

p96

FILED

ORIGINAL DR

2009 DEC -7 PM 2:47

WYLYNN 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: jkeen@pd-law.com

11 Attorneys for Defendant

-and-

12 WRIGHT STANISH & WINCKLER

13 300 S. Fourth Street, Suite 701

14 Las Vegas, NV 89101

15 (702) 382-4004

16 Richard A. Wright

17 Email: rick@wswlawlv.com

18 Nevada Bar No. 000886

19 Attorney for Defendant

20 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

21 IN AND FOR THE COUNTY OF MOHAVE

22 STATE OF ARIZONA, )

NO. CR-2007-953

23 Plaintiff, )

REPLY TO RESPONSE TO

24 vs. )

REQUEST FOR EVIDENTIARY

25 WARREN STEED JEFFS, )

HEARING ON MOTION TO

26 Defendant. )

SUPPRESS EVIDENCE OBTAINED

IN UNLAWFUL SEARCHES

OF FLDS PROPERTY

[Hon. Steven F. Conn]

27 The defendant, Warren Jeffs, by and through his counsel undersigned,  
28 hereby replies to the State's response to his renewed request for an evidentiary  
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 1st 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 1st day of December, 2009, to:

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

Copy of the foregoing emailed  
this 1st 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

KAS