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Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

STATE OF ARIZONA,) NO. CR-2007-743
)
Plaintiff,) MOTION FOR DISCLOSURE OF
vs.) AUDIO AND VIDEO RECORDINGS
)
WARREN STEED JEFFS,) [Oral Argument Requested]
)
Defendant.) [Hon. Steven F. Conn]
)

The defendant, Warren Jeffs, by and through his counsel undersigned,
hereby respectfully requests this Court, pursuant to Rule 15.1(g) of the Arizona
Rules of Criminal Procedure, to issue its order directing the State to disclose the
audio and video recording of activities that occurred during and prior to the
commencement of the search of property of the Fundamentalist Church of Jesus

1 Christ of Latter Day Saints (FLDS) in Texas, which is the subject of defendant's
2 motion to suppress.

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4 Defendant's motion to suppress challenges the unlawful searches of FLDS
5 property, the Yearning For Zion Ranch in Texas. It is now known that Schleicher
6 County Sheriff David Doran was equipped with audio and video recording
7 equipment when Texas law enforcement authorities arrived at the YFZ Ranch
8 prior to the raid. Prior to travelling to Texas to conduct interviews with Texas law
9 enforcement officials, counsel for the defendant specifically requested the State to
10 disclose these audio and video recordings. [See correspondence from defense
11 counsel, December 5, 2008, attached hereto as Exhibit A]. Undersigned counsel
12 specifically requested these items pursuant to Rule 15 of the Arizona Rules of
13 Criminal Procedure and the principles set forth in *Brady v. Maryland*, 373 U.S. 83
14 (1963). [*Id.*].

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18 Despite this request, the audio and video recordings were not disclosed and
19 counsel for the defendant had to conduct the interviews of the Texas law
20 enforcement officials without the benefit of having reviewed the audio and video
21 recordings. Indeed, despite additional requests since the interviews, these
22 recordings still have not been disclosed to the defense. It appears very likely that,
23 once these audio and video recordings are disclosed to the defendant and have
24 been reviewed, it will be necessary to re-interview the Texas law enforcement
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1 authorities as it is believed that the recordings may, in part, be inconsistent with
2 the public positions taken by Texas law enforcement officials regarding the
3 unlawful searches of the FLDS property.
4

5 For the Court's information, it was during this time period prior to the raid
6 that Texas authorities learned that the man they were ostensibly looking for, Dale
7 Evans Barlow, was, in fact, in the state of Arizona. The Texas authorities further
8 learned that the 16 year old alleged victim who was purportedly the mother of a
9 child and pregnant with another simply did not exist. Accordingly, it is believed
10 that the audio and video recordings will directly support the defendant's claim that
11 the Texas law enforcement authorities acted with reckless disregard with respect to
12 the information in the search warrant affidavit that led the magistrate to issue the
13 search warrants. *See Franks v. Delaware*, 438 U.S. 154 (1978). It is also believed
14 that the audio and video recordings will expose the failure of the Texas law
15 enforcement authorities to return to the magistrate once they acquired information
16 that undercut the purported probable cause showing in their affidavits. *See*
17 *generally* 2 W. LaFave, *Search and Seizure* § 3.2(d), p. 50 (4th ed. 2004) [police
18 conduct "violates the Fourth Amendment when the police come upon additional
19 facts dissipating their earlier probable cause"].
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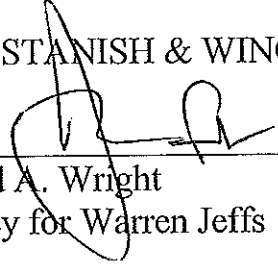
25 Accordingly, the defendant "has substantial need in the preparation of the
26 defendant's case" for these audio and video recordings and he "is unable without
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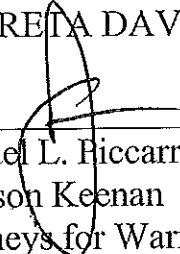
1 undue hardship to obtain the substantial equivalent by other means” for the
2 purposes of Rule 15.1(g) of the Arizona Rules of Criminal Procedure. The
3 defendant therefore respectfully requests this Court to issue its order directing the
4 State to disclose the requested audio and video recordings.
5

6 RESPECTFULLY SUBMITTED this 30th day of January, 2009.

7
8 WRIGHT STANISH & WINCKLER

PICCARRETA DAVIS PC

9 By 
10 Richard A. Wright
11 Attorney for Warren Jeffs

By 
12 Michael L. Piccarreta
13 Jefferson Keenan
14 Attorneys for Warren Jeffs

15 Copy of the foregoing mailed
16 this 30th day of January, 2009, to:

17 Clerk of Mohave County Superior Court
18 401 East Spring Street
19 Kingman, AZ 86401

20 Copy of the foregoing faxed and mailed
21 this 30th day of January, 2009, to:

22 Hon. Steven F. Conn
23 Mohave County Superior Court
24 401 East Spring Street
25 Kingman, AZ 86401
26 Fax: 928-753-8938

27 Copy of the foregoing emailed
28 this 30th day of January, 2009, to:

Matthew J. Smith, Esq.
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315 North Fourth Street
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December 5, 2008

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Re: State v. Warren Jeffs
Nos: CR-2007-743 and CR-2007-953

Dear Matt:

In preparing for the interviews, it appears that Sheriff Doran was wired for sound at the commencement of the search proceedings, and perhaps longer, and that there is video of the activities that occurred at the very commencement of the execution of the search at the gate of the YFZ Ranch. These items may, in part, be inconsistent with the public positions taken by Texas law enforcement regarding the search. Accordingly, I request, pursuant to Rule 15 and *Brady*, that the video and audio tapes relating to the search from the time of arrival at the YFZ Ranch gate to the completion of the search be produced. I am particularly interested in the audio and video tapes of what occurred at the very beginning of the search at the gate prior to the entrance and execution of the search warrant. I would like the opportunity to review these matters prior to the interviews or depositions that are set so that we can minimize the risk of a follow up interview or deposition at a later date. I assume that if the Texas authorities have nothing to hide, they will provide you this information as soon as possible.

Sincerely,



Michael L. Piccarreta

MLP:bp

cc: Rick Wright
Tim Linnins