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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,)	REPLY TO RESPONSE AND
vs.)	OPPOSITION TO MOTION FOR
)	DEPOSITION OF WITNESS
WARREN STEED JEFFS,)	LAMONT BARLOW
)	
Defendant.)	[Hon. Steven F. Conn]
)	

The defendant, Warren Jeffs, by and through counsel undersigned, hereby replies to the State's response and Lamont Barlow's opposition to his motion for deposition of Lamont Barlow.

The request for Lamont Barlow's deposition stems from the fact that Ms.



1 Shannon Price contacted County Attorney Brock Belnap of Washington County,
2 Utah, "and she told him that [REDACTED] had lied during her testimony at the
3 Warren Jeffs trial" in the state of Utah. [See Report of Washington County Sheriff

4
5 Chief Deputy Jake Schultz, attached to Defendant's Motion for Deposition of
6 Witness Lamont Barlow]. Mr. Belnap then instructed Washington County Sheriff
7 Chief Deputy Jake Schultz to interview Ms. Price and she provided further
8 information about this alleged false testimony. Specifically, Ms. Price stated that
9 "Lamont told her that [REDACTED] medical records had all been created in one day, to
10 make it look like she had seen a caretaker on several different occasions." [Id.]

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12
13 This matter will obviously be admissible at trial as it relates directly to [REDACTED]
14 [REDACTED] credibility, or lack thereof. Indeed, Arizona's rules of discovery are quite
15 broad and allow the parties to pursue any matters that might lead to admissible
16 evidence. "It is not a basis for objection that the information sought will be

17 inadmissible at the trial if the information sought appears reasonably calculated to
18 lead to the discovery of admissible evidence." *American Family Mutual*
19 *Insurance Company v. Grant*, 222 Ariz. 507, ___, ¶ 12, 217 P.3d 1212, 1217 ¶ 12
20 (App. 2009) [quoting Ariz. R. Civ. P. 26(b)(1)(A)]. Moreover, the Arizona
21 Supreme Court has made it quite clear that, in criminal cases:

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25 We believe that a trial court should exercise its discretion in favor of
26 seeing that the accused is furnished with every fact necessary to
27 prepare the best possible defense. The modern trend is discovery
28 proceedings is to have the winner determined by the facts, rather than

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by which side is the most ingenious in 'playing the game.'

State v. Ford, 108 Ariz. 404, 409, 499 P.2d 699, 704 (1972).

~~The State correctly notes that it "suggested to defense counsel" that defense~~
counsel move for Mr. Barlow's deposition. [State's Response, p. 3]. The State suggested this due to the fact that defense counsel had been unable to schedule Mr. Barlow's interview, despite repeated attempts. [See attached email correspondence]. Accordingly, the defendant has filed the present motion.

The defendant concedes that Mr. Barlow was, in fact, interviewed as to all matters known at that time. The new interview or deposition of Mr. Lamont Barlow will center on the recent report by Ms. Shannon Price to law enforcement about [REDACTED] false testimony. These matters will obviously be admissible at trial and the rules of discovery clearly contemplate that these matters will be explored through pretrial discovery and interviews.

In his opposition to the motion to depose Lamont Barlow, Mr. Hoole now attempts to re-write history and presents a new version of facts that directly contradicts Ms. Price's statements. However, the defendant is not obliged to accept the new version of events that Mr. Barlow, after consultation with Mr. Hoole, now presents. Nor is the defendant obliged to accept the numerous "conditions" that Mr. Hoole is attempting to place on the interview or deposition of Lamont Barlow. It must be remembered that the Mr. Hoole represents not only

