

single jurors on any of these and other sensitive topics before the entire venire poses the danger of contamination of all potential jurors. Finally, an important consideration for the Court is always the time necessary to accomplish any jury selection procedure. Since individual questions are permitted, it matters little in terms of efficiency whether the juror being questioned is alone or in a group of other jurors.

During the voir dire, it will be essential to determine whether each prospective juror has been exposed to the extensive pretrial publicity. It will be very difficult to adequately question jurors individually about their knowledge of the case and the defendant without revealing, or having them reveal, prejudicial information. Extensive pretrial publicity, as exists in the instant case, has often been recognized as a factor compelling individual examination of prospective jurors. *Davis v. Florida*, 473 U.S. 913, 916 (1985).

In the interest of a fair and impartial trial and due process of law, as guaranteed by both the Florida and United States Constitutions, it is necessary that a searching inquiry be made of the prospective jurors to uncover any and all bias and prejudice which may exist. Such an inquiry should be unfettered by natural human reluctance to admit before fellow jurors that one would be influenced in his verdict by socially unacceptable answers more pronounced than when the issue involves relations among different cultures.

The Court has wide discretion in the conduct of voir dire examination. *See Davis v. Florida*, 473 U.S. 913, 915 (1985). However, the discretion afforded the trial judge to conduct voir dire as he sees fit must be bounded by protection of the defendant's constitutional rights, especially in a situation of extensive pretrial publicity. *United States v. Gerald*, 624 F.2d at 1295 (1980). In the instant case, there is a strong possibility that individual jurors will be ineligible to serve because of exposure to pretrial publicity regarding this case and other charges pending

against Miss Anthony, counsel are in favor of interrogating prospective jurors about these issues privately, outside the presence of other prospective jurors. *See Turner v. Murray*, 476 U.S. 28, 37 (1986) (plurality) (suggesting that ‘special circumstances’ require a more thorough and searching inquiry into the impartiality of veniremen to be constitutionally adequate); *United States v. Hawkins*, 658 F. 2d 279, 283-4 (5th Cir. 1981) (individual, sequestered voir dire involving pretrial publicity should have been conducted); *United States v. Davis*, 582 F. 2d 190, 196-7 (5th Cir. 1978) (individual, sequestered voir dire involving pretrial publicity should have been conducted); Standards for Criminal Justice 8-3, 5(a) (2d ed. 1980) (urging individual voir dire, outside presence of other jurors).

Also, since the nature of the questions necessary in this cause are so personal, sequestered questioning will permit this Court to protect, to some extent, the privacy of prospective jurors.

C. Conclusion

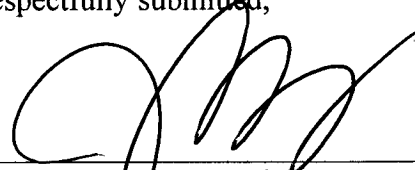
1. Therefore, in the interests of Miss Casey Marie Anthony’s constitutional rights, the

Defense respectfully asks this Honorable Court to:

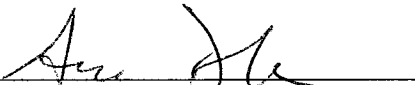
- a. Order the Prosecution to file a response motion and memorandum of law within thirty days of the filing of this motion and accompanying memorandum of law;
- b. Allow the defense ten business days from the Prosecution’s filing of its responsive motion and memorandum of law to file a reply motion and memorandum of law;
- c. Set a hearing date, at which time this Honorable Court may hear arguments relating to the defense and prosecution’s motions.

WHEREFORE, the Defendant CASEY MARIE ANTHONY for the reasons stated above and in the accompanying memorandum of law, respectfully requests that this Court permit private, sequestered questioning of the jury venire.

Respectfully submitted,



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



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

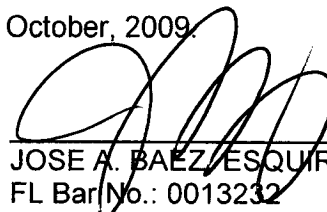
Dated: 10/9, 2009

Jose A. Baez
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407-705-2626 (phone)
407-705-2625 (fax)

Professor Andrea D. Lyon
Director, Center for Justice in Capital Cases
DePaul University College of Law
14 E. Jackson Blvd., First Floor
(Mailing Address: 1 E. Jackson Blvd.)
Chicago, Illinois 60604
312-362-8402 (phone)
312-362-6918 (fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and /or U.S. Mail on this 10 day of October, 2009.



