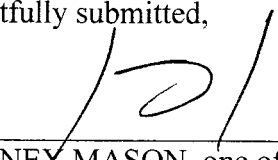


offenses does nothing to cure the constitutional deficient language of § 921.141(5)(m) and its accompanying standard instruction.


3. As Miss Anthony argued in the above captioned motion and memorandum of law, § 921.141(5)(m) focuses exclusively on the characteristics of the victim. Because the characteristics of the victim don't always have a connection to the culpability of the defendant for the capital crime, this victim-centric focus allows the aggravator to be applied in situations where the punishment of death is not justified.
4. Previously, Florida courts have only applied § 921.141(5)(m) in cases where the victim was found to be particularly vulnerable due to advanced age or disability. The novel application of this aggravator to the instant case, as Miss Anthony previously argued, would be an unconstitutional application.
5. For the reasons set forth in Miss Anthony's original motion and memorandum of law the State should be precluded from using Fla. Stat. § 921.141 (5)(m) as an aggravator to support the decision to execute Miss Anthony.

WHEREFORE, the Defendant CASEY MARIE ANTHONY respectfully requests this Honorable Court to to declare § 921.141(5)(m) unconstitutional and preclude its use in the case at bar.

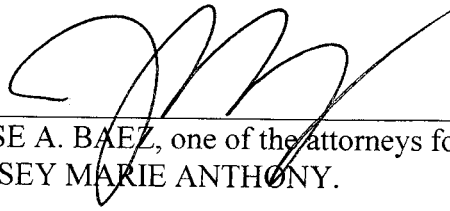
Respectfully submitted,



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Dated: June 5, 2010

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail, fax and/or hand-delivered to the OFFICE OF STATE ATTORNEY, 415 N. Orange Ave, Orlando, FL 32801 AND to the CLERK OF THE CIRCUIT COURT, 425 N. Orange Avenue, Suite 410 Orlando, FL 32801, this 4th day of June, 2010.



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