

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

STATE OF FLORIDA,

CASE NO.: 2008-CF-015606-O

Plaintiff,

DIVISION: 16

vs.

CASEY MARIE ANTHONY,

Defendant.

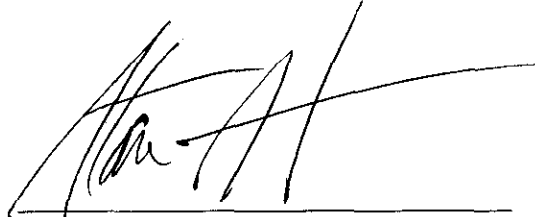
**ORDER DENYING DEFENDANT'S AMENDED APPLICATION
FOR SUBPOENA DUCES TECUM REGARDING EQUUSEARCH**

Being duly advised in the premises, the defendant's Amended Application for Subpoena Duces Tecum regarding the records of Texas Equusearch is denied. This Court does not have jurisdiction to order a subpoena duces tecum as requested. The defense must avail itself of the Uniform Law to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings to accomplish this task. This would require the defense to show that the witness is material, and that has not been done in the instant pleading. Here the defense motion merely asserts that "it has been reported". See Delit v. State, 583 So.2d 1083 (Fla. 4th DCA 1991) (affidavit based upon hearsay was insufficient to establish that a witness was material under the act).

Additionally, the defense has asserted that Texas Equusearch has acted as an agent of the state. While this argument has some logical appeal since the non-profit corporation certainly worked in conjunction with the Orange County Sheriff's Office, the evidence regarding agency is insufficient.

Therefore, the defendant's Amended Application for Subpoena Duces Tecum is denied.

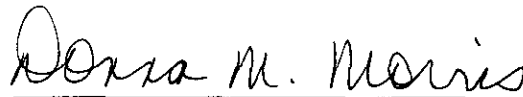
DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, this 30th day
of January, 2009.



STAN STRICKLAND
Circuit Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order has been furnished via U.S. Mail or hand delivery to Linda Drane Burdick, Esquire, Office of the State Attorney, 415 North Orange Avenue, Orlando, FL 32801; to the attorney for the defendant, Jose Baez, Esquire, 522 Simpson Road, Kissimmee, FL 34744; and to the attorney for Texas Equusearch, Mark Nejame, Esquire, 189 South Orange Avenue, Suite 1800, Orlando, FL 32801, this 30th day of January, 2009.



Judicial Assistant