JOSE A. BAEZ, ESQUIRE
FL Bar No.: 0013232
JOSE L. GARCIA, ESQUIRE
FL Bar No.: 0026020
THE BAEZ LAW FIRM
522 Simpson Road
Kissimmee, Florida 34744
Tel.: (407) 705-2626
Fax: (407) 705-2625

abuse, aggravated manslaughter of a child, and four counts of providing false information to a law enforcement officer on October 14, 2008.

Miss Anthony was incarcerated from the time of her August 29, 2008 arrest until September 3, 2008 and again from September 15, 2008 to September 16, 2008. Miss Anthony returned to an Orange County jail after her October 14, 2008 arrest and remains in custody at this time.

The check forgery case was set for trial on November 17, 2008. At the request of the Defense, a continuance was granted and the trial was reset for January 5, 2009. On December 5, 2008, the State filed a waiver of the intent to seek the death penalty in Case Number 2008-CF-15606-O, Miss Anthony's capital case. *See* State's Notice of Intention Not to Seek Death Penalty, herein Exhibit B. At the second pretrial conference on December 11, 2008, a second continuance was granted to the Defense with a status hearing set for January 15, 2009. A status hearing was held on January 8, 2009, instead of January 15, 2009. On April 13, 2009, the State reversed its prior decision to waive the death penalty and filed a Notice of Intent to Seek Death Penalty with no explanation. *See* Exhibit C.

The complaining witness in this case, Miss Huizenga, was recompensed by the bank for her loss. The bank was also recompensed. *See* Exhibit D.

SUMMARY OF THE ARGUMENT

A fundamental right to due process is a defendant's right to a fair trial. In order to receive a fair trial, Miss Anthony must have a fair and impartial jury. During the voir dire, it will be essential to determine whether each prospective juror has been exposed to the extensive pretrial publicity that exists surrounding Miss Anthony. It will be very difficult to adequately question

each juror individually about their knowledge of the case and the defendant without revealing, or having them reveal, prejudicial information in a group setting.

ARGUMENT

I. Miss Anthony Has The Fundamental Right To a Fair Trial By an Impartial Jury

Every criminal defendant has the right to be tried by an impartial jury. “In essence,” the United States Supreme Court has written, “the right to jury trial guarantees to the criminally accused a fair trial by a panel of impartial, ‘indifferent’ jurors. The failure to accord an accused a fair hearing violates even the minimal standards of due process.” *Irvin v. Dowd*, 366 U.S. 717, 722 (1961). The Sixth and Fourteenth Amendments of the United States Constitution and Article I, Sections 9, 16, and 22 of the Florida Constitution guarantee Miss Anthony a fair trial by an impartial jury.

II. The Nature and Extent of the Pretrial Publicity In This Case Warrants Individual Sequestered Jury Voir Dire

In order for Miss Anthony to get her constitutionally guaranteed fair trial, she needs to have an impartial jury. For an impartial jury to be picked, it will be necessary for Miss Anthony’s attorneys to question potential jurors individually. The right to individual voir dire is within the purview of Fla. R. Cr. P. 3.300(b), which provides: “Counsel for both State and Defendant shall be permitted to propound pertinent questions to the prospective juror after such examination by the Court.” While Fla.R.Cr.P. 3.300(b) has not been construed as creating a mandatory right to sequestration of jurors during voir dire, it is within the scope of the trial judge’s powers to grant the request to conduct isolated examination. *Jones v. State*, 343 So.2d 921 (Fla.3d DCA 1977); *Branch v. State*, 212 So.2d 29 (Fla.2d DCA 1968).

Because of the extensive pre-trial publicity, questions will certainly need to be asked in an attempt to uncover any bias that venire members may feel regarding Miss Anthony.

Additionally, this prosecution and other pending charges against Miss Anthony have been the subject of intense publicity, both in this community and nationwide. Therefore, questioning of single jurors on any of these and other sensitive topics before the entire venire poses the danger of contamination of all potential jurors. Finally, an important consideration for the Court is always the time necessary to accomplish any jury selection procedure. Since individual questions are permitted, it matters little in terms of efficiency whether the juror being questioned is alone or in a group of other jurors.

