

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

STATE OF FLORIDA,

Case No.: 48-2008-CF-15606-O

Division: 16

Plaintiff,

vs.

CASEY MARIE ANTHONY,

Defendant.

_____ /

ORDER DENYING MOTION FOR RECONSIDERATION

THIS MATTER came before the Court for hearing on October 29, 2010, on the Defendant's Motion for Reconsideration, filed on October 15, 2010. After carefully considering the Motions, arguments of counsel, and the law, the Court finds and determines as follows:

Counsel for the defense petitions the Court to reconsider the previously-rendered denial of its motion to seal jail visitation log records. The Defense also requests that the Court find that the jail commissary records, telephone, and visitation logs are not subject to public disclosure under Florida's Public Records Act.

Orange County, on behalf of the Orange County Jail, and the Orlando Sentinel have filed motions in opposition.

On June 7, 2010, this Court entered an Order Denying Motion to Seal Jail Visitation Log Records. The Defense has now filed a Motion for Reconsideration asking the Court once again to seal the jail visitation log and to include the telephone logs and commissary records based upon a recent decision from the Fourth District Court of Appeal, *Bent v. State*, 2010 WL 3766948 (Fla. 4th DCA 2010). The Defense alleges that this result is mandated by the appellate court's holding. For the reasons set forth, *infra*, the Court disagrees.

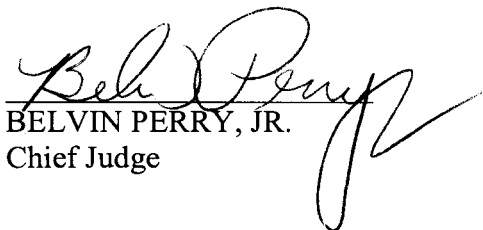
As a threshold matter, the decision in *Bent* is not yet final. However, even assuming *arguendo* that the decision stands, it is inapplicable to the case at bar. Indeed, the *Bent* decision involved recordings of personal telephone calls of two juvenile inmates who were awaiting prosecution in the Broward County Jail. The appellate court found that the telephone recordings were not public records because they consisted of the personal conversations of the defendants and were not “prepared with the intent of perpetuating or formalizing knowledge in connection with the transaction of official agency business.” *Id. citing State v. City of Clearwater*, 863 So. 2d 149, 154 (Fla. 2003). The determining factor is the nature of the record, not its physical location. 863 So. 2d at 154. *See also Kight v. Dugger*, 574 So.2d 1066, 1068-69 (Fla. 1990).

More importantly, the *Bent* decision clearly excepted the administrative logs at issue in the case *sub judice* by stating that “the recordings are personal phone calls, *as opposed to records generated by [the jail], such as mail logs or logs of phone numbers called.*” (Emphasis supplied).

Because the records at issue in the instant case are made for the purpose of operating a jail, e.g., tracking persons who call and visit, keeping an inventory of items sold in the commissary, they by their very nature constitute “documents made or received in connection with the transaction of official business by any agency.” § 119.011(12), Fla. Stat. (2009).

Accordingly, the Defendant’s Motion to Reconsider is DENIED.

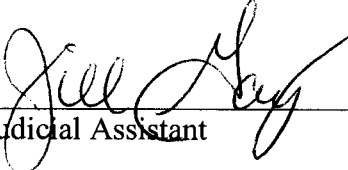
DONE AND ORDERED in chambers at Orlando, Orange County, Florida, this 2nd day of November 2010.


BELVIN PERRY, JR.
Chief Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished by U.S. Mail or hand delivery this 2nd day of November, 2010 to:

- Linda Drane Burdick, Jeffrey L. Ashton, and Frank George, Assistant State Attorneys, Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801;
- Jose Baez, Esquire, The Baez Law Firm, 522 Simpson Road, Kissimmee, Florida 34744;
- J. Cheney Mason, Esquire, J. Cheney Mason, P.A., 390 North Orange Avenue, Suite 2100, Orlando, Florida 32801;
- Gregg D. Thomas, Esquire, Thomas and LoCicero, 400 N. Ashley Dr., Ste. 1100, Tampa, Florida 33602, Attorney for the Orlando Sentinel;
- Tamara L. Gappen, Assistant County Attorney, Orange County Attorney's Office, Orange County Administration Center, P.O. Box 1392, Orlando, Florida 32802.


Judicial Assistant