

PSG

FILED
ORIGINAL
BY: DL

2009 DEC -7 PM 2:47

MIRLYNN TINNELL
SUPERIOR COURT CLERK

1 PICCARRETA DAVIS PC
2 145 South Sixth Avenue
3 Tucson, AZ 85701-2007
4 (520) 622-6900
5 Michael L. Piccarreta
6 State Bar No. 003962
7 Email: mlp@pd-law.com
8 Jefferson Keenan
9 State Bar No. 013896
10 Email: jkeenana@pd-law.com
11 Attorneys for Defendant

-and-

9 WRIGHT STANISH & WINCKLER
10 300 S. Fourth Street, Suite 701
11 Las Vegas, NV 89101
12 (702) 382-4004
13 Richard A. Wright
14 Email: rick@wswlawlv.com
15 Nevada Bar No. 000886
16 Attorney for Defendant

15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

16 IN AND FOR THE COUNTY OF MOHAVE

17
18 STATE OF ARIZONA,) NO. CR-2007-743
19)
20 Plaintiff,)
21 vs.)
22)
23 WARREN STEED JEFFS,)
24)
25 Defendant.)
26)
27) [Hon. Steven F. Conn]
28)

26 The defendant, Warren Jeffs, by and through his counsel undersigned,
27 hereby replies to the State's response to his renewed request for an evidentiary
28 hearing on his motion to suppress evidence obtained in unlawful searches of the



1 FLDS property.

2 The State correctly concurs with the defendant's request for an evidentiary
3 hearing on his motion to suppress and accordingly, the motion should be granted.
4 In the motion, the defendant felt it was important to demonstrate how there was a
5 denial of a full and fair hearing on the constitutional claims in the Texas
6 proceeding including pointing out the most obvious errors in the ruling by the
7 Texas court and why the ruling should not be precedent in this case.
8

9
10 Although the State concurs with the defendant's request for an evidentiary
11 hearing, it appears that the State's response may have misunderstood the law
12 with regard to which party bears the burden on the motion to suppress. The law
13 is clear that the State always bears the burden of proving that its evidence was
14 legally obtained. At the upcoming evidentiary hearing, the defendant bears only
15 the burden to "come forward with evidence of specific circumstances which
16 establish a *prima facie* case that the evidence taken should be suppressed." Rule
17 16.2(b), Arizona Rules of Criminal Procedure. "Under rule 16.2(b), the burden of
18 persuasion originates and remains with the state." *State v. Hyde*, 186 Ariz. 252,
19 266, 921 P.2d 655, 669 (Ariz. 1996).
20
21
22
23

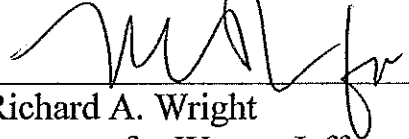
24 WHEREFORE, it is requested that the Court set an evidentiary hearing on
25 defendant's motion to suppress.
26
27
28


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESPECTFULLY SUBMITTED this 15th day of December, 2009.

WRIGHT STANISH & WINCKLER

PICCARRETA DAVIS PC

By 
Richard A. Wright
Attorney for Warren Jeffs

By 
Michael L. Piccarreta
Jefferson Keenan
Attorneys for Warren Jeffs

Original of the foregoing mailed
this 15th day of December, 2009, to:

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

Copy of the foregoing emailed
this 15th day of December, 2009, to:

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

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

000000