

)	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
v.)	Division 16
)	
CASEY MARIE ANTHONY,)	Hon. Stan Strickland
)	
Defendant.)	
)	

DEFENDANT’S MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF ANY EVIDENCE RELATING TO MISS ANTHONY’S MURDER CASE

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys, JOSE A. BAEZ and ANDREA D. LYON, in order to secure her rights as guaranteed by the Fifth and Fourteenth Amendment to the U.S. Constitution, Article I of the Florida Constitution, and the Florida Rules of Evidence, and thus asks this Honorable Court to order the prosecution not to elicit directly or by inference any testimony which is not relevant and is prejudicial.

In support thereof, Casey Marie Anthony states as follows:

1. Based on the Defense team’s reading of discovery and knowledge of Miss Anthony’s other pending homicide case, the Prosecution may intend to introduce evidence that is not relevant to any issue in question.
2. Any evidence mentioning Miss Anthony’s child Caylee Anthony, the homicide charges and other charges she faces regarding her daughter, accusations of child neglect, abuse, or any other such evidence relating to Miss Anthony’s pending homicide case is irrelevant.
3. Evidence must not only be relevant, but also material to the issue at hand. If there

is no relevance to a material fact at issue, the evidence is inadmissible.

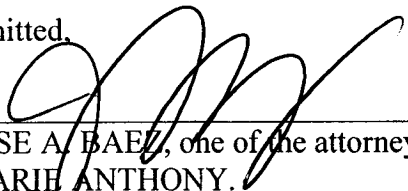
4. Evidence regarding Miss Anthony's homicide case, and any mention of the alleged murder or charges against Miss Anthony is not material to the issue at hand. The issue in the case is whether Miss Anthony committed check fraud, and whether Miss Anthony, with intent to injure or defraud Amy Huizenga, did utter and publish as true certain false, forged, altered, or counterfeited checks as well as willfully and without authorization fraudulently used or possessed with intent to use personal identification evidence of Amy Huizenga without obtaining consent. Evidence regarding Miss Anthony's homicide case or mention of the murder charges against her is in no way material to the issue of whether Miss Anthony committed check fraud. It is in no way probative of whether Miss Anthony did or did not forge checks or unlawfully use personal identification information belonging to Amy Huizenga or whether Miss Anthony knowingly obtained or endeavored to obtain money that was the property of Amy Huizenga. The murder charges against Miss Anthony are not relevant to any material fact at issue in the check fraud case, and therefore the evidence is inadmissible.
5. Where evidence has no relevancy except as to the character and propensity of the defendant to be a criminal, it must be excluded. Since any evidence of the murder charges against Miss Anthony would have no relevance except to try and characterize her as being more likely to have committed check fraud, it must be excluded.
6. The evidence is not only irrelevant to this case but also extremely prejudicial, and therefore should also be excluded on those grounds. Evidence is inadmissible if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, misleading the jury, or needless presentation of cumulative evidence. Any

mention of Miss Anthony's daughter Caylee, the pending murder charges, or anything else to do with the homicide case would unfairly prejudice Miss Anthony as a jury would likely give the evidence too much weight. The issue of Miss Anthony's guilt in this case would be confused with the issue of Miss Anthony's guilt in the other case. Any mention of the homicide case would also mislead the jury into thinking it has some connection with this case.

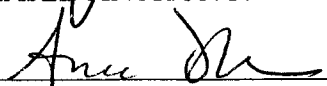
WHEREFORE, the DEFENDANT CASEY MARIE ANTHONY respectfully requests that this Honorable Court:

1. Grant this Motion in Limine and direct the Prosecution not to elicit or refer to in any way any information regarding Miss Anthony's other pending homicide case, the charges against her, or anything regarding her daughter Caylee Anthony.
2. As a less favored alternative, Miss Anthony asks that this court hold an evidentiary hearing at which this evidence can be presented prior to trial so this Court can make its own determination as to the materiality and relevance of the evidence after hearing arguments related to the motion.
3. At the very least, this Honorable Court should require the prosecution to respond and make an offer of proof as to how this evidence is relevant and material and therefore admissible.
4. Further, Miss Anthony requests that should such an offer be made, or hearing held that she be allowed to respond to such an offer of proof or hearing in writing.