1 complaining witness [REDACTED] but also her husband Lamont Barlow, and also
2 claims to have some type of privileged attorney-client relationship with Ms.
3 Shannon Price's employer, the Diversity Foundation, whom Mr. Hoole claims is
4 some sort of "client representative."¹ Mr. Hoole now has a statement from an
5 employee of a "client representative," Ms. Shannon Price, that indicates that the
6 client he represents, complaining witness [REDACTED] committed perjury, and Ms.
7 Shannon Price's comments now also directly contradict the statements of Mr.
8 Lamont Barlow, yet another client of Mr. Hoole's. Given all of these obvious
9 conflicts, Mr. Hoole's desire to limit the inquiry is understandable, but not
10 acceptable.
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14 Indeed, it is obvious that there are issues of fact that will have to be
15 explored and will have to be resolved, ultimately, by the jury concerning the
16 problems with [REDACTED] credibility. Moreover, the defendant is not willing to
17 accept the assertions by the State and counsel for Mr. Barlow that the allegations
18 of [REDACTED] perjury are limited to simply medical matters. Ms. Shannon Price's
19 report to Washington County Attorney Brock Belnap was not limited. As noted
20 above, "she told him that [REDACTED] had lied during her testimony at the Warren
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25 ¹ Arizona, of course, does not recognize through rule, statute, or decisional law, any such
26 privilege for a "client representative," outside the context of some sort of organization or
27 entity. As noted in the defendant's pleadings concerning the depositions of Diversity
28 Foundation's founder Dan Fischer and Mr. Sam Brower.

1 Jeffs trial." Mr. Belnap then instructed Chief Deputy Schultz to interview Ms.
2 Price, and this is where some statements were made about fabricated medical
3 records. ~~The defendant is entitled to fully explore all of these matters, and to~~
4
5 further explore the issues of whether there have been any attempts to influence the
6 testimony of any witness, including but not limited to, conversations with third
7 parties.
8

9 In addition, the somewhat far-fetched version of events that Lamont Barlow
10 now presents with Mr. Hoole's help will, itself, be a factual matter for the jury to
11 resolve. Mr. Barlow now claims that it was Mr. Jeffs' attorney in the Utah case,
12 Mr. Walter Bugden, and not ██████████ that provided false information in the
13 Utah trial about ██████████ medical condition, and Ms. Shannon Price "simply
14 misunderstood" what Lamont Barlow had told her. [Barlow's Opposition, p. 2].
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17 The problem with Lamont Barlow's new story is that Ms. Price never said
18 anything about who may or may not have provided false information about ██████
19 ██████ medical condition at trial, she stated initially to Washington County
20 Attorney Brock Belnap that ██████████ lied during her testimony. She later told
21 the deputy that "Lamont told her that ██████████ medical records had all been created
22 in one day, to make it look like she had seen a caretaker on several different
23 occasions." [Schultz Report]. This is obviously a quite separate, and also quite
24 serious, matter. Again, while Mr. Hoole's desire to wish this matter away is
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1 understandable, the defendant is not required to accept this new version of events,
2 and is not required to accept any limitations on his ability to fully explore this new
3 matter

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5 Again, this matter will be brought out at trial as neither Mr. Barlow nor Mr.
6 Hoole can prevent the defendant from questioning all of the witnesses involved
7 about these matters during the trial. Obviously, this matter can be dealt with more
8 efficiently at trial if, as the rules of criminal discovery clearly contemplate, the
9 issues are narrowed and the factual matters are fully explored during pretrial
10 discovery. Accordingly, the defendant categorically rejects the proposed
11 limitations Mr. Hoole is suggesting for Mr. Barlow's interview. In addition, the
12 defendant specifically objects to Mr. Barlow's interview being conducted in St.
13 George, Utah, at Mr. Belnap's offices. Indeed, the defendant's request to depose
14 Mr. Barlow in Salt Lake City was specifically designed to accommodate him and
15 his attorney. Ms. Shannon Price will be interviewed in Salt Lake City where she
16 lives and works, the prosecutor and defense counsel will be present in Salt Lake
17 City for this interview, Mr. Hoole's offices are in Salt Lake City, and it was
18 thought that Lamont Barlow did reside or currently resides in Salt Lake City
19 although counsel is not certain. Mr. Hoole will presumably be present for Mr.
20 Barlow's interview and he is certainly free to bring to the interview whatever
21 transcripts he wishes.
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1 This is a very serious matter when the executive director of Diversity, an
2 entity that has worked diligently to harm Mr. Jeffs and other FLDS members, feels
3 compelled to advise the previous prosecutor of Mr. Jeffs, Washington County
4 ~~Attorney Brock Belnap, that [REDACTED] the same accuser in this case, had lied~~
5 ~~during the Warren Jeffs trial. She later provided additional information regarding~~
6 ~~statements from Lamont Barlow and creation of a false document relating to [REDACTED]~~
7 ~~[REDACTED] medical records. Lamont Barlow, after consultation with his and [REDACTED]~~
8 ~~[REDACTED] counsel, provides an affidavit claiming she is mistaken. Defense counsel is~~
9 ~~entitled to explore this very serious matter and also to explore what, if any,~~
10 ~~communications any of these parties had with third parties discussing these issues.~~
11 ~~The witnesses' positions can be clarified during the interview process so that the~~
12 ~~matters can be presented properly at trial. It would not be fair or appropriate to~~
13 ~~deny the defendant the right to investigate such serious allegations made against~~
14 ~~the key witness and accuser of Mr. Jeffs and certainly should not be limited by~~
15 ~~artificial restrictions proposed by their lawyer who is highly motivated to limit the~~
16 ~~disclosure of information.~~

