judicial Assistant