

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 IN LIMINE TO PROHIBIT THE USE, IN ANY FASHION, OF
A POSTING ON THE INTERNET MYSPACE REFERENCES ATTRIBUTABLE TO CINDY
ANTHONY, THE MOTHER OF THE DEFENDANT

THIS CAUSE came before the Court for consideration of this defense Motion, which was filed December 30, 2010, and the State's response, filed January 18, 2011.

The defense alleges that the posting, attributed to the Defendant's mother Cindy, does not meet the test of relevancy because it does not tend to prove or disprove any issue in this case, and any probative value would be substantially outweighed by the danger of unfair prejudice.

The State argues that every act of the Defendant between June 16, 2008 and July 15, 2008 is relevant to rebut her statements that Caylee was taken from her and that she was conducting her own investigation into her daughter's whereabouts. Specifically, the State contends that this posting on "MySpace" is relevant to show what the Defendant did or did not do in response to Cindy's attempts to see her granddaughter, Caylee.¹ The Court agrees.

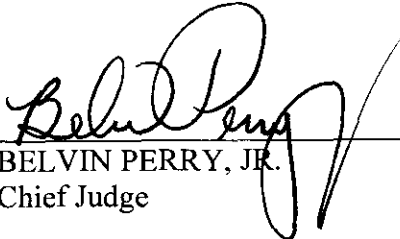
¹ As indicated, this case involves a profile posted on a social media networking site, MySpace. Such Web sites, which include Facebook, LinkedIn, Plaxo, and Twitter, are increasingly popular vehicles for the dissemination of personal information posted on individualized profiles. Social media Web sites offer users multi-faceted avenues to "network" with fellow users, along with control over the content of their profiles. The Court of Appeals explained in *Independent Newspapers, Inc. v. Brodie*, 407 Md. 415, 424 n. 3, 966 A.2d 432 (2009): "Social networking sites and blogs are sophisticated tools of communication where the user voluntarily provides information that the user wants to share with others.... The user can choose what information to provide....as well as the option to tightly control the dissemination of [posted] information." *Id.*

In Professor McCormick's famous formulation: "An item of evidence, being but a single link in the chain of proof, need not prove conclusively the proposition for which it is offered....It is enough if the item could reasonably show that a fact is slightly more probable than it would appear without that evidence....**A brick is not a wall.**" John W. Strong, McCormick on Evidence § 185 (5th ed.1999). (Emphasis supplied). In other words, "[e]vidence is not subject to exclusion solely because its probative value is extremely low. If evidence has any probative value whatsoever, it is relevant and admissible unless otherwise excludable for an affirmative reason."

There is nothing inherently prejudicial about this posting, nor is it likely to inflame the passions of the jury. Thus, the potentially prejudicial effect of this evidence does not outweigh its potentially probative value. It is relevant to show the Defendant's state of mind during the time when Caylee Marie Anthony was missing, and ultimately, when it was determined that she had died. The weight of this evidence is a matter for the jury.

It is hereby ORDERED AND ADJUDGED that the Motion in Limine to Prohibit the Use, in any Fashion, of a Posting on the Internet MySpace References Attributable to Cindy Anthony, the Mother of the Defendant is DENIED.

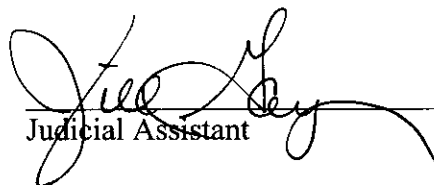
DONE AND ORDERED in chambers at Orlando, Orange County, Florida this 11th day of February 2011.


BELVIN PERRY, JR.
Chief Judge

Certificate of Service

I certify that a copy of the foregoing Order has been provided this 11th day of February 2011 to the following:

- Linda Drane Burdick, Jeffrey L. Ashton, and Frank George, Assistant State Attorneys, 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


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