

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

STATE OF FLORIDA,

CASE NO.: 48-2008-CF-13331-O
DIVISION: 16

Plaintiff,

vs.

JUDGE: STAN STRICKLAND

CASEY MARIE ANTHONY,

Defendant.

**MISS ANTHONY'S RESPONSE TO MOTION FOR DETERMINATION OF
NEW TRIAL DATE**

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys, JOSE A. BAEZ and ANDREA D. LYON, and respectfully asks this Honorable Court to deny the state's request to set the above-referenced case for pretrial and trial. In support thereof and for the reasons stated in the accompanying memorandum of law and appendices, the Defense states the following:

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LYDIA GARDNER
CLERK OF CIRCUIT COURT
ORANGE COUNTY, FL.

1. Miss Anthony agrees that the State's right to speedy trial is the same as the defendant's under Florida law.

2. The complexity of the capital case necessitates a delay in the check forgery case in order for the defendant's rights to be served. Florida Statute 960.0015 provides that "The court may . . . grant whatever further extension may be required to prevent deprivation of the defendant's right to due process." The right to due process includes the right to a fair and impartial jury trial. To find an impartial jury even for this charge would

require a change of venue due to the media storm surrounding this case and influencing potential jurors.

3. The length of the delay is not presumptively prejudicial because the State is responsible for the delays.

4. The Defendant's reason for delay is a good faith attempt to prepare to litigate a capital case in Miss Anthony's defense; the capital case requires the full attention and resources of her defense team. The defense must prepare for both the trial and possible penalty phase which includes interviewing witnesses, examining over 6,000 pages of discovery, conducting its own investigation, preparing mitigation evidence, and researching and filing motions.

5. In addition, if the alleged check forgery case goes to trial, there would be serious implications regarding preparation of the capital case. Ms. Andrea Lyon, as the capital defense attorney, would be required to prepare for and litigate the case along with Mr. Jose Baez in order to adequately protect Miss Anthony. Thus, the alleged check forgery case would divert the attention currently being paid to the preparation of the complex legal and factual issues associated with the death penalty case.

6. The State's almost six month delay in attempting to set a new trial date does not qualify as a timely assertion of its right to speedy trial.

7. The State has not been and is unlikely to become prejudiced by any further delay in trial because of the permanent nature of the evidence. Prosecuting the check forgery case where there is little risk of the evidence deteriorating before the complex capital murder case would be inefficient, expensive, and imprudent. Given the extensive media coverage surrounding Miss Anthony's capital case, in order to ensure that the Miss

Anthony's right to a fair trial with an impartial jury is upheld for the check forgery case, the defense would have to move for a change of venue. The time and costs of finding a suitable venue as well as picking an impartial jury for a check forgery case with the more pressing capital case at hand would be an imprudent use of the defense's time and resources.

8. Additionally, while the state attempts to use the victim's rights as a reason to set this case, Miss Anthony has already served more time than a person would normally be sentenced for a first-time offense of this nature and the complaining witness in this case, Miss Amy Huizenga, has already been made whole by the Bank of America. Thus, there is no urgent need to resolve the alleged check forgery case. The bank was also recompensed. *See* Letter from Bank of America, herein Exhibit D.

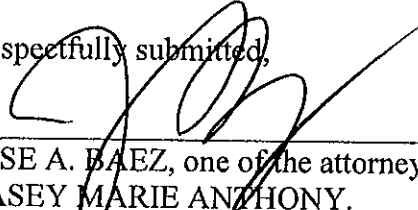
9. On balance, the delay is reasonable because of the defense's good faith effort to respond to the State's delayed seeking of the death penalty and the lack of actual prejudice to the State. Miss Anthony's right to a fair trial necessitates that her legal resources are expended to address more pressing issues first, namely, the capital case. In addition, the State's own sudden decision to seek the death penalty in April 2009 after having waived it four months earlier necessitated the prior continuances in order to add ANDREA D. LYON as attorney *pro hac vice* in the capital case. The additional time was vital to ensure that aforementioned attorney had sufficient time to familiarize herself with the case and begin her investigation.

10. Therefore, for these reasons and for those in the accompanying memorandum of law, and in the interests of Miss Anthony's right to due process and a fair trial, the


defense respectfully asks this Honorable Court to delay the pretrial and trial date of the case at hand until after the capital case is completed.

WHEREFORE, the Defendant CASEY MARIE ANTHONY respectfully requests that this Honorable Court deny the State's Motion for Determination of New Trial Date.

Respectfully submitted,



JOSE A. BAEZ, one of the attorneys for
CASEY MARIE ANTHONY.



ANDREA D. LYON, one of the attorneys
for CASEY MARIE ANTHONY.

Dated: 7/14/09

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CERTIFICATE OF SERVICE

I hereby certify that a copy hereof was personally served to Jeff Ashton, Linda Drane-Burdick, and Frank George, Asst Prosecuting Attorneys, Ninth Judicial Circuit, 415 North Orange Avenue, Orlando, Florida 32801 on the 16 day of July, 2009

Of Counsel