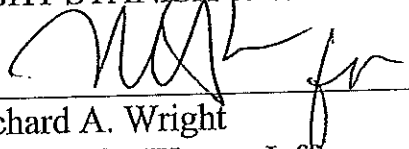
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22 For the foregoing reasons, the defendant, Warren Jeffs, by and through his
23 counsel undersigned, hereby respectfully requests this Court to order the
24 deposition of Lamont Barlow to take place on March 16, 2010, at Parsons, Behle
25 & Latimer, One Utah Center, 201 South Main Street, Suite 1800, Salt Lake City,
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1 Utah 84111, following the interview of Shannon Price. See proposed order
2 attached to Motion for Deposition of Witness Lamont Barlow.
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4 ~~RESPECTFULLY SUBMITTED this 1st day of March, 2010.~~

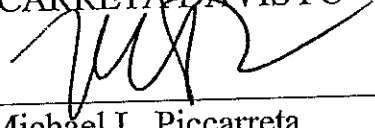
5 WRIGHT STANISH & WINCKLER

6 By

7 
Richard A. Wright
8 Attorney for Warren Jeffs

PICCARRETA DAVIS PC

By


Michael L. Piccarreta
Jefferson Keenan
Attorneys for Warren Jeffs

9
10 Original of the foregoing mailed
11 this 1st day of March, 2010, to:

12 Clerk of Mohave County Superior Court
13 401 East Spring Street
14 Kingman, AZ 86401

15 Copy of the foregoing emailed
16 this 1st day of March, 2010, to:

17 Hon. Steven F. Conn
18 Mohave County Superior Court
19 401 East Spring Street
20 Kingman, AZ 86401

21 Matthew J. Smith, Esq.
22 Mohave County Attorney's Office
23 315 North Fourth Street
24 P.O. Box 7000
25 Kingman, AZ 86402-7000

26 Roger Hoole, Esq.
27 4276 South Highland Drive
28 Salt Lake City, UT 84124

Barbara Polowetz

From: Michael Piccarreta
Sent: Thursday, February 18, 2010 11:32 AM
To: BEVERLY BROOKS
Cc: Barbara Polowetz
Subject: RE: Jeffs: Shannon Price

Sounds good. Can I say that the State has no objection to accelerated telephonic oral argument on the motion so if it is granted it can be set in SLC on the same day as Shannon Price. MLP

From: BEVERLY BROOKS [mailto:BEVERLY.BROOKS@co.mohave.az.us]
Sent: Thursday, February 18, 2010 10:57 AM
To: Michael Piccarreta
Subject: RE: Jeffs: Shannon Price

Mike, why don't you go ahead and file your motion to depose Lamont Barlow. That way you will have the issue preserved in case Lamont decides he does not want to be interviewed for a second time. I am not sure what my position is at this time because I have not gotten any solid information on exactly what Shannon Price has said and where she got any information she might possess. Once I find that out, I will let you know. So go ahead and file your motion for a deposition, I'll see what I can find out including whether or not Lamont wants to be interviewed and then decide what type of response I will file. We can do Shannon Price's interview on the scheduled date. I also at this time will be contacting [REDACTED] to find out whether or not she wants to be interviewed on this narrow issue. Matt

(Dictated but not read)

