

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

STATE OF FLORIDA

CASE NO: 48-2008-CF-15606-O

Plaintiff,

DIVISION: 16 (JUDGE BELVIN PERRY)

vs.

CASEY MARIE ANTHONY

Defendant.

**STATE OF FLORIDA'S RESPONSE TO COURT'S MAY 10, 2010 ORDER
REGARDING THEORY OF ADMISSIBILITY OF 911 CALLS**

COMES NOW the State of Florida, by and through the undersigned Assistant State Attorney, pursuant to this Honorable Court's order of May 10, 2010 requiring a written response setting forth a theory of admissibility of 911 calls related to the above-entitled action, and says as follows:

FACTUAL BACKGROUND

Caylee Marie Anthony was last seen by her family on June 16, 2008. On July 15, 2008, George and Cindy Anthony discovered their Pontiac Sunfire had been towed to Johnson's Wrecker on June 30, 2008. Up until that time, they believed the child and the vehicle were with their daughter Casey Marie Anthony. After retrieving the vehicle, Cindy Anthony returned to work and then, that same day, ultimately located her daughter Casey with the assistance of Casey's friend Amy Huizenga. After dropping Amy off, Cindy Anthony drove her daughter Casey to an Orlando Police Department substation on Pershing Avenue because Casey Anthony refused to take Cindy Anthony to her granddaughter Caylee and refused to tell her exactly where Caylee was. Finding the substation closed, Cindy Anthony first called 911 from her cellular phone at 8:08pm while seated in her car with Casey Anthony. Her purpose in making the call was to force Casey to take the police to Caylee. (*Deposition of Cindy Anthony, July 29, 2009,*

page 371, lines 23-25 and page 372, lines 9-13.) Despite this obvious purpose and the fact that Cindy Anthony did not believe her daughter had committed any crime, she reported to the Orlando Police Department dispatcher that Casey had stolen her car and some money. The OPD dispatcher confirmed that the alleged crimes took place in the jurisdiction of the Orange County Sheriff and transferred the call. While waiting for the call transfer, Cindy Anthony threatens to remove Caylee from Casey's custody. Casey Anthony asks her mother for more time to take her to Caylee. (See Exhibit A containing audio recording and Exhibit B transcript of first 911 call). Mrs. Anthony is given the choice of meeting with law enforcement on the side of the road or returning to her residence to make the report. She chooses the latter. As she returns home, she and Casey Anthony are met in the driveway by Casey's brother Lee Anthony. Mrs. Anthony tells Lee that she is going to call law enforcement on his sister and that he needs to talk to her regarding Caylee's whereabouts. (Deposition of Lee Anthony, July 30, 2009, page 95, lines 14-24.) Lee Anthony is unsuccessful in getting this information out of his sister and eventually tells his mother to call the police. (Deposition of Lee Anthony, July 30, 2009, page 106, lines 2-5). Cindy Anthony goes outside and calls 911 at 8:44 pm. She calmly reports that her daughter needs to be arrested for stealing an auto and stealing money, and mentions the possibility of a missing child. (See exhibit A containing audio recording and Exhibit C transcript of second 911 call). While Cindy Anthony is outside, Lee Anthony engages in a role playing scenario with Casey about what her interaction with the police might be like. Casey eventually tells him she has not seen her daughter for 31 days. (Deposition of Lee Anthony, July 30, 2009, page 108, line 11 through page 110, line 17). Cindy Anthony returned to the interior of the residence, heard Casey telling Lee that she (Casey) had not seen Caylee in 31 days, and then Cindy "just lost it." (Deposition of Cindy Anthony, July 29, 2009, page 390, line 14). Mrs. Anthony describes her reaction as "I just felt like my whole world died", "I yelled at her", "I wanted to grab her and shake her and I couldn't", "I didn't know what to do so that's when I made the last call." Lee

Anthony describes his mother's reaction as "very, very frantic." (*Deposition of Lee Anthony, July 30, 2009, page 127, line 3-4.*) At 9:41pm, Mrs. Anthony calls 911 for the third time and reports the alleged kidnapping of Caylee Anthony to the OCSO dispatcher and then turns the phone over to Casey Anthony who repeats the story as the patrol deputies arrive at the Anthony home. (*See Exhibit A containing audio recording and Exhibit D transcript of third 911 call.*)

LEGAL ARGUMENT

The Florida Evidence Code defines hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." § 90.801(1)(c), Fla. Stat. (2010). If an out-of-court statement is not offered to prove the facts contained in the statement, it is not hearsay. However, even where an out-of-court statement is offered for a purpose other than proving the truth of its contents, the statement is only admissible when the purpose for which the statement is being offered is a material issue in the action. *See Foster v. State*, 778 So.2d 906, 915 (Fla.2000). A statement may be offered to prove a variety of things besides its truth, including to show motive or knowledge. *See Foster; Escobar v. State*, 699 So.2d 988, 997 (Fla.1997).

