

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

STATE OF FLORIDA,

CASE NUMBER: 08-CF-0015606-O

Plaintiff,

Vs.

CASEY ANTHONY,

Defendant.

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**MOTION TO QUASH THE COURT'S ORDER ON DEFENDANT'S APPLICATION  
FOR SUBPOENA DUCES TECUM FOR THE DOCUMENTS IN THE POSSESSION OF  
TEXAS EQUUSEARCH BASED ON BAD FAITH**

COMES NOW, Texas Equusearch, (hereinafter referred to as "TES"), by and through its undersigned counsel and pursuant to Florida Rules of Criminal Procedure 3.361(c), files its Motion to Quash the Court's Order on Defendant's Application for Subpoena Duces Tecum for the Documents in the Possession of Texas EquuSearch Based on Bad Faith, and as grounds therefore would state:

1. The Defendant, **CASEY MARIE ANTHONY**, through her counsel has maintained the position that volunteers of Texas EquuSearch have searched the exact area where the remains of Caylee Anthony were ultimately located, which is contrary to the evidence and the Defense's position as of June 21, 2010. The defense has asserted this claim in each of their motions pertaining to Texas EquuSearch as detailed below.

2. On July 16, 2009, the Defendant through her counsel, requested an Application for a Subpoena Duces Tecum for the documents owned, controlled by and in the possession of Texas Equusearch, for any and all records in its possession relating to its searches of Caylee Anthony of the area in and around Suburban Drive and Hidden Oaks Elementary School, Orlando, Florida. In this motion and memorandum in support of this motion, the Defense claimed, as laid out below, that there were searchers in the exact area where Caylee's remains were found.

- a. Page 2, Paragraph 8: As President of Texas EquuSearch, Timothy Miller is in possession of the records of its searches, maps of the areas searched, lists of members and volunteers who participated in the searches of the area where the remains were ultimately found,...
- b. Page 4, Paragraph 15 of the Memorandum in Support of Defendant's Motion...: In October of 2008, a former TES team leader informed the Orange County Sergeant John Allen that, while searching with TES in September, she had searched the area where Caylee Anthony's remains were ultimately found.
- c. Page 15: Because Texas EquuSearch is in possession of documents relating to its searches of the area where Caylee Anthony was ultimately found,...

3. On August 20, 2009, TES, through its undersigned counsel, filed a response to the Defendant's Application for Subpoena Duces Tecum. This response applied the case of *South Florida Blood Service vs. Rasmussen*, 467 So.2d 798 (1985), which held against the Petitioner, Rasmussen, when he requested the names and addresses of volunteer blood donors. The court held that such disclosure was not discoverable, as to do so would not protect the donors' constitutional privacy interests. Additionally, to do so would be contrary to society's interest in maintaining a strong blood donation program. The Supreme Court of Florida affirmed this decision. *Rasmussen vs. South Florida Blood Service, Inc.*, 500 So. 2d 533 (1987). Undersigned counsel recommended and the Court adopted TES position that an examination of the records indicated that there were no searchers for TES at the immediate site where Caylee was found but that there were 32 TES searchers that were within a distance of approximately fifty (50) yards of the specific spot where Caylee was found and that only these 32 searchers names should be disclosed. Moreover, it was argued and ordered that counsel for Casey Anthony, with restrictions on copying, could come to the office of Mark NeJame and review and inspect each and every file to determine if there were other files they deemed relevant. If the parties could not agree on their disclosure and release, then the Court would conduct an in camera inspection of the requested files and make a determination as to whether a copy of the files could be released to Defendant's counsel.

4. On August 21, 2009, a hearing was held on this issue before the Honorable Stan Strickland. On August 27, 2009, the Honorable Stan Strickland entered an Order which states in relevant part: *That the documents of the thirty-two (32) searchers, which were referenced by Mark E. NeJame as counsel for Timothy Miller and (TES) at the hearing on August 21, 2009, are to be disclosed to both the State and Defense; That all documents related to all the other searchers working with or under Texas Equusearch are not to be disclosed. However, counsel for the defendant, CASEY MARIE ANTHONY, and the State are independently permitted to review all of the other documents relating to the other searchers, at the Law Office of NeJame, LaFay, Jancha, Ahmed, Barker & Joshi, P.A., at a mutually convenient time.*

