

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 GRANTING IN PART AND DENYING
IN PART MOTION TO TEST FOR DNA EVIDENCE

This matter came before the Court for consideration of the Motion for DNA Testing filed September 27, 2010 by counsel for the defense. It was addressed at the status hearing conducted the same day; Jose Baez and Cheney Mason were present for the defense; Linda Drane Burdick and Jeff Ashton were present for the state.

The defense has retained Richard Eikelenboom¹ of Independent Forensic Services, which is accredited by the Dutch accreditation counsel RVA, a member of the International Laboratory Accreditation Cooperation (ILAC). Mr. Eikelenboom is described as a pioneer in the field of touch DNA and is willing to test the items of evidence pro bono. The state objects and asks that the evidence be tested in the United States by a lab certified by the American Society of Crime Laboratory Directors (ASCLD).

¹ The defense states that his CV is attached to the Motion as Exhibit A, but there are no attachments to the Motion scanned by the Clerk of Court.

Pursuant to Florida Rule of Criminal Procedure 3.853(c)(7),

The court-ordered DNA testing shall be ordered to be conducted by the Department of Law Enforcement or its designee, as provided by statute. However, the court, upon a showing of good cause, may order testing by another laboratory or agency certified by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB) or Forensic Quality Services, Inc. (FQS) if requested by a movant who can bear the cost of such testing.

In re: Amendments to Florida Rule of Criminal Procedure 3.853, 35 Fla. L. Weekly S481 (Fla. September 2, 2010).

After hearing arguments of counsel, it is ORDERED AND ADJUDGED:

1. The Motion to Test for DNA Evidence is GRANTED in part to permit testing of the canvas bag found at the recovery site and a pair of shorts believed to have been worn by Caylee Marie Anthony.

2. The Motion is DENIED to the extent that the defense seeks to have the evidence tested by a foreign laboratory, regardless of accreditation. Testing must be conducted within the United States.

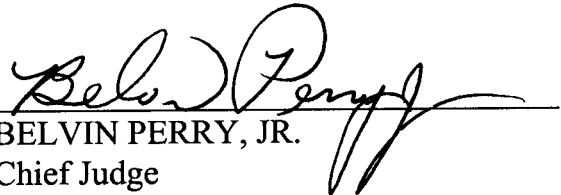
3. Testing shall be conducted by an ASCLD-certified lab.

4. The state has indicated it has no objection to the appointment of the defense's alternate lab request: National Medical Services, d/b/s NMS Labs, Criminalistics Laboratory, located in Willow Grove, Pennsylvania, which is ASCLD-certified.

5. Therefore, National Medical Services shall be appointed to conduct the testing of the bag and shorts.

6. The deadlines for examination of evidence and deposition of experts shall continue to apply.

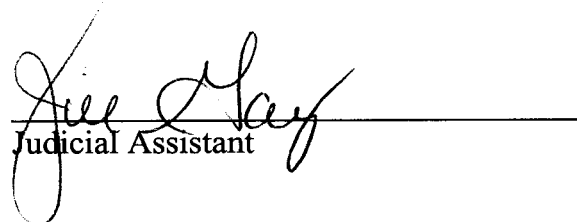
DONE AND ORDERED in chambers at Orlando, Orange County, Florida this 28th day of September 2010.


BELVIN PERRY, JR.
Chief Judge

Certificate of Service

I certify that a copy of the foregoing Order Granting in Part and Denying in Part Motion to Test for DNA Evidence has been provided this 28th day of September 2010 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
- Linda Kenney Baden, Esquire, 15 West 53rd Street, Suite 18B, New York, New York 10019


Judicial Assistant