

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

STATE OF FLORIDA,  
Plaintiff,

CASE NO. 48- 2008-CF-15606

vs.

DIVISION: 99

CASEY MARIE ANTHONY,  
Defendant.

**ORDERS ADDRESSING MOTION TO SEAL RECORDS RELATED TO THE  
JUSTICE ADMINISTRATIVE COMMISSION/ RETAINMENT AND PAYMENT OF  
EXPERTS, INVESTIGATORS, MITIGATION SPECIALIST, AND OTHER COSTS/  
RECONSIDERATION OF DEFENDANT'S REQUEST TO WAIVE  
APPEARANCE AT CERTAIN HEARINGS/ PROCEDURES FOR FUTURE MOTIONS**

THIS MATTER came before the Court for hearing on May 6, 2010 to address several issues and motions including: The retainment and estimated budget for payment of certain fees and costs for Defendant by the Justice Administrative Commission (hereinafter referred to as "JAC") and the sealing of records relating thereto; reconsideration of Defendant's request to waive her appearance at certain hearings; and certain procedures for future motions. Based upon review of the Motions and hearing arguments of counsel, the Court makes the below findings:

**I. Defendant's Motion to seal all JAC documents, including but not limited to, all payment vouchers, financial disclosures of experts and personal information of experts and costs:**

After hearing arguments from counsel for Defendant, the State Attorney's Office, JAC, and the Orlando Sentinel<sup>1</sup>, and consideration of the applicable law, the Court finds that Defendant has not met her burden to show that a blanket order sealing these records is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of

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<sup>1</sup> The Orlando Sentinel filed a Motion to Intervene for the Limited Purpose of Opposing Defendant's Motion to Seal All Justice Administrative Commission Documents. There being no objections, the Court granted the Motion.

justice in her case.<sup>2</sup> However, the Court does recognize that there may be certain records pertaining to the payment of fees and costs which may require an in camera review to determine if such records should be sealed. Accordingly, Defendant's motion to seal these records is **DENIED, without prejudice** to allow Defendant's counsel the opportunity to request an in camera review by the Court on an as needed basis.

## **II. Approval for Retainment and Payment of Fees and Costs for Certain Experts, a Mitigation Specialist, Investigators, and Other Costs:**

After hearing arguments from counsel for Defendant, the State Attorney's Office, and JAC, and consideration of the applicable law, the Court orders the following as to the retainment and proposed budget for payment of fees and costs for Defendant's experts, mitigation specialist, and investigators:

**A. The Court finds that the experts, mitigation specialist, and investigators listed below are relevant and necessary to provide Defendant with adequate representation.**<sup>3</sup>

Accordingly, Defendant's request for retainment of these persons and payment of their estimated fees and fess is **GRANTED** within the parameters established in this Order and subsequent Orders, if needed. These persons have agreed and shall comply with the rates, policies and procedures as established by JAC and the Indigent Services Committee. Further, whenever possible, depositions of out of state experts, the mitigation specialist, and the investigators shall be done through the use of video conference equipment available at the Orange County Courthouse. Counsel shall contact the Court Administrator, Matt Benefiel to arrange for the use of the video conference equipment.

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<sup>2</sup> See Florida Rule of Judicial Administration 2.420(c)(9)(A)(i) requiring a showing that the sealing of records is necessary in order to prevent a serious and imminent threat to the fair, impartial, and orderly administration justice. Also, see *News-Press Pub. Co., Inc. v. State*, 345 So. 2d 865 (Fla. 2d DCA 1977) where the Court found that there must be compelling reasons before some or all of the records of a court proceeding may be sealed, and such reasons should be specifically set forth by the sealing authority in order that the legality thereof can be reviewed.

<sup>3</sup> See *Ake v. Oklahoma*, 470 U.S. 68, 105 S. Ct. 1087 (1985) and *Lavender v. State*, 889 So. 2d 882 (Fla. 5th DCA 2004).

**1. For the below persons, caps are included as to the number of hours to be incurred:**

Dr. Henry Lee – Criminalist Expert: A cap of 8 hours for in court services and a cap of 25 hours for out of court services is approved.

Jeanene Barrett - Mitigation Specialist: A cap of 384 hours for services is approved.

One Investigator (in state): A cap of 300 hours for in state services is approved.