5. That it was not until approximately three weeks later on September 18, 2009, a member of the Baez Law Firm, present counsel for Casey Anthony, finally contacted the undersigned's office to make an appointment to come by and review the aforementioned documents. Over the next few days, through several conversations, the undersigned's office was informed by the Baez Firm that they were not sending a member of its firm over to review the documents but were in fact going to send "The Presentation Group" instead. "The Presentation Group" was determined to be a document copying company, which was to come and copy all the documents from all of the files. Upon learning this, Mr. Baez' representative was informed that their request was contrary to the directives, instructions and dictate as was set forth in this Honorable Court's Order of August 27th, 2009 and would not be acceptable. Upon being advised this, the meeting was canceled by Mr. Baez' representative.

6. Thereafter, for the next approximately 4 months, Mr. Baez' office had never contacted undersigned counsel or his office to reschedule, review, inspect or look at any of the documents, even though the documents have been available throughout.

7. On or about October 5, 2009, eighteen (18) days after the cancellation of the hoped for meeting and still having heard no word about a subsequent meeting to acquire the agreed upon documents of the thirty two (32) searchers, undersigned counsel's Firm contacted Mr. Baez' law office and inquired as to what they intended to do about obtaining the documents on the thirty two (32) searchers. Undersigned counsel's office was requested to simply fax the documents over to the Baez firm. Determining that such a procedure was not the best means to transmit such sensitive documents and so that no issue could surface that the documents weren't all made available, undersigned counsel voluntarily had the documents of the thirty two (32) searchers hand delivered to Mr. Baez' office. This procedure was a safeguard so that counsel for defendant would have what was instructed to be provided to them by the Court Order and so that there could not be a complaint that the documents were never received, regardless of the fact that no effort was made to pick up or inspect the documents in the approximately five (5) weeks since the entry of the court Order.

8. On November 23, 2009, the Defendant, through her undersigned counsel, filed a Motion to Modify the Court's Order on Defendant's Application for Subpoena Duces Tecum for the Documents in the Possession of Texas Equusearch. The grounds for this motion relied upon two individuals, Joe Jordan and Laura Buchanan, who both purportedly stated that they searched the exact area where Caylee Anthony's remains were found, and that neither individual was disclosed in their packet of thirty-two searchers. The Defense stated several times in their motion and memorandum in support of their motion, as laid out below, that there were in fact volunteers who searched the exact area where Caylee's remains were ultimately found.

- a. Page 2, Paragraph 4: The Defense, through its own independent investigation, has interviewed several TES searchers who not only searched the area where the remains were found, but who were not among the thirty-two (32) identified by TES.
- b. Page 2, Paragraph 5: None of the persons who searched the area where Caylee Anthony's remains were ultimately found reported finding anything unusual.
- c. Page 2, Paragraph 6: There were indeed TES searchers who searched the area where Caylee Anthony's remains were found.

- d. Page 2, Paragraph 4 of the Memorandum of Law in Support of Defendant's Motion to Modify the Court's Order on Defendant's Application for Subpoena Duces Tecum for Documents in the Possession of Texas Equusearch: The area they searched was within feet of where Caylee Anthony's remains were ultimately found. Joe Jordan documented his search in detail on forms specifically provided by TES and submitted those forms to TES officials.
- e. Page 2, Paragraph 5: Laura Buchanan personally searched near the wooden privacy fence and worked her way towards, and beyond where Caylee Anthony's body was ultimately found.
- f. Page 5, Second Paragraph: Despite TES having stated that none of its searchers were ever at the spot where Caylee Anthony's remains were ultimately found, the statement made by Laura Buchanan says that she started searching before where the remains were found, worked her way along, and ended her searching beyond where Caylee Anthony was ultimately found. Such a search would naturally include the exact location the remains were ultimately found, contrary to the statement made by TES.

9. On March 10, 2010, TES, through its undersigned counsel, filed a Response to the Defendant's Motion to Modify the Court's Order. The undersigned stated in this response that Joe Jordan was in fact disclosed in the packet delivered to the Defendant's counsel. Furthermore, Laura Buchanan stated in her affidavit that she searched several areas on her own and not under the guidance of TES, which is unrealistic for TES to monitor the searches the volunteers are doing on their own, outside of their groups.

