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18 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

19 IN AND FOR THE COUNTY OF MOHAVE

20	STATE OF ARIZONA,)	NO. CR-2007-953
21)	
22)	
23	Plaintiff,)	REPLY TO RESPONSE TO
24	vs.)	MOTION FOR DISCLOSURE OF
25)	AUDIO AND VIDEO RECORDINGS
26)	
27	WARREN STEED JEFFS,)	
28)	
	Defendant.)	[Hon. Steven F. Conn]
)	

29 The State of Arizona acknowledges that Schleicher County Sheriff David
30 Doran was equipped with audio and video recording equipment prior to and
31 during the commencement of the searches that form the basis for the defendant's
32 motion to suppress. The State contends, however, that the audio and video
33 recordings the defendant has requested are not within its control. The State further

1 asserts that it will make its best efforts to acquire the requested recordings from the
2 State of Texas. That is all well and good, and the defendant has no doubt that the
3 State of Arizona will make good faith efforts to acquire the recordings. Based on
4 past experience, however, the defendant does have questions about the good faith
5 of the Texas authorities.
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8 As the defendant has noted in previous pleadings, Arizona law enforcement
9 officials, including Assistant Attorney General Timothy Linnins and Mohave
10 County Investigator Gary Engels, have cooperated with Texas law enforcement
11 officials, have spent days in Texas with items illegally seized in the raids of the
12 Texas property, and have obtained literally thousands of seized documents. The
13 raid of the FLDS property in Texas was clearly part of an over-arching
14 coordinated effort to obtain and share information relating to the prosecution of
15 the FLDS and its leadership and members by law enforcement authorities in
16 Texas, Arizona, and elsewhere. Indeed, the defendant has detailed the
17 extraordinary extent of these coordinated prosecution efforts. [See Reply to
18 Response to Motion to Suppress Evidence Obtained in Unlawful Searches of
19 FLDS Property, filed October 22, 2008, pp. 4-7]. The defendant submits that
20 these law enforcement agencies cannot cooperate to such a vast extent to promote
21 prosecution purposes, and then fail to cooperate when it might mean actually
22 providing relevant disclosure to the defendant.
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1 The best evidence of what transpired prior to the search will be contained in
2 the audio and video recordings requested. As the Court may recall, it was during
3 this time period that Texas law enforcement officials learned that the alleged
4 perpetrator, Dale Evans Barlow, was not at the FLDS property in Texas, but was
5 located in Arizona. The Texas law enforcement officials were also truthfully
6 informed that the alleged victim did not exist and was not on the property. These
7 facts severely undercut the whole basis for the search warrant. These factual
8 matters relate directly to the issue of whether the Texas law enforcement officials
9 acted with reckless disregard to the information contained in the search warrant
10 affidavits and whether they were required to return to the magistrate as their
11 purported showing of probable cause had dissipated and was inaccurate.
12 Obviously, the refusal of the Texas authorities to produce the requested recordings
13 would limit this Court from making an informed decision on defendant's motion
14 to suppress after being fully apprised of the best evidence of the relevant factual
15 circumstances. Interestingly, Texas authorities have recently agreed to provide the
16 tapes to the Texas defense lawyers in the Texas prosecutions under some type of
17 agreement. Counsel is willing to receive a copy of the recordings under such an
18 agreement assuming the agreement is legitimate and constitutional.
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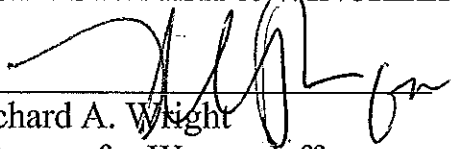
25 Accordingly, if the audio and video recordings are produced, this motion
26 will be withdrawn. If they are not produced, it is requested that the Court order
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1 their production forthwith and if there is non-compliance with that order, then the
2 State's response to the motion to suppress should be stricken for failure of the
3 cooperating prosecuting agency to produce relevant and likely exculpatory
4 disclosure.
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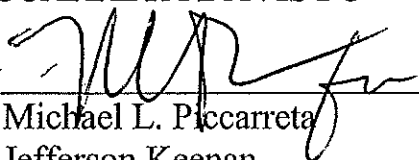
6 WHEREFORE, it is requested that the State produce the audio and video
7 recordings of the events preceding the entry onto the premises of the YFZ Ranch
8 and any audio/video recordings of the actual entry and search of the Ranch.
9 Secondly, if the Texas authorities do not provide the requested audio and video
10 recordings to the State of Arizona, the State's response to defendant's motion to
11 suppress should be stricken and the motion to suppress should be granted because
12 Texas authorities will have denied relevant disclosure not only to the defendant
13 but to this Court.
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17 RESPECTFULLY SUBMITTED this 6th day of February, 2009.

18 WRIGHT STANISH & WINCKLER

19
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21 Richard A. Wright
22 Attorney for Warren Jeffs

PICCARRETA DAVIS PC

23 By 
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27 Copy of the foregoing mailed
28 this 6th day of February, 2009, to:

Clerk of Mohave County Superior Court
401 East Spring Street
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1 Copy of the foregoing faxed and mailed
2 this 6th day of February, 2009, to:

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9 this 6th day of February, 2009, to:

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