If testimony is offered for a purpose other than to prove the truth of the matter asserted, it is by definition not hearsay. *Breedlove v. State*, 413 So.2d 1, 6 (Fla.), *cert. denied*, 459 U.S. 882, 103 S.Ct. 184, 74 L.Ed.2d 149 (1982). " 'The hearsay rule does not prevent a witness from testifying as to what he has heard; it is rather a restriction on the proof of fact through extrajudicial statements.' " 413 So.2d at 6 (quoting *Dutton v. Evans*, 400 U.S. 74, 88, 91 S.Ct. 210, 219, 27 L.Ed.2d 213 (1970)). As noted in *Breedlove*, merely because an out-of-court statement is inadmissible to prove the truth of the matter asserted does not mean it is inadmissible for another purpose. 413 So.2d at 6. However, an out-of-court statement which is offered for a purpose other than proving the truth of its contents is admissible only when the

purpose for which the statement is being offered is a material issue in the case. *Smith v. State*, 7 So.3d 473 (Fla. 2009).

The statements made by Mrs. Anthony in the presence of the defendant, specifically those made during the first and third 911 calls, are not to be offered for the truth of the matters asserted in those statements. In fact, much of what is stated in the calls is not true. One major theme of the State's case is to demonstrate to the jury the progression of the Defendant's lies about the fate of her daughter. It is essential to demonstrating that progression to show those events that led to the evolution of the "Zenaida Gonzalez" story and the lengths to which the Defendant would go in maintaining her various initial versions. It is only in the face of repeated threats by her mother to contact the authorities and falsely accuse her of a crime, that the defendant finally fabricates the "Zanny" story. These initial statements made in her presence are essential to establish the first link in the chain of events. Words offered to prove the effect on the hearer are admissible when they are offered to show their effect on one whose conduct is at issue.

In *Koon v. State*, 513 So.2d 1253 (Fla. 1987), the Court permitted the testimony of a secret service agent that, at a preliminary hearing on federal counterfeiting charges, the U.S. magistrate stated in Koon's presence that she would have dismissed the charge against him had there been only one witness. Koon argued that the testimony which recited the magistrate's remarks constituted inadmissible hearsay. The trial judge explained that the statement was being admitted, not for its truth, but for the purpose of showing state of mind. Koon correctly pointed out that the state of mind exception to the hearsay rule, section 90.803(3), Florida Statutes, refers only to the declarant's state of mind and that the magistrate's state of mind was irrelevant to this case. However, the testimony was properly admitted because it was not hearsay in the first place. An out-of-court statement is admissible to show knowledge on the part of the listener that the statement was made if such knowledge is relevant to the case. *See Heritage Homes of Attleboro*,

Inc. v. Seekonk Water District, 648 F.2d 761 (1st Cir.), *vacated on other grounds*, 454 U.S. 807, 102 S.Ct. 81, 70 L.Ed.2d 76 (1981); *Freeman v. Metropolitan Life Insurance Co.*, 468 F.Supp. 1269 (W.D.Va.1979). The testimony in *Koon* was not offered to prove the truth of the magistrate's statement but rather to show that having heard the statement, Koon could have formed the motive for eliminating one of the two prosecution witnesses.

The truth of the matters asserted by Cindy Anthony in any of her 911 calls is not the issue. Cindy Anthony's insisting that she was getting law enforcement involved to locate Caylee, gave the defendant motive to fabricate alternate theories for the location of the child. Statements made by Cindy Anthony that immediately precede Casey Anthony's statements are relevant to show Casey's state of mind when making her statements to her mother or to the police. The fact of the calls as well as the content of the calls give context to the defendant's responses and set forth the circumstances in which the defendant "created" the kidnapping story after denying there was any problem locating Caylee Marie Anthony. These fabrications demonstrate consciousness of guilt on the part of the defendant, guilt being the ultimate material issue.

Since the second 911 call was not made in the presence of the defendant, the State will not seek to introduce the call itself unless Mrs. Anthony denies making the call or any of the statements therein.

Without abandoning the argument that the third 911 call—in its entirety—is non-hearsay, any statements contained therein, if offered to prove the truth of the matter asserted, are admissible as exceptions to hearsay.

Sections 90.803(1) and (2), Florida Statutes (2010), set forth two pertinent exceptions to the rule prohibiting hearsay evidence:

- (1) SPONTANEOUS STATEMENT.-A spontaneous statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness.