10. On April 5, 2010, the Defendant, through her counsel and TES, through its counsel were heard on the Motion to Modify the Court's Order. The Honorable Stan Strickland entered an Order denying the Defendant's Motion to Modify the Court's Order on Defendant's Application for Subpoena Duces Tecum for Documents in the Possession of Texas Equusearch. That Order states in pertinent part: *Having now reviewed all of the exhibits submitted, this Court sees no reason to modify its original Order of August 27, 2009. The files are still available for review at the office of Mr. NeJame, and, if flagged for review and no agreement can be reached, this Court remains able to schedule an in camera review followed by a ruling.*

11. A time certain was coordinated between the undersigned's office and the attorneys for the Defendant, Casey Anthony, for April 23, 2010. Prior to the meeting, the undersigned informed the attorneys for the Defendant of the statute and the Order signed August 27, 2009, stating in pertinent part: *The Defendant, CASEY MARIE ANTHONY, shall bear all costs necessary as to enable her counsel to fully review all above-reference documents and said expenses shall be paid in advance, pursuant to Florida Rules of Criminal Procedure 3.361(c)(2).* The Defendant's counsel informed the undersigned that the Defendant has been declared indigent for cost and would not be able to provide advanced payment. The undersigned requested from the Defendant's attorneys that they, in good faith, submit an expense request to the JAC and just bring proof of that request during the review of the files.

12. On April 23, 2010, Attorneys Cheney Mason and Jose Baez came to the undersigned counsel's office to review the files containing the searches of the approximately 4,000 searchers. The monitor, Bill Fitzgerald, is a TES volunteer and is currently unemployed. He offered his services at a mere \$12 an hour since he was without a job and wanted to assist. The office of undersigned counsel also learned that when the meeting was scheduled, Mr. Baez had to leave within two hours from the start of the meeting to go to another appointment. With the \$12 prepaid throw down by Mr. Mason and Mr. Baez' limited schedule, it is patently obvious that there was no real interest or good faith attempt to review any of the documents that counsel for Casey Anthony has claimed were important. This is entirely consistent with the fact that it took them from August 22, 2009 until April 23, 2010 to finally get around to even coming by to peruse the documents...a full seven (7) months and twenty seven (27) days later.

13. The undersigned's office is in possession of four (4) boxes of documents from TES all of which are file boxes. Two of the four boxes contain documents which are irrelevant to the issue at hand because they do not contain any information about the searched areas; they are administrative records and were brought in to show Mr. Baez and Mr. Mason that no boxes were being hidden from them.

14. The Honorable Stan Strickland's Order entered on August 27, 2009 states:  
*If any searchers are further identified by counsel for the Defendant, CASEY MARIE ANTHONY, as being in the immediate proximity of where the remains of Caylee Marie Anthony were found, said searchers may be presented to the Court for an in camera review and inspection so that a decision can be made by the Court to determine materiality, relevance and possible disclosure.*

15. During their brief visit Attorney Baez and Attorney Mason flagged several items as supposedly being relevant and therefore requested disclosure of these documents. The *documents* of the original 32 searchers which were turned over to the Defendant's counsel contained searches of areas within approximately 50 yards of where the remains of Caylee Marie Anthony were found. The documents requested on April 30, 2010 contained records of searches that occurred over 300 yards and as far as approximately eight (8) miles away from where her remains were found. Three hundred yards is equivalent to the length of three football fields which is not in the immediate proximity; however the undersigned still turned them over, so there would be no issue as to the conditions in the general area where Caylee was found. To disclose the names of these additional searchers would be allowing the defense to harass individuals who volunteered to help find a little girl. A Google map indicating the location of the remains in reference to the documents the defense is requesting is attached hereto and incorporated as Exhibit A.

16. The counsel for the defendant argued in their motion regarding the wishes of the searchers to remain anonymous: Respectfully, such a statement sounds absurd, given the fact that the searchers, many of them, were interviewed by television, were filmed by both television and still cameras, and obviously knew that they were not proceeding “anonymously” as volunteers. This issue has been fully addressed and will be again. If a searcher had come across relevant evidence; i.e., bodily remains or clothing, etc., then those limited individuals would arguably not have an expectation of privacy in that they would have become a witness as to relevant evidence. However, searchers who were within 50 yard to 8 miles away from where Caylee was found are completely and totally irrelevant and immaterial. The only issue of relevancy suggested by Defendant’s counsel would be the ground conditions of where Caylee was found. Hence, in an abundance of fairness, TES did not oppose the information being released as to the thirty two (32) limited of searchers who were in relative close proximity to where Caylee was found. This was based on the position of Defendant’s counsel at the time, which has apparently changed.

