

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

STATE OF FLORIDA,

Plaintiff,

CASE NUMBER: 48-2008-CF-15606-O

vs.

DIVISION 16

CASEY MARIE ANTHONY,

Defendant.

**STATE OF FLORIDA'S MOTION TO STAY ORDER DISPOSING OF EMERGENCY
MOTION TO COMPEL PHOTOGRAPHS AND X-RAYS TAKEN OF REMAINS and
MOTION TO AMEND ORDER TO COMPLY WITH FLORIDA STATUTE 406.135**

COMES NOW, the State of Florida, by and through the undersigned Assistant State Attorney, pursuant to Florida Statute 119.071(2)(h) and Florida Statute 406.135(7), and moves this Honorable Court for an Order staying the time frame delineated in its' Order Disposing Of Emergency Motion to Compel Photographs and X-rays taken of Remains until such time as additional restrictions upon such disclosure are considered by this Court. In support thereof, the State of Florida says as follows:

1. On December 22, 2008 at 5:18pm, Defendant Casey Anthony, through her attorney Jose Baez, faxed to the Office of the State Attorney a motion styled *Emergency Motion to Compel Photographs and X-Rays Taken of Remains*. At the time of the filing of the motion, the Office of the Medical Examiner remained the sole custodian of the photographs and x-rays.
2. On December 23, 2008, this Honorable Court granted the defense motion without hearing and a signed *Order Disposing of Emergency Motion to Compel Photographs and X-Rays Taken of Remains* was faxed to the Office of the State Attorney at 10:23am. Said order gave the State of Florida fourteen (14) days to produce the requested records or file an objection to same. Since the date of the Court's order, the State of Florida has obtained custody of digital images of the autopsy, and digital images of skeletal and dental x-rays.
3. While the State of Florida does not object to immediate access to the records pursuant to Florida Rule of Procedure 3.220, the State would request that this Court amend its' order and place restrictions regarding the dissemination of the photographs upon the defense

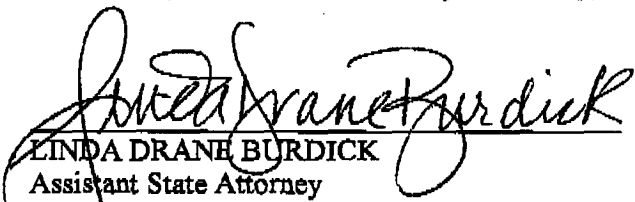
and any other party in possession of (or entitled to possession of) these items prior to their initial release.

4. Florida Statute 406.135 covers confidentiality of autopsy photos, but specifically exempts certain criminal proceedings from its' provisions except that this Court, upon good cause shown, can restrict or control the disclosure of autopsy or crime scene or similar photographs, or video, or audio recordings in the manner proscribed in F.S. 406.135.
5. Additionally, Florida Statute 119.071(2)(h) exempts and holds confidential photographs or other fact or information which reveals the identity of the victim of, among other offenses, the crime of Child Abuse as defined by Chapter 827. The State of Florida is certainly aware of the analysis of the 2d District Court of Appeal in Sarasota Herald-Tribune v. State of Florida and Joseph P. Smith, 924 So.2d 8 (2d DCA 2006) which dealt with access to crime scene and autopsy photographs admitted into evidence during a trial proceeding and in the custody of the clerk of the court. Likewise, an order of the Circuit Court of the Eighth Judicial Circuit in Alachua County, Florida in the case of State of Florida v. Danny Rolling dealt with the release of victim photographs after they were admitted during the sentencing phase and in the custody of the clerk of the court.
6. It has been widely reported that major media outlets have paid substantial sums of money for "licensing fees" for photographs and videos of Caylee Marie Anthony depicting her image while she was still alive. Therefore, it is imperative that this Court take steps to prevent any image of her remains from being used for commercial gain. This request is not to suggest or infer that defense counsel will engage in such conduct. However, the only way this Court can assure that the images will not be reproduced is to place conditions on their disclosure and dissemination.
7. Therefore, it is the request of the State of Florida that this Court order that upon release of the three discs to defense counsel, that he not be permitted to copy the discs, print images off of the discs, or to in any way reproduce the images contained on the discs to include sending them out of the jurisdiction over the internet or through the U.S. Mail or other delivery service. The State also requests that counsel be prohibited from allowing anyone, except his expert witnesses and co-counsel, to view the images on the disc for any purpose and that any viewing by experts or co-counsel must be done in the presence of lead counsel Jose Baez who shall remain custodian of the record at all times.
8. On December 31, 2008, the undersigned spoke with Mr. Baez about issues regarding the release of the images and he agreed that he would not disclose these images to unrelated third parties, but wished to have the images sent out of the jurisdiction to his expert for evaluation. It is the understanding of the State of Florida that the request to take possession of these images is to facilitate the defense effort to conduct a "second autopsy" of the remains. Since the remains of Caylee Marie Anthony are located within the jurisdiction of this Court, it is not an unreasonable restriction upon the defense to require that the expert who comes to Florida to examine the remains evaluate the images

from the Office of the Medical Examiner while this expert is subject to the jurisdiction of the State.

WHEREFORE, the State of Florida respectfully requests that this Court temporarily stay the order entered December 23, 2008 until a hearing can be scheduled on the matters herein, and that the Court place restrictions on the disclosure and dissemination of the images.

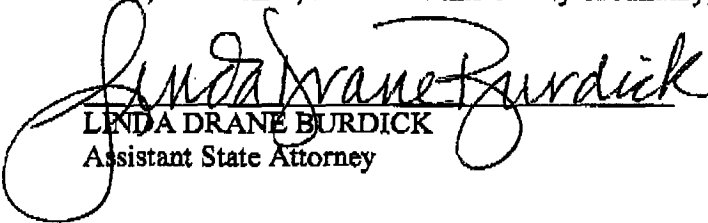
Respectfully Submitted this 6th day of January, 2009,



LINDA DRANE BURDICK
Assistant State Attorney
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407.836.2402

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing response has been delivered via electronic mail and U.S. Mail Delivery to Jose A. Baez, Esquire, 522 Simpson Road, Kissimmee, FL 34744 this 6th day of January, 2009.



LINDA DRANE BURDICK
Assistant State Attorney