Respectfully submitted,



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



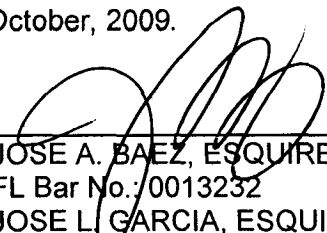
ANDREA D. LYON, one of the attorneys
for CASEY MARIE ANTHONY.

Dated: 9 day of October, 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.



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MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF ANY EVIDENCE RELATING TO MISS ANTHONY’S MURDER CASE

COMES NOW the Defendant, CASEY MARIE ANTHONY, by and through her attorneys JOSE A. BAEZ and ANDREA D. LYON, and submits this Memorandum of Law in Support of her Motion in Limine to Exclude Irrelevant and Prejudicial Evidence Regarding The Homicide, Alleged Child Abuse, or Caylee Anthony.

In support of her motion, Miss Anthony states as follows:

STATEMENT OF FACTS

On July 16, 2008 Amy Huizenga filed a report with the Orange County Sheriff’s Office in reference to an alleged fraud. *See* September 3, 2008 Arrest Affidavit for Casey Anthony, herein Exhibit A. Huizenga gave a sworn statement that Defendant Casey Marie Anthony (hereafter knows as “Miss Anthony”) forged Huizenga’s personal checks totaling approximately \$662.25 from July 10-15, 2008. *See* Exhibit A. Miss Anthony was arrested by the Orange County Sheriff’s Office for allegedly uttering forged checks belonging to Huizenga on August 29, 2008. Miss Anthony was subsequently arrested and indicted for the unrelated charges of first degree murder (capital), aggravated child abuse, aggravated manslaughter of a child, and four counts of providing false information to a law enforcement officer on October 14, 2008. That

case is currently pending trial next year, and both the Prosecution and Miss Anthony's Defense team are actively working to prepare for trial.

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 originally 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 April 13, 2009, the State then reversed its prior decision to waive the death penalty and filed a Notice of Intent to Seek Death Penalty with no explanation. *See Exhibit B.* The Defense's Motion for Determination of a New Trial Date for the check forgery case was denied. *See Exhibit C.* The case is now set to be tried, most likely starting November 30, 2009, significantly before Miss Anthony's other homicide case is set to be tried.

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

SUMMARY OF ARGUMENT

Any evidence mentioning Miss Anthony's child Caylee Anthony, charges of first degree murder (capital), aggravated child abuse, aggravated manslaughter of a child, and four counts of providing false information to a law enforcement officer or any other such evidence relating to Miss Anthony's pending homicide case is irrelevant and inadmissible. Relevant evidence is evidence tending to prove or disprove a material fact. Fla. Stat. § 90.401 (2004). Here, any mention of evidence regarding Miss Anthony's pending homicide case is inadmissible because it in no way proves or disproves whether she committed check fraud. The fact Miss Anthony is

facing these other charges does not logically prove or disprove any fact that is of consequence to the outcome of the check fraud case, as the two cases are completely unrelated. Therefore, it should be excluded. *See Shaw v. Jain*, 914 So.2d 458, 460 (Fla. Dist. Ct. App. 2005) (holding that evidence that logically did not tend to prove or disprove any fact of consequence to the outcome of the action was irrelevant and therefore should be excluded).

Furthermore, any evidence of the homicide case pending against Miss Anthony, even if arguably relevant to the check fraud case, is inadmissible as provided by law. Where evidence has no relevancy except as to the character and propensity of Miss Anthony to commit the crime she is charged with, it must be excluded. *Williams v. State*, 110 So.2d 654, 663 (Fla. 1959), *cert denied*, *Williams v. Florida*, 361 U.S. 847, 80 S.Ct. 102 (October 12, 1959). Miss Anthony's other alleged crimes in no way relate to the crime for which she is being tried. Miss Anthony faces two completely independent cases, and the other charges she is facing in no way relate to her propensity to commit check fraud. Additionally, it is not similar fact evidence, as the two alleged crimes have no similarities. Nor has Miss Anthony been convicted. Therefore, the evidence is inadmissible.

Finally, despite any speculative probative value of the evidence regarding Miss Anthony's pending murder charges, it is still inadmissible because any probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, and misleading the jury. *See Fla. Stat. § 90.403* (2004). The central issue of the case could become whether Miss Anthony is guilty of homicide, and not whether she is guilty of check fraud. Any mention of these other charges unfairly prejudices Miss Anthony because the jury will give it undue weight due to the inflammatory nature of the other case against Miss Anthony.