During the voir dire, it will be essential to determine whether each prospective juror has been exposed to the extensive pretrial publicity. It will be very difficult to adequately question jurors individually about their knowledge of the case and the defendant without revealing, or having them reveal, prejudicial information. Extensive pretrial publicity, as exists in the instant case, has often been recognized as a factor compelling individual examination of prospective jurors. *Davis v. Florida*, 473 U.S. 913, 916 (1985).

In the interest of a fair and impartial trial and due process of law, as guaranteed by both the Florida and United States Constitutions, it is necessary that a searching inquiry be made of the prospective jurors to uncover any and all bias and prejudice which may exist. Such an inquiry should be unfettered by natural human reluctance to admit before fellow jurors that one would be influenced in his verdict by socially unacceptable answers more pronounced than when the issue involves relations among different cultures.

The Court has wide discretion in the conduct of voir dire examination. *See Davis v. Florida*, 473 U.S. 913, 915 (1985). However, the discretion afforded the trial judge to conduct voir dire as he sees fit must be bounded by protection of the defendant's constitutional rights, especially in a situation of extensive pretrial publicity. *United States v. Gerald*, 624 F.2d at 1295

(1980). In the instant case, there is a strong possibility that individual jurors will be ineligible to serve because of exposure to pretrial publicity regarding this case and other charges pending against Miss Anthony, counsel are in favor of interrogating prospective jurors about these issues privately, outside the presence of other prospective jurors. See *Turner v. Murray*, 476 U.S. 28, 37 (1986) (plurality) (suggesting that ‘special circumstances’ require a more thorough and searching inquiry into the impartiality of veniremen to be constitutionally adequate); *United States v. Hawkins*, 658 F. 2d 279, 283-4 (5th Cir. 1981) (individual, sequestered voir dire involving pretrial publicity should have been conducted); *United States v. Davis*, 582 F. 2d 190, 196-7 (5th Cir. 1978) (individual, sequestered voir dire involving pretrial publicity should have been conducted); Standards for Criminal Justice 8-3, 5(a) (2d ed. 1980) (urging individual voir dire, outside presence of other jurors).

Also, since the nature of the questions necessary in this cause are so personal, sequestered questioning will permit this Court to protect, to some extent, the privacy of prospective jurors.

CONCLUSION

1. Therefore, in the interests of Miss Casey Marie Anthony’s constitutional rights, the

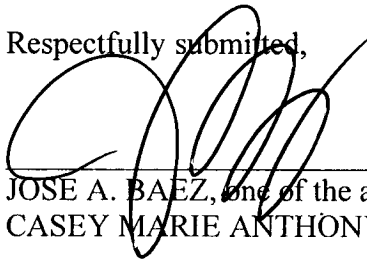
Defense respectfully asks this Honorable Court to:

- a. Order the Prosecution to file a response motion and memorandum of law within thirty days of the filing of this motion and accompanying memorandum of law;
- b. Allow the defense ten business days from the Prosecution’s filing of its responsive motion and memorandum of law to file a reply motion and memorandum of law;

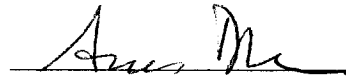
- c. Set a hearing date, at which time this Honorable Court may hear arguments relating to the defense and prosecution's motions.
- d. Allow individual sequestered jury voir dire.

WHEREFORE, the Defendant CASEY MARIE ANTHONY for the reasons stated above and in the accompanying memorandum of law, respectfully requests that this Court permit private, sequestered questioning of the jury venire.

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: 10/9, 2009

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been furnished to the Office of the State Attorney, 415 North Orange Avenue, Orlando, Florida 32801; via facsimile and /or U.S. Mail on this 9 day of October, 2009.



JOSE A. BAEZ, ESQUIRE
FL Bar No.: 0013232
JOSE L. GARCIA, ESQUIRE
FL Bar No.: 0026020
THE BAEZ LAW FIRM
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Kissimmee, Florida 34744
Tel.: (407) 705-2626
Fax: (407) 705-2625

Exhibit A

Orange County

ICJIS Arrest Affidavit

Division #:
 Court Case #:

Arrested At-Large JRA

Document #: 123752

Document Date: 9/3/2008

Location of Defendant Vehicle: NONE Date-Time Booked: 09/03/2008 11:51 Agency Case Number: 08-85031

ORI: FL0480000 Agency Name: ORANGE COUNTY SHERIFF'S OFFICE FCIC/NCIC Check: Date-Time of Arrest: 09/03/2008 09:00

Address of Arrest:

DEFENDANT Adult Juvenile Name Keys: Jocket Number: Inmate Number: 08042346 Language: ENGLISH