- (2) **EXCITED UTTERANCE.**-A statement or excited utterance relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

A spontaneous statement must be made “at the time of, or immediately following, the declarant's observation of the event or condition described.” *J.M. v. State*, 665 So.2d 1135, 1137 (Fla. 5th DCA 1996). This exception requires that “the statement must be made without the declarant first engaging in reflective thought.” *Id.* The statements admitted under section 90.803(1) are limited to statements which “describe or explain” an event. *Ibar v. State*, 938 So.2d 451, 467 (Fla.2006). Other cases, however, have suggested a continuing requirement of a startling event. As noted in *Hutchinson*, 882 So.2d 951 (Fla. 2004), “Both the excited utterance and the spontaneous statement exceptions require the declarant to be laboring under the influence of a startling event at the time that the statement is made.” In *Lyles v. State*, 412 So.2d 458 (Fla. 2d DCA 1982), the Second District held, “In order for the spontaneous statement exception to the hearsay rule to be applicable, there must be some occurrence startling enough to produce nervous excitement and render the utterance spontaneous and unreflecting.” In *State v. Skolar*, 692 So.2d 309 (Fla. 5th DCA 1997), the Fifth District held a 911 call inadmissible because it was “not made as the result of a startling or stressful event, and it therefore cannot qualify under § 90.803 as either a spontaneous statement or an excited utterance.” However, more recently, the Florida Supreme Court concluded that requiring a startling event in order for the spontaneous exception to apply is contrary to the underlying principles embodied in section 90.803(1) and rejected that interpretation. *Deparvine v. State*, 995 So.2d 351 (Fla. 2008)

Unlike the “spontaneous statement” exception, the excited utterance exception contained in section 90.803(2) does requires that the “statement or excited utterance” relate to “a startling event or condition” and be made while the declarant was under the stress of excitement caused by the event or condition. Florida courts have explained that to qualify as an excited utterance,

the statement must be made: (1) “regarding an event startling enough to cause nervous excitement”; (2) “before there was time to contrive or misrepresent”; and (3) “while the person was under the stress or excitement caused by the event.” *Henryard v. State*, 689 So.2d 239, 251 (Fla.1996). The Florida Supreme Court has observed that “[i]f the statement occurs while the exciting event is still in progress, courts have little difficulty finding that the excitement prompted the statement.” *State v. Jano*, 524 So.2d 660, 662 (Fla. 1988). “While an excited utterance need not be contemporaneous to the event, it must be made while the declarant is under the stress of the startling event and without time for reflection.” *Hutchinson v. State*, 882 So.2d 943, 951 (Fla.2004); *see also Rogers v. State*, 660 So.2d 237, 240 (Fla.1995).

Time for reflective thought is significant because it also provides time to contrive or misrepresent. *See Evans v. State*, 838 So.2d 1090, 1093 (Fla.2002) (citing *Stoll v. State*, 762 So.2d 870, 873 (Fla.2000)). As illustrated in *Hutchinson*, 882 So.2d at 951-52, statements made by the victim in a telephone conversation to a friend some undetermined period of time after she had a heated argument with the defendant did not qualify as an excited utterance because the Court was left to speculate about whether the victim engaged in reflective thought.

The circumstances in this case are distinguishable from those seen in *Hutchinson* and are more comparable to those found in *Viglione v. State*, 861 So.2d 511 (Fla. 5th DCA 2003). In *Viglione*, the Fifth District held that telephone calls the victim made to several witnesses while he was kidnapped and was forced to try to get money to pay for his release were admissible as either a spontaneous statement or an excited utterance. *Id.* at 513. The disclosure by Casey Anthony that Caylee was kidnapped by the nanny and missing for thirty-one (31) days, revealed just before the final 911 call was a sufficiently startling condition or event to meet the requirements of section 90.803(2). The statements were made while the event was ongoing, rather than being related after the event, negating the likelihood that Cindy Anthony had time to

contrive or misrepresent; and the statements were made while Mrs. Anthony was under the continuing stress or excitement caused by the event. See *Henyard*, 689 So.2d at 251. Mrs. Anthony's statements at a later date – for example that the smell in the car was from garbage or a pizza—are prime examples of what occurs when someone engages in “reflective thought.”

Section 90.803(2) allows admission of either “a *statement or excited utterance*” so long as the statement is made “*relating to a startling event or condition*” and is made while the declarant is “under the stress of excitement caused by the event.” § 90.803(2), Fla. Stat. (2010) As the court noted in *Tucker v. State*, 884 So.2d 168 (Fla. 2d DCA 2004), “ ‘excitement’ for purposes of an utterance is not a matter that is determined exclusively by tone of voice. Some people remain calm of voice when under stress; others can be excited of voice when fully capable of misrepresentation.” *Id.* at 175. *Hudson v. State*, 992 So.2d 96 (Fla. 2008). However, there can be no question from her tone of voice, the content of her statements relating to the event in question (the alleged kidnapping of Caylee), her own description of her state of mind at the time of the call, and the time elapsed since Casey's “revelation”, that Cindy Anthony's statements made during the last 911 call were made under the stress caused by the event.

