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-and-

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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 DEPOSITION
vs.	)	OF WITNESS REBECCA MUSSER
	)	
WARREN STEED JEFFS,	)	[Oral Argument Requested]
	)	
Defendant.	)	[Hon. Steven F. Conn]
	)	

The defendant, Warren Jeffs, by and through his counsel undersigned, pursuant to Rule 15.3 of the Arizona Rules of Criminal Procedure, respectfully requests this Court to order the deposition of witness Rebecca Musser.

Rebecca Musser is listed as a witness for the State in the above-captioned matter. She was at one time married to Rulon Jeffs, the father of the defendant.

1 She is [redacted], an accuer in one of the proceedings. She testified in  
2 the state of Utah about the same events involving the defendant and [redacted]  
3 that form the basis for the current charges. She is obviously a material witness  
4 regarding the offenses charged against the defendant. In addition, the State  
5 intends to have Ms. Musser testify, as an expert, about the practices and culture of  
6 the Fundamental Church of Jesus Christ of Latter Day Saints (FLDS) in both  
7 cases.  
8

9  
10 She is also a material witness regarding the search of the FLDS property in  
11 Texas, which is the subject of defendant's motion to suppress. Ms. Musser was  
12 present on the church property while the search was being conducted and as a  
13 witness to the execution of the search. Ms. Musser is also listed as informant in  
14 one of the Texas search warrant affidavits. Moreover, it is defendant's  
15 understanding that Ms. Musser was also provided a guided tour of the Yearning  
16 For Zion church property in Texas by Schleicher County Sheriff David Doran.  
17

18  
19 However, in her interview on December 11, 2008, Ms. Musser refused to  
20 answer any questions having to do with any sort of connection to law enforcement  
21 officers and/or activities in the state of Texas. Texas law enforcement authorities  
22 (with the acquiescence of the State of Arizona) have ordered Ms. Musser not to  
23 provide any information about any law enforcement activities in the state of  
24 Texas, including but not limited to the raid of the YFZ church property. In her  
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1 interview, Ms. Musser repeatedly stated “I am not at liberty to discuss anything  
2 about Texas.” [Interview of Rebecca “Becky” Musser, December 11, 2008, p. 7].

3  
4 At the interview, Assistant Arizona Attorney General Timothy Linnins  
5 injected: “She is legally prohibited from talking about her – any involvement she’s  
6 had with any investigation in Texas by statute.” [*Id.*, p. 6]. However, despite  
7 numerous requests from counsel for the defendant, no such statutory authority has  
8 ever been provided to the defendant. Counsel for the defendant attempted to  
9 explore the matter further:  
10

11  
12 Mr. Piccarreta: What is the basis for this refusal? In other words  
13 —

14 Ms. Musser: I am not at liberty to discuss any of that with you,  
15 sir.

16 Mr. Piccarreta: What I’m trying to figure out is if there is an  
17 individual or entities who have requested you to  
18 do this, you know, or told you to do this or  
recommended you to do this.

19 Ms. Musser: Can we just say – do you not understand that you  
20 can’t – I’m not at liberty to say?

21 Mr. Linnins: If I can just clarify. I will go ahead and take the  
22 rap on that and say under – that we are taking the  
23 position that she is not discussing any of that  
24 today. She cannot discuss any of that today and  
25 – I mean, you can keep going on, but she can’t  
26 tell you who, what, where, when, why, anything.  
27 I mean, she is prohibited from doing that.  
28

1 [Id., p. 9].<sup>1</sup>

2 Rule 15.3 of the Arizona Rules of Criminal Procedure authorizes the court  
3 to order the deposition of any material witness who “will not cooperate in granting  
4 a personal interview.” “Where the witness attaches such conditions to an  
5 interview that it makes the situation untenable for defense counsel to discover  
6 needed material, the witness is being uncooperative within the meaning of the  
7 rule.” *Kirkendall v. Fisher*, 27 Ariz. App. 210, 212, 553 P.2d 243, 245 (1976).  
8 Ms. Musser’s refusal “to discuss anything about Texas” clearly renders her  
9 uncooperative within the meaning of the rule. Indeed, there seems to be a pattern  
10 arising out of the actions of the Texas authorities to keep pertinent, relevant, and  
11 exculpatory information from the accused in this case.  
12

13 Accordingly, for the foregoing reasons, the defendant, Warren Jeffs, by and  
14 through counsel undersigned, hereby respectfully requests this Court, pursuant to  
15 Rule 15.3 of the Arizona Rules of Criminal Procedure, to order the deposition of  
16 Ms. Musser to take place at a date and time convenient to the defendant,  
17 considering that counsel for the defendant has already taken the time and expense  
18 to travel to Salt Lake City, Utah to interview Ms. Musser (and others).  
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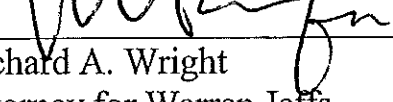
26 <sup>1</sup> Mohave County Attorney Matt Smith, who was also present at the interview, indicated that  
27 Ms. Musser might answer questions about the events in Texas at some point in the future, but  
28 that has not occurred. [Id., p. 10].

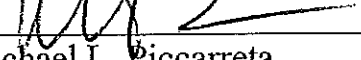
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RESPECTFULLY SUBMITTED this 29th day of January, 2009.

WRIGHT STANISH & WINCKLER

PICCARRETA DAVIS PC

By   
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Attorney for Warren Jeffs

By   
Michael L. Piccarreta  
Jefferson Keenan  
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Copy of the foregoing mailed  
this 29th day of January, 2009, to:

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

Copy of the foregoing faxed and mailed  
this 29th day of January, 2009, to:

Hon. Steven F. Conn  
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Copy of the foregoing emailed  
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