

Casey Anthony defense: Florida's death-penalty procedure is unconstitutional

By Amy L. Edwards, Orlando Sentinel

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[Casey Anthony](#)'s defense lawyers have filed a motion arguing that Florida's death penalty procedure is unconstitutional.

And because the procedure is unconstitutional, the death penalty should be precluded as a potential sentence, their motion argues.

Defense lawyers Jose Baez and Andrea Lyon filed the motion last week, along with a slew of others totaling more than 250 pages.

In their motion, the lawyers argued, "Even if the death penalty procedure were constitutional, the State has failed to charge Miss Anthony with the aggravating circumstances necessary to impose the death penalty; thus, a death sentence in this case would violate due process."

The defense asked the court to schedule a hearing so the lawyers could present their arguments.

Florida procedure allows a judge to impose the death penalty regardless of the jury's recommendation.

Anthony's defense argued in their motion that Florida's capital-sentencing procedure "violates the notice and jury trial rights guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution."

In another motion, the defense is asking that a judge order state prosecutors to detail the aggravating circumstances they think exists in the case.

Lyon, a nationally-known death penalty expert, and Baez stated the first-degree murder indictment against Anthony is vague and doesn't give any insight as to how or when prosecutors think Anthony's 2-year-old daughter Caylee was killed.

The defense said the prosecution's decision to seek the death penalty is a "bad-faith tactic to put pressure on the defendant."

"It is Miss Anthony's position that her due process right to a fair trial requires the prosecution to provide her with notice of aggravating circumstances it will attempt to prove," the motion said.

The defense asks that the court require prosecutors to provide them with what aggravating circumstances they will attempt to prove.

"Such notice would enable Miss Anthony to fully prepare for the charges against her, and would help to ensure the fairness of her trial," the motion said.