Out Investigator (out of state): A cap of 100 hours for out of state services is approved.

One K-9 Expert (out of state): A cap of 20 hours for services is approved.

One Postmortem Hair Banding Expert: A cap of 20 hours is approved.

**2. For the below persons, caps as to the number of hours to be incurred has not been determined to date. Thus, these caps shall be approved by subsequent order:**

One Forensic Entomologist (out of state)  
One Forensic Anthropologist  
One Forensic Botanist (out of state)  
One Out of State Forensic Pathologist (out of state)  
One Digital Computer Forensic Expert (out of state)  
One DNA Expert (out of state)  
One Forensic Chemist (in state)  
One Forensic Chemist (out of state)

**B. The Court finds that the experts listed below are not relevant and necessary to provide Defendant with adequate representation and therefore Defendant's request for the retainment of the below listed persons and payment of their fees and costs is DENIED as follows:**

Jury Consultant: **DENIED with prejudice.**

One additional DNA Expert: **DENIED with prejudice.**

One additional forensic botanist for consulting only: **DENIED with prejudice.**

One Trace Evidence Expert: **DENIED without prejudice** to provide Defense counsel the opportunity to determine whether Dr. Henry Lee can provide the trace evidence services and if he not able to do so, counsel can then request approval from the Court for an in state DNA expert.

One Taphonomy Expert: **DENIED without prejudice** to allow Defense counsel to request a *Rogers* hearing.<sup>4</sup> Also, the expert may appear at the *Rogers* hearing via video conferencing.

One Cell Phone Expert: **DENIED without prejudice** to determine after the State's cell phone expert is deposed as to whether this expert is needed.

**C. As to the request for approval of other Defense costs, the Court orders as follows:**

Costs for Public Record Requests: A cap of \$3,500.00 is **GRANTED**.

Travel Costs for Defense counsel: **DENIED**.

Costs to Conduct Tests as to Evidence in Defendant's Automobile: These costs include materials and two Pontiac Sunbirds automobiles, similar to Defendant's automobile: **DENIED without prejudice** to allow Defense counsel to request a *Rogers* hearing.

Transcripts of Depositions: Defense counsel shall continue to request transcripts by motion for each deposition and shall include deponent's name and date of deposition.

**III. Reconsideration of Defendant's Request to Waive Appearance at Certain Hearings:**

Defendant's has requested that she be allowed to waive appearance at certain hearings such as hearings addressing approval of costs. Defendant's request is **DENIED in part without prejudice** to allow for her request to be reconsidered for certain hearings on an individual basis and **GRANTED in part** to provide that she will not be required to appear at status hearings unless she chooses to do so.

**IV. Defense's Witness List:**

Defense Counsel shall submit a list of all known witnesses by August 31, 2010. This list may be supplemented at a later date.

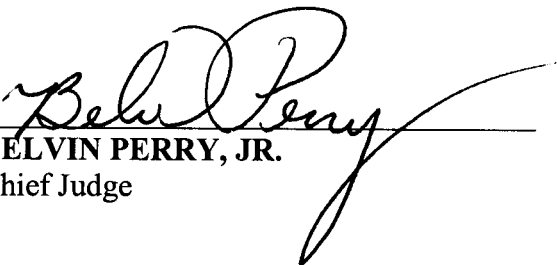
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<sup>4</sup> See *Rogers v. State*, 783 So. 2d 980 (Fla. 2001).

**V. Procedures for Future Motions filed after May 6, 2010:**

Motions where the movant prefers a response from the opposing party, either prior to or in lieu of a hearing, shall include this request in writing. Also, all motions shall state whether or not an evidentiary hearing is requested or shall state that the motion can be resolved without a hearing through the pleadings submitted by the parties. Further, courtesy copies of all motions shall be provided to the Court.

**DONE AND ORDERED** in chambers at Orlando, Orange County, Florida, this 12<sup>th</sup> day of May, 2010, nunc pro tunc to May 6, 2010.

  
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**BELVIN PERRY, JR.**  
Chief Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or hand delivery to:

**Jose A. Baez, Esq. and Michele Medina, Esq.**, The Baez Law Firm, 522 Simpson Road, Kissimmee, Florida 34744

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Judicial Assistant