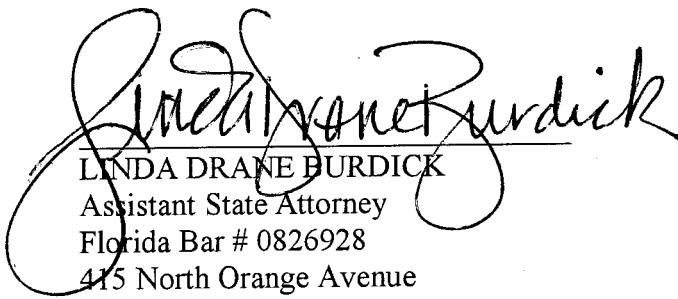
Although the availability of the declarant is immaterial to the 90.803(1) and (2) exceptions to hearsay, it is expected that Cindy Anthony will testify in this cause. Regardless, “The Confrontation Clause does not bar admission of a statement so long as the declarant is present at trial to defend or explain it.” *Crawford v. Washington*, 541 U.S. 36 at 59 n. 9, 124 S.Ct. 1354 (2004)(adding that the Confrontation Clause “also does not bar the use of testimonial statements for purposes other than establishing the truth of the matter asserted,” citing *Tennessee v. Street*, 471 U.S. 409, 414, 105 S.Ct. 2078, 85 L.Ed.2d 425 (1985)); *McWatters v. State*, -- So.3d --, 35 Fla. L. Weekly S169 (March 18, 2010). When the declarant appears for cross-examination at trial, the Confrontation Clause places no constraint at all on the use of his prior testimonial hearsay statements. *State v. Shearod*, 992 So.2d 900 (Fla. 2d DCA 2008).

Finally, despite the odd interpretation of the hearsay rules as applied to statements of Casey Anthony in defense counsel's memorandum, her statements on 911 calls 1 and 3 are independently admissible under Florida Statute 90.803(18)(a) as statements of a party-opponent or as non-hearsay under F.S. 90.801(1)(c).

As the defense has not filed a motion arguing for redaction of specific statements from any of the 911 calls, the State reserves the right to make further argument if such a motion is filed.

WHEREFORE, the State of Florida respectfully requests that this Honorable Court deny that part of the defendant's *Omnibus Motion to Exclude Hearsay Evidence, Gossip, and Innuendo* as it relates to 911 calls 1 and 3 of Cindy Anthony.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Jose Baez, Esquire, 522 Simpson Road, Kissimmee, Florida on this 9th day of June, 2010.


LINDA DRANE BURDICK
Assistant State Attorney
Florida Bar # 0826928
415 North Orange Avenue
Orlando, Florida 32801
407.836.2402

1 **TRANSCRIBED RECORDING OF OPD 911 CALL MADE BY**
2 **MRS. CYNTHIA ANTHONY ON JULY 15, 2008**
3 **CASE AGENT: CORPORAL YURI MELICH**
4 **CASE NUMBER – 08-069208**
5 **OP – ORLANDO POLICE DEPARTMENT 911 DISPATCHER**
6 **CA – MRS. CYNTHIA ANTHONY**
7 **CMA – MS. CASEY MARIE ANTHONY**
8 **UF – UNIDENTIFIED FEMALE**

9
10 **OP:** Orlando Police: This line is being recorded. How can I help you?

11 **UF:** Orange County with transfer reference Pershing and Semoran.

12 **OP:** Thank you. Hello?

13 **CA:** Hi, I drove to the Police Department here on Pershing, but you guys are closed. I
14 need to bring someone in to the Police Department. Can you tell me where I can, the
15 closest one I can come in to?

16 **OP:** What are you trying to accomplish by bringing them to the station?

17 **CA:** I have a 22-year-old person that has, um, grand theft, sitting in my auto with me.

18 **OP:** So the 22-year-old person stole something?

19 **CA:** Yes.

20 **OP:** Is this a relative?

21 **CA:** Yes.

22 **OP:** Where did they steal it from?

23 **CA:** Um, my car, and also money.

24 **OP:** OK, is this your son?

25 **CA:** Daughter.