17. On June 21, 2010, Attorney Cheney Mason, counsel for the Defendant, gave an interview to several local media outside of the Orange County Courthouse. During this interview Mr. Mason stated:

**Uh yeah, it’s been, the public has been made to believe that these people searched the exact area, um, where the body was, or tried to and couldn’t. The fact is they didn’t try to, and they didn’t, they weren’t there, and it was impassible at the time. So there’s a lot of people who are mistaking things of what happened back in the summer of 2008 and what happened in the Winter of 2008.**

18. In light of the aforementioned, it is the position of TES that bad faith exists on the part of the Defense for reasons that include but are not limited to the following:

- a. The defense took seven (7) months and twenty seven (27) days to review the files located at the undersigned counsel's office.
- b. The defense stated in several of their motions that Joe Jordan was part of the search team that searched in the exact area where Caylee's remains were found and that his name was not turned over, however, Mr. Jordan was not in the exact area because no one was able to search the exact area, and Mr. Jordan's name was turned over to the defense in October 2009. The defense's position regarding Mr. Jordan formed a substantial part of the basis for their request for the records of the other searchers.
- c. Laura Buchanan was named in several of the defense's motions as being another searcher who was in the exact area where Caylee's remains were located. They claimed that her name was not turned over in the original thirty-two (32). It is readily acknowledged that Ms. Buchanan searched on her own that not under TES and the search with TES was miles away from where Caylee's remains were found. This is well known by the defense. It is not only unrealistic but it is ludicrous to expect TES to keep track of or to even have knowledge of the searches that volunteers conduct on their own and not under TES's guidance or supervision.


- d. Several others, including representatives of the Office of the State Attorney, representatives of Orange County Sheriff's Office, and counsel of the parents of the accused, have reviewed the same documents that the defense reviewed on April 23, 2010. The defense only took two hours to review the same documents compared to the many hours up to several day to review. Instead of following the order which requires them to request an in camera review by the Court of the documents requested by this Court, the defense filed a motion to Reconsider Certain Prior Rulings by Disqualified Judge. The defense is clearly operating under bad faith and looking to harass the volunteers.
- e. Aside from stating numerous times on the record in open court, the Defendant's counsel has represented at least nine (9) times in their motions and various pleadings, as stated above, that there were volunteers of TES who were in the exact location where Caylee Anthony was ultimately found. Mr. Mason's statement on June 21, 2010 blatantly and clearly contradicts the position they have held for the last eleven (11) months.

19. When these documents regarding the searchers were first made an issue in July 2009, the defense argued that they were seeking names of volunteers to determine the ground conditions at the time of the searches. After Mr. Mason's statement on June 21, 2010, that the area was "*impassable at the time*", it is patently obvious and apparent that the defense knows the conditions of the area, and that they are no longer in need of the names of any searchers to verify this information. Furthermore, since the defense has become aware of this information, the original thirty-two (32) volunteer names that were turned over in October 2009 are no longer relevant and any further inquiries of any additional names would be a fishing expedition made in bad faith.
20. The defense is filing these motions, requesting irrelevant documents all to create seemingly bogus appellate issues that do not exist. These attempts to obtain the documents are a ploy to harass volunteers of TES who donated their free time to search for the remains of the innocent Caylee Anthony.

**WHEREFORE**, the undersigned requests that the Motion to Quash the Court's Order on Defendant's Application for Subpoena Duces Tecum for the Documents in the Possession of Texas EquuSearch Based on Bad Faith be granted on the grounds that the defense is acting in bad faith as it is patently and readily apparent that their efforts amount little more than a sham and a ruse in that there is not a good faith basis to secure any relevant or material documents and that the efforts are intended to harass and inconvenience, for those grounds set forth above.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by U.S. Mail/hand delivery to the OFFICE OF THE STATE ATTORNEY, Linda Drane-Burdick, ASA, 415 North Orange Avenue, Orlando, Florida 32801, Jose Baez, 522 Simpson Road, Kissimmee, Florida 34744 and J. Cheney Mason, 390 N. Orange Avenue, Suite 2100, Orlando, Florida 32801, this 22<sup>nd</sup> day of July, 2010.

  
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