

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR DADE COUNTY, FLORIDA

CRIMINAL DIVISION

CASE NO.: F11-6237A, B

THE STATE OF FLORIDA,  
Plaintiff,

JUDGE SARAH I. ZABEL

vs.

CARMEN BARAHONA  
and  
JORGE BARAHONA,

Defendants

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**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION  
TO TEMPORARILY RESTRICT DISCLOSURE OF SPECIFIC ITEMS OF  
DISCOVERY**

**THIS CAUSE** having come on to be heard upon the Defendants' Motion to Temporarily Restrict Disclosure of Specific Items of Discovery. The Court having considered the Motion, having heard argument of counsel for the parties and the media, and being otherwise fully advised in the premises, hereby finds:

On August 25, 2011, this Court issued a partial ruling on the Defendants' Motion to Temporarily Restrict Disclosure of Specific Items of Discovery. The order authorized the State to disclose to the media all items of discovery previously released by Palm Beach County, the disclosure of the statements made by the Defendants was temporarily restricted, and the Court reserved ruling on all other items of discovery pending their *in camera* review.

After careful *in camera* review of the documents and the contents of CDs provided pursuant to the Court's order, the Defendants' Motion to Restrict Disclosure of Specific Items of Discovery is GRANTED in part and DENIED in part. As to the discovery items listed below, the Defendants' Motion is DENIED and the State is authorized to release the listed discovery items.

1. MDPD Consent to Provide DNA Specimen for Laboratory Analysis Carmen Barahona dated February 17, 2011.
2. Amended Discovery Exhibit dated July 13, 2011.
3. Amended Discovery Exhibit re items previously provided by State on April 14, 2011 and April 21, 2011.
4. Amended Discovery Exhibit dated April 21, 2011.

5. Amended Discovery Exhibit dated April 14, 2011.
6. Discovery Exhibit dated April 13, 2011.
7. Indictment filed March 23, 2011.
8. State's Notice of Intention to Seek Death Penalty dated March 28, 2011.
9. Latent Evaluation reports Matthew Douglass dated March 23, 2011.
10. MDPD Incident report R. Perez dated February 14, 2011.
11. Police sketch prepared by G. Traveis.
12. All Property Receipts except the following:
  - a. 2 page hand written receipt dated 3/18/11 1p.m. by M. Dominguez listing 20 items.
  - b. 2 page typed receipt dated 3/18/2011 1:00 PM by M. Dominguez listing 18 items.
  - c. 1 page typed receipt dated 3/18/2011 1:00 PM by M. Dominguez listing 4 items located inside black suitcase.
  - d. 1 page typed receipt dated 3/18/2011 1:00 PM by M. Dominguez listing 1 item located in master bedroom dresser.
  - e. All property receipts dated 03/09/2011 9:11 P.M. by Detective D. Denmark.
  - f. 1 page typed receipt dated 2/16/11 1930 by Det. C. Gaborik listing 4 items.
  - g. 1 page typed receipt dated 2/16/2011 1930 by S. Sklavounos listing 4 items.
  - h. 2 page hand written receipt dated 2/16/2011 0440 by G. Traveis listing 16 items.
13. DVD labeled F11006287B Scene Video and bearing the numbers 22 19.
14. CD labeled Barahona 42 Pics CMT 2008 NON WPBPD.
15. CD labeled Barahona 10 FDCP.
16. CD labeled Carmen Barahona F11006237A PMNT MEDIA SAMPLE.
17. CD labeled Carmen Barahona F11006237A Broadcast Media Sample.
18. CD labeled Barahona Home 2 Search Warrant Metro Dade Photos.

Temporary restriction of disclosure of all the remaining discovery items provided for this Court's *in camera* review is GRANTED. In determining whether to allow public access to these discovery items, the Court has considered the three pronged test as announced in *Miami Herald Publishing, Co. v. Lewis*, 426 So. 2d 1 (Fla. 1983).

First, restriction of disclosure of these items is necessary to prevent a serious and imminent threat to the administration of justice. While the media has the right to report newsworthy events, the Defendants have a constitutional right to be tried in Miami-Dade County by a fair and impartial jury. The Court has a duty to protect this right, which is paramount to the media's right to obtain information provided to the Defense via discovery. Since this case began in February, due to the high profile nature of the allegations, there has been extensive and pervasive media coverage, not only in Palm Beach and Miami-Dade counties, but also worldwide through the internet. The remaining items of discovery reviewed *in camera* contain information which is unduly prejudicial, inflammatory, and/or inadmissible which must be restricted at this time to protect the Defendants' right to a fair and impartial trial.

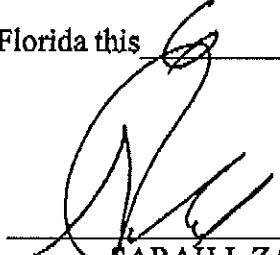
Second, there are no alternatives available, other than change of venue to protect the Defendants' right to a fair trial. Although the media argues, in this large county the court through *voir dire* will be able to sift out those potential jurors with knowledge of the case, recent cases have shown in high profile cases this method of screening jurors has become increasing

impossible with today's vertically instantaneous dissemination of information. Venue had to be changed to Orlando in the Michael Hernandez case after attempts to seat a jury here had failed. In the Casey Anthony case, a jury had to be selected outside of Orange County.

Third, the temporary closure of these specific items of discovery is the least restrictive means that will effectively protect the Defendants' rights to a fair trial in Miami-Dade County.

**WHEREFORE**, the Defendants' Motion to Temporarily Restrict Disclosure of Specific Items of Discovery **GRANTED** in part and **DENIED** in part. The State may release those items enumerated as 1 through 18 above.

**DONE AND ORDERED** at Miami-Dade County, Florida this 6 day of October, 2011.

  
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SARAH I. ZABEL  
Circuit Court Judge