1 **OP:** OK, so your daughter stole money from your car?
2 **CA:** No, she's... my car was stolen. We've retrieved it today. We found out where it was
3 at, and retrieved it. I've got that, and I've got affidavits for my banking account. I want to
4 bring her in. I want to press charges.
5 **OP:** Where -- where did all of this happen?
6 **CA:** Oh, it -- it's been happening.
7 **OP:** I know, but I need to establish a jurisdiction, is what I'm trying --
8 **CA:** Oh, I live in -- um, in Orlando.
9 **OP:** Yeah, but what address did these thefts occur at?
10 **CA:** Um, well I guess my residence, I guess. 49
11 **OP:** What's that? OK.
12 **CA:** 4937 Hopespring Drive.
13 **OP:** That's actually going to be in the jurisdiction of the Sheriff's Office, ma'am.
14 **CA:** OK.
15 **OP:** Not the Orlando Police Department.
16 **CA:** All righty.
17 **OP:** Let me transfer you over to the Communications section for Orange County.
18 **CA:** OK, now is the Orlando sheriff's department the one on 436, that... is that open this
19 afternoon or this evening?
20 **OP:** Um, the substation you're at, on Pershing, if it's Orlando police, we're open
21 primarily during the day.
22 **CA:** Uh-huh.
23 **OP:** But that's not the sheriff's. That's a city police, which does not have jurisdiction for
24 your address.
25 **CA:** Right. I know of the Sheriff's Department on 5th -- I mean on 436.

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OP: Well, what I'm going to do, is I'm going to transfer you to the Sheriff's Communications section, and you can, um, determine that. Hold on.

CA: Ok.

OPD transferring the call.

CA: (speaking to Casey Anthony) Because my next thing will be down to child thing and we'll have a court order to get her. If that's what you want to play, then we'll do it, and you'll never...

CMA: Well, that's not the way I want to do it.

CA: Well, then you have -

CMA: Give me one more day.

CA: No, I'm not giving you another day. I've given you a month.

UF: Orange County Sheriff's Department....

Call ends

This transcript has been reviewed for accuracy.



CORPORAL YURI MELICH, OCSO DEPUTY SHERIFF

AMMENDED 6/7/10

1 station and no one's open and they said they would bring a deputy to my home.
2 When I got home to call them.
3 **OP:** So she stole your vehicle?
4 **CA:** Yeah (affirmative).
5 **OP:** When did she do that?
6 **CA:** Uhm, on the 30th. I just got it back from the impound. I'd like to speak to an
7 officer. Can you have someone come out to my house?
8 **OP:** Okay. Okay, I got to ask you these questions so I can put them in, in the call,
9 okay?
10 **CA:** Okay.
11 **OP:** The 30th of June?
12 **CA:** Yeah (affirmative).
13 **OP:** Okay, how old is your daughter?
14 **CA:** Twenty-two.
15 **OP:** Okay, what's her name?
16 **CA:** My name?
17 **OP:** Her name.
18 **CA:** Her name? Casey Anthony. C-A-S-E-Y.
19 **OP:** And your name?
20 **CA:** Cynthia Anthony.
21 **OP:** Cynthia, can I get a phone number that I can reach you at?
22 **CA:** Uhm, 407....
23 **OP:** Uh-hum (affirmative).
24 **CA:** 808-4731.
25 **OP:** And you said you have the vehicle back?

1 CA: Yes. And I have the uhm, statement.
2 OP: Casey's there right now?
3 CA: Yes, I got her. I finally found her after a month. She's been missing for a month.
4 I found her but we can't find my granddaughter.
5 OP: Okay, how tall is Casey?
6 CA: Uhm, five foot one and a half.
7 OP: Thin, medium or heavy build?
8 CA: Thin.
9 OP: What color hair?
10 CA: Brown.
11 OP: What color uh, shirt is she wearing?
12 CA: White.
13 OP: What color pants?
14 CA: Oh, they're shorts. But they're uhm, plaid. They're like pink and teal and light
15 black plaid.
16 OP: Does she have any weapons on her?
17 CA: No.
18 OP: Is Casey not telling you where her daughter is?
19 CA: Correct.
20 OP: Alright, we'll have a deputy out to you as soon as one's available, okay?
21 CA: Thank you.
22 OP: Thank you.
23 CA: 'Bye.
24 OP: 'Bye.
25 **End of recorded statement.**

1 This transcript has been reviewed for accuracy.

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CORPORAL YURI MELICH, OCSO DEPUTY SHERIFF

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AMENDED 6/7/10

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1 been trying to find her herself. There's something wrong. I found my daughter's
2 car today and it smells like there's been a dead body in the damn car.

3 **OP:** Okay, what is the three year old's name?

4 **CA:** Caylee; C-A-Y-L-E-E, Anthony.

5 **OP:** Caylee Anthony?

6 **CA:** Yes.

7 **OP:** Okay, is she white, black or Hispanic?

8 **CA:** She's white.

9 **OP:** How long has she been missing for?

10 **CA:** I have not seen her since the 7th of June.

11 **OP:** What is her date of birth?

12 **CA:** Uhm, 8, 8/09/2000, oh, gosh she's three. She's 2005. (Continuing to cry.) I'm
13 scared (unintelligible – crying hysterically). Caylee's missing... Casey has
14 admitted Zanny took her a month ago. She's been missing for a month.

15 **UF:** A month ago.

16 **OP:** Okay, I just can't, I need, I, I understand, uh, can you just, can you calm down for
17 me for just a minute and just so I need to know what's going on okay?