I. ANY MENTION OF CAYLEE ANTHONY OR PENDING CHARGES OF MURDER, CHILD ABUSE, OR MANSLAUGHTER AGAINST MISS ANTHONY IS INADMISSIBLE BECAUSE IT IS IRRELEVANT.

A. The Evidence Is Irrelevant Because It Does Not Tend to Prove Or Disprove Any Material Fact.

Any mention of Miss Anthony's murder case is irrelevant because it does not tend to prove or disprove any material fact in this case. For evidence to be relevant, it must tend to prove or disprove a material fact. Fla. Stat. § 904.401 (2004). "For evidence to be relevant, it must have a tendency to prove or disprove a fact which is of consequence to the outcome." Charles W. Ehrhardt, *Florida Evidence*, § 401.1, at 120 (2005 ed). Any evidence regarding Miss Anthony's murder charges in no way proves or disproves any fact affecting the outcome of her check fraud case. This lack of relevance causes the evidence to be inadmissible. *See Shaw*, 914 So.2d at 460. The murder charges Miss Anthony is facing do not relate to the issue of whether she forged checks and unlawfully used Amy Huizenga's personal identification information. The two events are completely unrelated, and nothing about the other case Miss Anthony faces tends to prove or disprove any issue in the check fraud case, namely whether she knowingly committed check fraud and forgery with intent to defraud Amy Huizenga.

B. The Evidence is Inadmissible Because If Arguably Relevant It Is Inadmissible as Provided By Law.

All relevant evidence is admissible, except as provided by law. Fla. Stat. § 90.402 (2004). Therefore, not all relevant evidence is always admissible. Evidence that has no relevancy except as to the character and propensity of Miss Anthony to be a criminal must be excluded. *See Williams*, 110 So.2d at 663. Evidence that Miss Anthony is charged with first degree murder has no relevancy except perhaps to suggest her propensity to commit another crime. There are no similar facts shared between the two acts, and the other charges in no way

show motivation, preparation, plan, knowledge or any other relevant purposes under Fla. Stat. § 90.404(2)(a) (2004). The two alleged crimes share no similar facts.

Only relevant evidence is admissible. Evidence of Miss Anthony's murder case is not relevant in this case because it does not logically prove or disprove any issue of material fact in her check fraud case. Furthermore, even if the evidence was relevant, it would be inadmissible because it has no relevance except as to her character and propensity to commit another crime, in this case check fraud. *Williams*, 110 So.2d at 663. It is improper for a jury to base a verdict of guilt in this case on the conclusion that because Miss Anthony is of bad character or has a propensity to commit crimes, she therefore committed check fraud. *Winstead v. State.*, 91 So.2d 809, 810 (Fla. 1957). Therefore, evidence of the other crimes charged is inadmissible, as it could only serve to try and convince the jury that Miss Anthony is of bad character with a propensity to be a criminal.

II. ANY MENTION OF CAYLEE ANTHONY OR PENDING CHARGES OF MURDER, CHILD ABUSE, OR MANSLAUGHTER AGAINST MISS ANTHONY IS INADMISSIBLE BECAUSE ITS PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGNED BY THE DANGER OF UNFAIR PREJUDICE, CONFUSION OF THE ISSUES, AND MISLEADING THE JURY.

Even if the evidence of other charges against Miss Anthony were arguably relevant, it would be inadmissible because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, and misleading the jury. Fla. Stat. § 904.403 (2004). The evidence of the other crimes essentially has no probative value or relation when it comes to this case. Therefore, it would only serve to unduly prejudice Miss Anthony, as she has not yet been tried or convicted of anything. Miss Anthony is not on trial for murder in this case, and any introduction of evidence regarding murder would only confuse the issues and mislead the jury into thinking whether Miss Anthony is guilty of murder has any relation to whether she is guilty

of check fraud. Miss Anthony will be on trial for the wrong crime. Due to the inflammatory nature of the other charges, and introduction of evidence regarding them would only serve to prejudice the jury against her.