>>> Michael Piccarreta <mlp@pd-law.com> 2/18/2010 8:10 AM >>>
Let me know Today re Lamont as I will file the depo motion Mon. so we can do them all at the same time . MLP

From: BEVERLY BROOKS [mailto:BEVERLY.BROOKS@co.mohave.az.us]
Sent: Wednesday, February 17, 2010 2:22 PM
To: Michael Piccarreta
Subject: RE: Jeffs: Shannon Price

Mike, I will be talking to [REDACTED] to find out if she will consent to an interview, as she still has her victim's right not to be interviewed. I also don't know if you would have the right to re-interview Lamont Barlow since you already interviewed him in this case. I realize that you would at least have an argument to re-interview him in this case due to this recent development; however, from what I have heard it is very possible that Shannon Price did not get any information from [REDACTED] or Lamont directly, and, therefore there may be no need to interview Lamont in any event. I will contact Roger Hoole and get back to you on [REDACTED] and Lamont very soon. Matt

(Dictated but not read)

>>> Michael Piccarreta <mlp@pd-law.com> 2/17/2010 11:56 AM >>>
Based on Matt's schedule. We are on for March 16 at 9:30 at your office. Hopefully to be followed by Lamont and [REDACTED] [if she agrees] MLP

From: Dryer, Randy [mailto:RDryer@parsonsbehle.com]
Sent: Tuesday, February 16, 2010 8:59 AM
To: Michael Piccarreta; Barbara Polowetz

Cc: MATT SMITH; BEVERLY BROOKS; rick@wswlawlv.com; Debbie@wswlawlv.com; rogerh@hooleking.com; Micha Barach (bmicha@ultradent.com)
Subject: RE: Jeffs: Shannon Price

Mike...

Both Shannon and I are available March 8, 10 or 11 at 9:30 a.m. for the interview. I am happy to make a conference room available at my office. If you want to use my office to also do the interviews of Lamont Barlow and [REDACTED] let me know.

Randy

Randy L. Dryer
Parsons Behle & Latimer
One Utah Center
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
Phone: (801) 532-1234
Fax: (801) 536-6111
<mailto:rdryer@parsonsbehle.com>

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From: Michael Piccarreta [<mailto:mlp@pd-law.com>]
Sent: Monday, February 15, 2010 9:53 AM
To: Dryer, Randy; Barbara Polowetz
Cc: MATT SMITH; BEVERLY BROOKS; rick@wswlawlv.com; Debbie@wswlawlv.com; rogerh@hooleking.com; Micha Barach (bmicha@ultradent.com)
Subject: RE: Jeffs: Shannon Price

Randy, Matt is unavailable this week and I am unavailable on the 23-24. How about the week of March 8? I am also trying to schedule Lamont and [REDACTED] at the same time in SLC to avoid multiple trips. [REDACTED] has the right to refuse but she may wish to clear up this issue or maybe not depending on what she knows. In any event give some dates that week that work for you and hopefully the others can make it. MLP

From: Dryer, Randy [<mailto:RDryer@parsonsbehle.com>]
Sent: Tuesday, February 09, 2010 1:51 PM
To: Barbara Polowetz
Cc: Michael Piccarreta; MATT SMITH; BEVERLY BROOKS; rick@wswlawlv.com; Debbie@wswlawlv.com; rogerh@hooleking.com; Micha Barach (bmicha@ultradent.com)
Subject: RE: Jeffs: Shannon Price

Mike...

Sorry about the delay in responding. Yes, Shannon will voluntarily provide an interview in Salt Lake City, subject to an agreed upon scope of examination. I assume the reason for your request is to examine her about the subject matter set forth in the memo to Brock Belnap from Washington County Deputy Sheriff Jake Schultz dated January 26, 2010. I have no problem with her responding to questions related to the subject of this memo, but I would object to any examination beyond the identified subject. If you see a need to question her on other subjects please advise. Otherwise, let's find a convenient date. I have checked with Shannon and both she and I are available on the following dates: February 16, 17, 19, 23 or 24. I suggest we schedule the interview for 10:30 a.m. or 11:00 a.m. at my office. Let me know if the scope of the interview as described above is acceptable and which of these dates works.