18 **CA:** (Crying heavily.)

19 **OP:** I'm going to try and help.

20 **CA:** (Unintelligible) so what is that we can do (unintelligible – crying heavily).

21 **OP:** Is your, is your daughter there?

22 **CA:** (Speaking to unknown person/s in background.) I'm on the phone with them!

23 **OP:** Is your daughter there?

24 **CA:** Yes.

25 **OP:** Can I speak with her?

1 **CA:** Okay.

2 **OP:** Do you mind if I speak with her? Thank you.

3 **CA:** (Speaking in background to unknown person/s.) I called them two hours ago and
4 they haven't gotten here. Casey finally admitted that Zanny took her a month
5 ago and has been trying to find her.

6 **OP:** Ma'am? Ma'am?

7 **CMA:** Casey, the Sheriff wants to talk, they want to talk you.

8 **UF:** (Inaudible) talk to them.

9 **CA:** Answer the questions.

10 **CMA:** Hello?

11 **OP:** Hello?

12 **CMA:** Yes.

13 **OP:** Hi. Well can you, can you tell me what's going on a little bit?

14 **CMA:** I'm sorry?

15 **OP:** Can you tell me a little bit what's going on?

16 **CMA:** My daughter's been missing for the last thirty-one days. (Talking to unknown
17 person/s in background.) Yeah (affirmative).

18 **OP:** And that you know who has her?

19 **CMA:** I know who has her. I've tried to contact her. I actually received a phone call
20 today now from a number that is no longer in service. I did get to speak to my
21 daughter for about a moment, about a minute (inaudible),

22 **OP:** Okay, did you guys call and report a vehicle stolen?

23 **CMA:** Uhm, yes, my mom did.

24 **CA:** (in background) I called (inaudible).

25 **CMA:** Uh, okay, mom called.

1 **OP:** Okay, so there's been a vehicle stolen too?

2 **CMA:** No, this was my vehicle.

3 **UF:** (in background) (Inaudible) was stolen?

4 **OP:** What vehicle was stolen?

5 **CMA:** Uhm, it's a '98 Pontiac Sunfire.

6 **OP:** Okay, I have deputies on the way to you right now for that. And now your, now
7 your three year old, and your three year old daughter is missing? Caylee
8 Anthony?

9 **CMA:** Yes, Caylee Marie Anthony.

10 **OP:** A white female?

11 **CMA:** Yes, a white female.

12 **OP:** Three years old? 08/09/2005 is her date of birth?

13 **CMA:** Yes.

14 **OP:** And you last saw her a month ago?

15 **CMA:** Thirty-one days. It's been thirty-one days.

16 **OP:** Who has her? Do you, do you have a name?

17 **CMA:** Her name is Zenaida Fernandez-Gonzalez.

18 **OP:** Who is that? Babysitter?

19 **CMA:** She's, she's been my nanny for about a year and a half, almost two years.

20 **OP:** And, why, why are you calling now? Why didn't you call thirty-one days ago?

21 **CMA:** I have been looking for her and have gone through other resources to try to find
22 her, which was stupid. But...

23 **OP:** Okay. Can you, can you give me the name of the ba...the nanny again? Like
24 spell it out for me?

25 **CMA:** Zenada; Z-E-N-A-I-D-A.

1 **OP:** Last name?
2 **CMA:** Fernandez.
3 **OP:** Fernandez?
4 **CMA:** Hyphen Gonzalez. I think the officers are here.
5 **UF:** Are they there?
6 **OP:** The officers are there?
7 **CMA:** Yes.
8 **OP:** Okay, hold on a second. Don't hang up with me yet.
9 **UF:** (Inaudible.)
10 **OP:** I need you to, okay.
11 **CMA:** (Inaudible.)

12 **End of recorded statement.**
13 **This transcript has been reviewed for accuracy.**

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16 **CORPORAL YURI MELICH, OCSO DEPUTY SHERIFF**

17 **AMMENDED 6/7/10**

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COPY

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

CASE NUMBER: 48-2008-CF-015606-0
DIVISION 16

STATE OF FLORIDA,

Plaintiff,

vs.

CASEY MARIE ANTHONY,

Defendant.

Orlando, Florida

July 29, 2009

9:05 a.m.

Excerpts from

CONTINUED DEPOSITION OF:

CYNTHIA MARIE ANTHONY

VOLUME II OF II

Marge Raeder Court Reporter, Inc.
999 Douglas Avenue/Suite 3307
Altamonte Springs, FL 32714
407/774-6611 • Fax 407/774-4490

1 A About where to go from there. And I ended up
2 calling 9-1-1.

3 Q From your cellphone --

4 A From my cellphone.

5 Q -- sitting in the parking --

6 A Sitting in the parking lot.

7 Q Do you believe you received 9-1-1 of the
8 Orlando Police Department?

9 A I don't know. I just dialed 9-1-1.

10 Q Why?

11 A Because I didn't know where to go. Like I
12 said, I didn't know where the sheriff's department was.
13 The only police station that I knew was the one on
14 Pershing because I had passed it. I did not know where
15 -- where else to go.