This rule of exclusion is directed at evidence that inflames the jury or appeals improperly to the jury's emotions, and therefore evidence of that type should be inadmissible. *See McDuffie v. State*, 970 So.2d 312, 327 (Fla. 2007). Evidence regarding what happened to Caylee Anthony and the charges Miss Anthony is facing surely will inflame the jury and appeal improperly to the emotions of the jury in a case that is about check fraud. "Unfair prejudice" has been described as "an undue tendency to suggest decision on an improper basis, not necessarily an emotional one." *Id.* *See also Brown v. State*, 719 So.2d 882, 885 (Fla. 1998). (quoting *Old Chief v. United States*, 519 U.S. 172, 180, 117 S.Ct. 644, (1997)). The trial court must exclude evidence where unfair prejudice outweighs the probative value in order to avoid the danger that the jury will convict Miss Anthony based on reasons other than the ones establishing her guilt of check fraud. *McDuffie*, 970 So.2d at 327. Any introduction of evidence or mention of Miss Anthony's murder case invites the jury to convict her for other reasons.

CONCLUSION

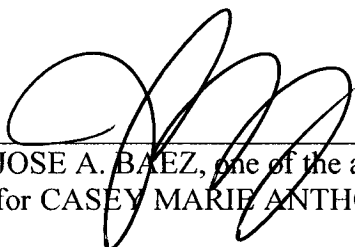
Any evidence regarding Miss Anthony's murder case, mention of her daughter Caylee Anthony, or child neglect or manslaughter chargers is irrelevant and therefore should be excluded. This evidence is inadmissible because it does not logically tend to prove or disprove any issue of material fact. Even if the evidence were considered relevant, it would have no relevancy except as to the character and propensity of Miss Anthony to commit the crime of check fraud because she is charged with another crime, and therefore it must be excluded. In

addition, any possible probative value is outweighed by the danger of unfair prejudice, confusion of issues, and misleading the jury. Therefore, the evidence is inadmissible.

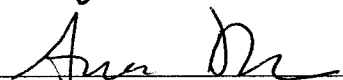
WHEREFORE, the DEFENDANT CASEY MARIE ANTHONY respectfully requests that this Honorable Court:

1. Grant this Motion in Limine and direct the Prosecution not to elicit or refer to in any way any information regarding Miss Anthony's other pending homicide case, the charges against her, or anything regarding her daughter Caylee Anthony.
2. As a less favored alternative, Miss Anthony asks that this court hold an evidentiary hearing at which this evidence can be presented prior to trial so this Court can make its own determination as to the materiality and relevance of the evidence.
3. At the very least, this Honorable Court should require the prosecution to respond and to make an offer of proof as to how this evidence is relevant and material and therefore admissible.
4. Further, Miss Anthony requests that should such an offer be made, or hearing held that she be allowed to respond to such an offer of proof or hearing in writing.

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: _____, 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
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**EXHIBITS IN SUPPORT OF DEFENDANT’S MOTION IN LIMINE TO
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MISS ANTHONY’S MURDER CASE**

Table of Exhibits

- Exhibit A:** Arrest affidavit for Casey Anthony, September 3, 2008.
- Exhibit B:** State’s Notice of Intent to Seek the Death Penalty, April 13, 2008.
- Exhibit C:** Order on the State’s Motion for Determination of New Trial Date, September 2, 2009.
- Exhibit D:** Letter from Bank of America to Jose A. Baez, counsel for Casey Anthony, July 15, 2009.

Exhibit A

Orange County

ICJIS Arrest Affidavit

Arrested At Large JRA

Document #: 123752

Division #:

Court Case #:

Document Date: 9/3/2008

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

ORI: FLO480000 Agency Name: ORANGE COUNTY SHERIFF'S OFFICE PCIC/CIC Check: Date-Time of Arrest: 09/03/2008 09:00

Address of Arrest:

DEFENDANT Adult Juvenile Name Key: JACKET 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 Occupations:

Bus Street #:

City: State: Zip: Bus Phone:

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

OFFENSES Felony Misd. ORD. Traffic Court Location: CIRCUIT

#	GOC Code	Description	Bond Amt \$	FSS/ORD	FDLE Rec'd	Drug Name	Citation Number
1		UTTERING A FORCED CHECK	831.09-1	1,000.00	831.09	3058	
2		FRAUD USE OF PERSONAL IDENTITY 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							
<u>FDC-DOM L</u>							

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:

DCF Notified? N By Whom? On Probation? N Miranda Waiving N By Whom? Invoked? N

Sworn to and subscribed before me, this 3 day of Sept year 08 Notary Public Law Enforcement or Corrections Personally Known Produced Identification Type of Identification: Signatures

I swear or affirm the above statements are true and correct. Officer's Signature: [Signature] Officer's Name/ID: ANDERSON, JOHAN / 2643 Booking/Receiving Signature

09/03 281014254813