NAME (L,F,M): ANTHONY, CASEY M A.K.A.: Race: W Sex: F DOB: 3/19/1986 Age: 22

Height: 5'02" Weight: 105 Hair: BLK Eyes: BLU POB: UNKNOWN POB State: OH POB Country: UNITED STATES

RES Street: 4937 HOPESPRING DR Citizenship: UNITED STATES

City: ORLANDO State: FL Zip: 32829 Home Phone: (407)281-0646 Other Phone:

Scars/Tattoos: Ethnicity: NOT HISPANIC OR LATINO

Driver's License/ State ID No: A535-113-86-599-0 State: FL Year Expires: SSN #:

Next of Kin Name: Address: Phone:

Business and Occupation:

Bus Street #:

City: State: Zip: Bus Phone:

AGGRAVATORS: Firearm Weapon Mask Vest Convicted Sex Offender Hate Crime Special Victim Domestic Violence? N

OFFENSES Felony Misd. ORD. Traffic Court Location: CIRCUIT

#	DOC Code	Description	Bond Amt. \$	FSS/ORD	FDLE Rec#	Drug Name	Citation Number
1		UTTERING A FORGED CHECK 831.09-1	1,000.00	831.09	3018		
2		FRAUD USE OF PERSONAL IDENT INFORMATION 817.568(2)	150.00	817.568.2a	3981		
3		PETIT THEFT OF \$100 OR MORE 812.014(2)(E)	100.00	812.014.2a	2797		
AIO							
FDC-DUPL							

CHECK HERE IF OFFENSES ARE CONTINUED

CODEFENDANT	#1	NAME (L,F,M):	Arrest	Juv.	Fel	Misd.	ORD	Traff	NTA	Race:	Sex:	Age:	DOB:
	#2	NAME (L,F,M):	Arrest	Juv.	Fel	Misd.	ORD	Traff	NTA	Race:	Sex:	Age:	DOB:
	#3	NAME (L,F,M):	Arrest	Juv.	Fel	Misd.	ORD	Traff	NTA	Race:	Sex:	Age:	DOB:
	#4	NAME (L,F,M):	Arrest	Juv.	Fel	Misd.	ORD	Traff	NTA	Race:	Sex:	Age:	DOB:

OCF Notified? N By Whom? On Probation? N Miranda Warning N By Whom? Invoked? N

Sworn in and subscribed before me, this 3 day of Sept year 08

Notary Public Law Enforcement or Corrections Personally Known Produced Identification

Type of Identification: Signature: Officer's Signature: ANDERSON JOHAN / 2643 Booking/Receiving Signature:

1001 (12/06) COURT COPY RECORD COPY STATE ATTORNEY COPY INMATE RECORDS COPY AGENCY/REPORT REVIEW COPY

09/03 28/10/4254813

ICJIS Continuation of:

Arrest Affidavit
 Notice to Appear

Document #: 123752

Defendant's Name: ANTHONY, CASEY M	Case Number: 08-85031
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NARRATIVE: The undersigned has probable cause to believe the above-named defendant on 10 of July 2008 at 10:33 AM at 3770 N GOLDENROD RD (Zone: 24) in Orange County did