16 Q At that point did you --

17 A And I was in my car, so I didn't have a phone
18 book to call a non-emergent line or anything like that
19 so I just dialed 9-1-1.

20 Q All right. My question about that is: At
21 that point did you believe a crime had been committed
22 sufficient to involve law enforcement?

23 A No. But at that point I couldn't get Casey
24 to tell me where Caylee was, so I knew I needed
25 assistance. And I wasn't going to beat my child. So I

1 figured what else am I going to do. Yelling and
2 screaming at her, I wasn't doing that either. We were
3 talking and I wasn't getting anywhere. I don't yell
4 and scream at my child --

5 Q Right.

6 A -- or my children. And I just --

7 Q Am I correct in assuming that you wanted the
8 cops to scare her into telling you?

9 A Yeah. I wanted -- I wanted her to take them
10 if she wasn't going to take me. I wanted her to -- you
11 know, I wanted to find Caylee and I was going to do
12 whatever it took. And I didn't know who else to lead
13 me to Caylee except for Casey.

14 Q Okay.

15 A So --

16 Q Did you think about having her father talk to
17 her --

18 A No. Because --

19 Q -- at that point?

20 A -- at that point what were we going to do?
21 Yell and scream at her and gang up on her? I had
22 already been talking to --

23 Q Possibly.

24 A -- her for a half-hour or 45 minutes and I
25 wasn't getting anywhere. So I figured I'm not waiting

1 something.

2 Q Were there raised voices in the house?

3 A No. Not really. I think pretty much we were
4 -- I don't think I remember yelling at Casey until I
5 came back in before I -- just before I made the third
6 9-1-1 call. And I heard Casey telling Lee that she
7 hadn't seen Caylee and that's when I -- I just ran from
8 the living room into her bedroom and yelled at her. I
9 said: What -- what the hell are you talking about?
10 What do you mean you haven't seen her?

11 I heard her telling Lee she was -- at that
12 point she was sitting on the floor crying and she said
13 she -- I heard the words that she hadn't seen Caylee in
14 31 days and then I just lost it.

15 Q Okay. So you ran into Casey's room and did
16 what?

17 A I yelled at her, which is something I don't
18 usually do.

19 Q Okay. What did you say?

20 A I don't remember. I just said: What the
21 hell are you talking about? What do you mean?

22 And at that point I just felt like my whole
23 world died. She said nobody could find Caylee.

24 Q Was Lee present for this?

25 A I yelled at her. I wanted to grab her and

COPIES

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

CASE NUMBER: 48-2008-CF-15606-0
DIVISION 16

STATE OF FLORIDA,

Plaintiff,

vs.

CASEY MARIE ANTHONY,

Defendant.

Orlando, Florida

July 30, 2009

9:12 a.m.

Excerpts from

DEPOSITION OF:

LEE ALEXANDER ANTHONY

Marge Raeder Court Reporter, Inc.
999 Douglas Avenue/Suite 3307
Altamonte Springs, FL 32714
407/774-6611 • Fax 407/774-4490

1 from her getting out of the car and coming past me
2 saying that to my mom, my focus goes to my mom going:
3 What's going on, you know? [Laughing]

4 Q Does Casey say anything to you on the way
5 into the house?

6 A I don't even think she acknowledged me.
7 Like, she didn't say: Héy, bro. Or: Hey, Lee.

8 Or she didn't even -- she was more focused on
9 her and my mom, you know, on my mom, so --

10 Q So she immediately goes inside.

11 A Yes.

12 Q And you approach your mom.

13 A Yes. What's going on?

14 And she said, you know: I -- she just kept
15 saying: I'm going to call the cops on your sister.
16 You need to talk to your sister.

17 Like, she was -- at that point she was done
18 with Casey. Like, you know, she was -- she -- it was
19 obvious that whatever they were fighting about at that
20 point, which at that point I didn't know all the
21 details. It was she had -- she was at her wit's end
22 with it and she was, like: I'm going to call the
23 police. She goes: Casey knows where Caylee is and she
24 won't take me to her.

25 Q And this is all outside?

1 Well, that's not going to work for mom; as her way of
2 saying no. [Laughing] So eventually I was just -- I
3 was just, like, I'm done. And I said: Mom, if it's
4 going to take you calling the police for Casey to, you
5 know, for this crap to end, do it.

