

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 TO PRECLUDE
STATE'S IMPERMISSIBLE, GENDER-BIASED
REQUEST FOR IMPOSITION OF THE DEATH PENALTY

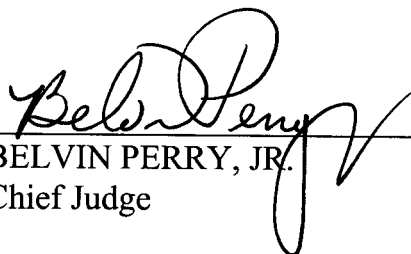
This matter came to be heard on May 11, 2010 on the Motion to Preclude State's Impermissible, Gender-Biased Request for Imposition of the Death Penalty, filed April 28, 2010 together with a Memorandum of Law. Over the State's objection, the defense was allowed to introduce the testimony of Elizabeth Rapaport, a professor at the University of New Mexico School of Law, on the issue of gender bias in death penalty proceedings.

The Court has reviewed the Motion and Memorandum, as well as *State v. Donner*, 500 So. 2d 532 (Fla. 1987); *State v. Bloom*, 497 So. 2d 2 (Fla. 1986); and *Wade v. State*, 2010 WL 1791142 (Fla. May 6, 2010); and Article 2, Section 3 of the Florida Constitution, as well as *McCleskey v. Kemp*, 481 U.S. 279 (1987) (on the general issue of bias in the imposition of death sentences). A trial judge cannot interfere with the prosecutor's decision to seek the death penalty in a first-degree murder case without documentation of an improper motive, such as bad faith, race, religion, or the desire to

prevent the exercise of the defendant's constitutional rights. *Donner*, 500 So. 2d at 533; *Bloom*, 497 So. 2d at 3. The Court would require "exceptionally clear proof" before inferring that prosecutorial discretion has been abused. *McCleskey*, 481 U.S. at 298. However, the defense has not met its burden of establishing an impermissible, gender-biased motive on the part of the prosecution in this case.

It is hereby ORDERED AND ADJUDGED that this Motion is DENIED.

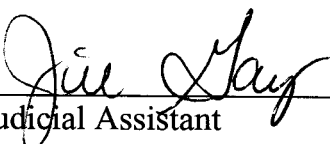
DONE AND ORDERED in chambers at Orlando, Orange County, Florida this 11th day of May 2010.


BELVIN PERRY, JR.
Chief Judge

Certificate of Service

I certify that a copy of the foregoing Order Denying Motion to Preclude State's Impermissible, Gender-Biased Request for Imposition of the Death Penalty 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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