did commit the offenses of Uttering a Forged (Stolen) Instrument and Petit Theft by: uttering and publishing as true forged (stolen) check #143 in the amount of \$137.77 from victim Huizenga's Bank of America checking account with the intent to defraud victim Huizenga, Target and ultimately Bank of America. In addition, defendant Anthony committed the offense of Criminal Use of Personal Information by willfully and without authorization fraudulently using and possessing the personal identification information (bank account number) concerning victim Huizenga without her consent. Background: July 16, 2008: Victim Amy Huizenga filed a report with the Orlando Police Department reference to a fraud. Officer Wilson, R (12287) obtained a sworn statement from victim Huizenga and his report stated the following: On 07-16-2008 at approximately 1940 hours, I, Officer R. Wilson (12287), responded to 100 South Hughey Avenue (OPH) in reference to a fraud. Upon arrival, I met and spoke with the victim, Amy Huizenga, who verbally and in a sworn statement stated the following: Huizenga stated on 07-08-2008 at approximately 1845 hours and 07-15-2008 at approximately 1530 hours, her friend, Casey Anthony, stole and wrote several of her personal checks without her permission. Huizenga stated on 07-08-2008 at approximately 1840 hours, Anthony dropped her off at the airport (in her own vehicle) and borrowed her vehicle to use, while she was going on a trip to Puerto Rico. Huizenga stated when she returned back home from Puerto Rico on 07-15-2008 at approximately 1530 hours, Anthony picked her up (in her own vehicle), which she took back custody of. Huizenga stated later on that date, she was having a conversation with Anthony's mother (NOI) when she learned that Anthony was a liar and a thief. Huizenga stated after obtaining that information, the first thought that came to her mind was her bank account. Huizenga stated at approximately 2030 hours, when she returned home, she checked her checking account (account #5491737877), which had approximately \$630 in it, and discovered it had a zero balance with other checks still pending. Huizenga stated further investigation (on her part), revealed the following activities were done on her account, while she was out of the country: The following checks were written on her personal checking account with Bank of America: Check #142 in the amount of \$111.01 was written to Target in Orlando and posted on 07-08-2008. Check #143 in the amount of \$137.77 was written to a Target in Winter Garden and posted on 07-10-2008. Check #144 in the amount of \$155.47 was written to a Target in Orlando and posted on 07-10-2008. Check #145 in the amount of \$92.62 was written to a Winn Dixie supermarket (NOI) and posted on 07-12-2008. Check #146 in the amount of \$250 was written for cash to herself to Bank of America (NOI) and posted on 07-15-2008. These checks have Anthony's name and what appear to be her signatures on them. Huizenga stated when she loaned Anthony her vehicle at the time of her departure, she did not remember she had left her checkbook in the unlocked glove compartment of her vehicle and that is how Anthony was able to obtain the checkbook. Huizenga stated although she gave Anthony permission to use her vehicle, she did not give him permission to use her checkbook or her bank account. Huizenga stated her total loss as of this date, 07-16-2008, is approximately \$700 and she wants to press charges. It is to be noted at the time of this report, Anthony was in custody at the Orange County Booking and Release Center on OCSO charges reference OCSO case #08-069208. At this time, this case will be forwarded to the Fraud Unit for further investigation. **Copy of Officer Wilson's report is attached. July 19, 2008: Victim Huizenga called the Orlando Police Department Information Desk to report an additional check that was in the process of clearing her account. PCS II Flores/14267/0719/08/0952 hrs/100 South Hughey Avenue. The victim stated the check was electronically presented to AT&T in the amount of \$574. The victim advised she retrieved her check book back from the ex-boyfriend (NOI) of the suspect. The victim advised that the account has been closed. **PCS II Flores' report is attached. Investigation: 07/23/08: While assisting in a missing child's investigation (Case #08-069208), video surveillance was obtained from Target and Bank of America reference to defendant Anthony. Videos showed defendant Anthony uttering stolen checks belonging to victim Huizenga. 07/29/08: Documents were received from Sgt. James Stewart from the Orlando Police Department where victim Huizenga originally filed a stolen checks report. Their preliminary investigation revealed that the majority of the checks were uttered within the Orange County Sheriff's Office jurisdiction. Documents mailed by Sgt. Stewart are as follow: -Original and Supplemental reports -Copies of checks payable to Casey Anthony and Winn Dixie -Bank of America statements -Documents/Pictures from Bank of America -Documents/Pictures from Target -Sworn Written Statement from victim Huizenga Defendant Anthony uttered the following checks at Target: Date Check # Amount Location 07-10-2008 143 \$137.77 3770 N Goldenrod Rd, Winter Park Copies of the purchase receipt, check, photos and video are attached to this report. In addition, sworn statement from cashier/witness Maldonado is attached. Witness Maldonado advised in her statement that her employee number is 490100077 and that she worked on Thursday July 10, 2008, 10:33 am and that a transaction was done at her register in the amount of \$137.77. Witness Maldonado advised that a check was used. It needs to be noted that according to the transaction listed above, the sales receipt confirms that cashier #49010077 was the one that received check #143 in the amount of \$137.77. In addition, at the time of all the above listed transaction, Florida Driver's license A535-113-86-5990 was presented

Sworn to and subscribed before me this 10 day of Sept year 08

Notary Public Law Enforcement or Corrections

Personally Known Produced Identification

Type of Identification _____

Signature _____

I swear or affirm the above contents are true and correct

Officer's Signature: [Signature] Officer's Bus. PO7 254 7250

Officer's Name/ID: ANDERSON, JOHAN / 2643 Booking/Receiving Signature _____

2