6 Q Do you recall Casey telling you or your mom
7 during this scenario that: I'll get her. She'll come
8 home tomorrow?

9 A Yes. She did. She said, you know: I'll --
10 we'll bring her tomorrow. I don't want to wake her up.
11 You know, she's been used to, you know, where she's at
12 and there's, you know, I'm not going to, you know,
13 bring her home --

14 Q Do you recall --

15 A -- tonight.

16 Q Do you recall Casey asking your mom for more
17 time or for one more day as opposed to just telling
18 her: We'll do it tomorrow?

19 A I don't remember that. I think it was more
20 Casey dictating. I don't think Casey ever asked my mom
21 for any of that, not that I remember. No.

22 Q So there's no -- there's no pleading for more
23 time: I'll get it straightened out; she'll come home
24 tomorrow?

25 It's just that: We'll do it --

1 Casey because the situation's changed.

2 I get up, go right back to where I was in the
3 doorway and my mom's outside or in the garage, at a
4 minimum. Probably outside somewhere at this point.

5 Q What's Casey doing?

6 A She's still on her bed, same spot. She
7 hasn't -- she hasn't moved, you know, aside from
8 getting up to go to the bathroom once.

9 Go back to the doorway and then I just -- it
10 was just real concise and I go: Casey, here's what I
11 don't understand, you know. What are you going to say
12 when this police officer comes in here?

13 And then she just kind of looks at me and I
14 was, like: Hear me out. Let's do this. Play -- do a
15 little role play. I'm a police officer. You're you;
16 all right? Are you ready for this?

17 Hi, Ms. Anthony. How are you doing today?

18 And then she responded with: I'm fine.

19 Okay. Great. Where's your daughter?

20 And then, you know: She's with -- you know,
21 she's with the nanny.

22 Okay. Great. Ms. Anthony, that sounds
23 fantastic, you know. Let's go ahead and have you hop
24 in the car with me. Your mom's going to follow. Let's
25 go get her.

1 And then Casey --

2 Q And this is what you actually told her.

3 A This is -- this is my -- I'm playing the
4 role. That's what I would do if I was a first
5 responding officer. I'd find out what was going on
6 with the mom, come inside and the first thing I'd say
7 is: Where's your daughter?

8 So, you know, I tried to do that trying to
9 figure out what the heck's going on. And then when I
10 do the whole, let's hop in the car and let's go get
11 her, and then Casey just looks at me with this blank
12 look and I give her a good -- a good, like, ten seconds
13 and I'm just, like: Do you see what I'm saying?
14 There's no reason for this. It's going to happen one
15 way or the other. Either, you know, we somehow call
16 this off and we -- the three of us or me or whoever
17 just go and get Caylee ourselves, or the cop's going to
18 come here. You're going to have to get in the damn cop
19 car and mom's still going to follow you and Caylee's
20 going to come home tonight, you know, also.

21 Either way you slice it, Caylee's going to be
22 home and sleeping within the hour. So what are we
23 doing here? This is stupid.

24 Q And you recall saying words to that effect to
25 her.

1 A Oh, like, these were -- these were my
2 words --

3 Q All right.

4 A -- to her and she just -- it was almost like
5 it was a shell shock to her. Like -- like, he's --
6 he's right. This -- everything he's saying makes sense
7 to me.

8 And that's when she broke down. She started
9 crying. She put her, you know, her, you know, her face
10 in her hands and, I mean, she was -- started crying
11 and, you know, and then I'm just kind of looking and
12 going -- just kind of waiting for her to say something.
13 And she -- that's when she goes, you know: Lee, do you
14 want to know, you know, what's really going on?

15 And I said: Yeah.

16 And she said: I haven't seen Caylee in 31
17 days.

18 And by the time I could even -- I mean, that
19 was -- her response was one of these, like -- like,
20 kind of a deep breath, but almost like the air just
21 goes out of you. And by the time I could even catch my
22 breath, she says the exact -- almost the exact words
23 again. Instead of now saying, you know: I haven't
24 seen Caylee in 31 days; she says: I haven't seen my
25 daughter in 31 days.

1 could both, Casey and I, or at least -- I don't know
2 how she couldn't hear it because I could, but we tried
3 not to have that distract us but, you know, mom was
4 very, very frantic.

5 So it was -- and obviously I was trying to
6 keep Casey at a different demeanor because I'm trying
7 to keep her focused on, you know, providing you with
8 some kind of content.

9 Q All right. So after your mom goes off --

10 A Yeah.

11 Q -- and made the second call, you're alone
12 again with Casey.

13 A Yes.

14 Q You had -- did you say you had your pad and
15 paper?

16 A Yes. Yes. I had a --

17 Q Okay.

18 A -- a pen and a pad at that point. Yeah.

19 Q All right. You're looking at this as a
20 problem to be solved.

21 A Yes. [Laughing]

22 Q You haven't let emotions get the best of you.

23 A I'm trying not to. [Laughing]

24 Q All right. So now you have a minute or so --

25 A Um-hum.