

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

STATE OF FLORIDA,

CASE NO.: 2008-CF-015606-O

Plaintiff,

vs.

CASEY MARIE ANTHONY,

Defendant.

**ORDER ON DEFENDANT'S MOTION TO COMPEL PRODUCTION OF
TAPE RECORDED STATEMENT OF JOE JORDAN**

On October 27th, 2009, the Orange County Sheriff's Office received a phone call from a man identifying himself as Joe Jordan. Mr. Jordan informed Corporal Eric Edwards that he had been interviewed earlier in the day by Mort Smith, an investigator for the defense. Further, Mr. Jordan explained that he surreptitiously recorded the interview, which is a violation of Florida Statute 934.03.

Later, the State sought a protective order regarding the surreptitious recording with the Court ordering that the illegally recorded interview of Mr. Jordan shall not be used by any person or disclosed by or to any person, pending further order of the Court.¹ Subsequently, Mr. Jordan was interviewed by law enforcement in the presence of a prosecutor on November 5th, 2009. Apparently, his representations made during the November 5th interview materially conflict with the representations made by him at his interview on October 27th with Investigator Smith.

¹ The protective order was entered December 16th, 2009.

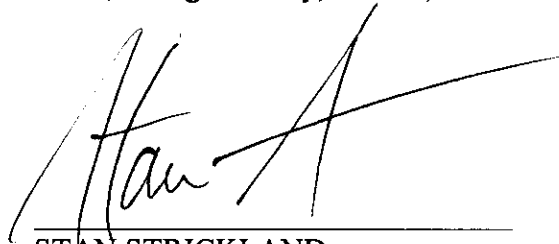
Both parties present in addition to Mr. Jordan at the first interview on October 27th (Investigator Smith and Counsel Kelly Sims) have declined to seek any prosecution of Mr. Jordan for the surreptitious recording in violation of F.S. 934.03(4). Since Mr. Jordan is not in legal jeopardy, defense counsel argues that the surreptitious recording wherein Mr. Jordan ostensibly stated that he had personally searched the area (in September 2008) where the victim was found, and that the area was dry and void of remains, constitutes a “clearly exculpatory” statement. Therefore, they argued, they should be entitled to same. Respectfully, the Court disagrees. Placed in context, statement number one is certainly of no more value than the second statement given to law enforcement. Additionally, Investigator Smith has provided a sworn statement wherein he testified as to the contents of the first statement. Thus, what Mr. Jordan stated in the first interview is hardly a mystery. Direct testimony regarding what Mr. Jordan stated is still available via the testimony of Investigator Smith. Therefore, the second statement to law enforcement can still be attacked by the defense as being in conflict with the first statement.

Florida Statute 943.06 states:

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any Court, Grand Jury, department, officer, agency, regulatory body, legislative committee, or other authority of the State, or a political subdivision thereof, if the disclosure of that information would be a violation of this Chapter.

Thus, the dictates of the Statute are clear. In the event that Mr. Jordan denies making the first statement, or any material parts thereof, the Court reserves the right to consider any additional option.


DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, this 7th day
of April, 2010.



STAN STRICKLAND
Circuit Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order has been furnished via U.S. Mail or hand delivery to Linda Drane Burdick, Esquire, Jeff Ashton, Esquire, and Frank George, Esquire, Office of the State Attorney, 415 North Orange Avenue, Orlando, FL 32801; to Jose Baez, Esquire, 522 Simpson Road, Kissimmee, FL 34744; to J. Cheney Mason, Esquire, 390 N. Orange Avenue, Suite 2100, Orlando, FL 32801; and to Andrea Lyon, Esquire, Director, Center for Justice in Capital Cases, DePaul University College of Law, 1 E. Jackson Blvd, Chicago, IL 60604; on this 7th day of April, 2010.


Judicial Assistant