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*Rec'd, Nov 06
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 30 Oct 07*


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FIFTH DISTRICT COURT
 WASHINGTON COUNTY, STATE OF UTAH

STATE OF UTAH,
 Plaintiff,

vs.

WARREN STEED JEFFS,
 Defendant.

ORDER GRANTING MOTION FOR
 PROTECTIVE MEASURES FOR VICTIM

FILED UNDER SEAL BY COURT ORDER

Criminal No. 061500526

Judge James L. Shumate

Based upon the Motion For Protective Measures For Victim on file herein, and good cause appearing, the court now makes and enters the following order:

IT IS HEREBY ORDERED that:


1. That the media is prohibited from photographing, video taping, drawing or otherwise depicting the image of Jane Doe IV or her immediate family members while in the Courthouse during the proceedings in this matter;
2. That Jane Doe IV is not required to testify regarding "locating information" under Utah code Annotated §77-38-6;
3. That the video camera record of court proceedings be directed away from Jane Doe IV while she is testifying or otherwise present in the court; and

4. That the defendant has no contact with Jane Doe IV or her immediate family directly or indirectly while this matter is proceeding.

Date: _____

District Court Judge

Brock R. Belnap # 6179
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WASHINGTON COUNTY FIFTH DISTRICT COURT
STATE OF UTAH

STATE OF UTAH,
Plaintiff,

vs.

WARREN STEED JEFFS,
Defendant.

MEMORANDUM IN SUPPORT OF MOTION
FOR PROTECTIVE MEASURES FOR
VICTIM

FILED UNDER SEAL BY COURT ORDER

Criminal No. 061500526

Judge James L. Shumate

The State of Utah respectfully submits the following Memorandum in Support of its
Motion for Protective Measures.

The State respectfully submits its memorandum in support of its motion for an order granting the following protective measures:

1. For an order prohibiting photographing, video taping, or otherwise depicting the image of Jane Doe IV or her immediate family members while in the Courthouse during the proceedings in this matter;
2. For an order that Jane Doe IV not be required to testify regarding "locating information" under Utah Code Annotated § 77-38-6;
3. For an order that the video camera record of court proceedings be directed away from Jane Doe IV while she is testifying or otherwise present in court; and
4. For an order requiring that the defendant have no contact with Jane Doe IV or her immediate family directly or indirectly while this matter is proceeding.

STATEMENT OF FACTS

Jane Doe IV's name at all times relevant to this case was Elissa Wall. At Elissa's request, the State has undertaken efforts to protect her identity and safety. She is living under a different name in an undisclosed location with her husband and son. The family is trying to maintain as normal a life as possible and would like to continue to do so after the trial. Consequently, Elissa and her family desire to protect her new identity.

As set forth in the Affidavit of Probable Cause, Elissa was a long-time resident of Hildale, Utah and a member of the Fundamentalist Latter-Day Saint church of which the

defendant is the prophet. To testify against the prophet Warren Jeffs renders Elissa Wall an apostate in the eyes of thousands of Jeffs' followers.

Elissa and her family do not know whether the defendant would intentionally cause them physical harm. However, because of the emotionally charged nature of this case, the State has an obligation to protect Elissa's and her family's physical safety and availability to testify. The following statements made by Warren Jeffs illustrate the depth of feeling with which the defendant's followers may respond to Elissa's testimony:

"We are gathered to this faraway place because our enemies are upon us and seek my life and the destruction of this work." p. 1.

"We have been a persecuted people. There was a gathering in Short Creek. There was the raid of the '30s, the '44 Raid, the '53 Raid, and then the Lord favored us with a day of peace for all these years to bring forth an army of Zion." p. 20.

"The Lord seeing and knowing all things warned me that the First Presidency had to withdraw and go into hiding lest our enemies destroy us. You know that there are laws passed for the purpose to take me in bondage and put me in prison. The evil powers know of this mission, and the devil wants this work stopped." p. 24.

"The Lord revealed to me that in 2003, a secret combination was in place between the apostates everywhere, many of them, and the government officials, and also traitors and halfhearted men, false brethren among the Priesthood people. And that conspiracy involved taking me captive, putting me in jail, bringing forth witnesses, that involved the passing of these laws, to call us criminals by performing marriages, so-called "under age" marriages..." p. 25.

"The Lord showed me they were going to take away our lands and houses. He showed me that it was the intention of our enemies to pull me and many people into court and turn traitor by bearing witness in court of my father's doings and my doings, concerning the celestial law of marriage, the judging of the people, bringing God into question and what He does among His Priesthood people and on His Priesthood lands in His Celestial

¹ The statements are from a document titled "Training Given by President Warren S. Jeffs On the Places of Refuge to a Group of Men" which is dated February 21, 2005 and was recovered from the Escalade where Jeffs was found at the time of his arrest. See Attachment A.

safety and identity of witnesses in order to ensure a fair trial. In this case, the requests to protect

jeopardy, her willingness to testify fully and completely might be compromised, whether out of fear or because she is subjected to retaliation or coercion. If the victim were intimidated into not testifying, it would substantially jeopardize the right to a fair hearing or trial.

The third factor is whether “the privacy interests of the victim of a crime...outweigh the interest of the public in access to a photograph of the person.” Under the Utah Constitution, a victim of crime is entitled “to be treated with fairness, respect, and dignity, and to be free from harassment and abuse throughout the criminal justice process.” Utah Constitution Article I, Section 28. Utah law also recognizes that a witness may not be compelled “to testify regarding the witness’s address, telephone number, place of employment, or other locating information...” unless “the court orders disclosure on finding that a compelling need for the information exists.” Utah Code Ann. § 77-38-6 (1953, as amended).

In this case, the victim’s physical appearance is “locating information.” Because of the intense media interest in the case, images of the victim could be broadcast throughout the State, the country, and abroad. If she is recognized anywhere, the efforts to protect her safety and identity will be destroyed. It will undermine her efforts to maintain some semblance of normalcy for herself and her family.

Combined, these factors provide compelling grounds to protect the victim from photographic or video images being taken while the victim is present or testifying in court. The public and the press will have full access to the Courtroom and the ability to listen, observe, and subsequently describe the victim’s testimony.

According to the United States Supreme Court, "there is no constitutional right to have [live] testimony recorded and broadcast. ... [W]hile the guarantee of a public trial, in the words of Mr. Justice Black, is 'a safeguard against any attempt to employ our courts as instruments of persecution, it confers no special benefit on the press. Nor does the Sixth Amendment require that the trial—or any part of it—be broadcast live or on tape to the public. The requirement of a public trial is satisfied by the opportunity of members of the public and the press to attend the trial and to report what they have observed.'" *Nixon v. Warner Communications*, 435 U.S. 589, 610, 98 S.Ct 1306, 55 L.Ed2d 570 (1978).

CONCLUSION

The protective measures sought by the State are narrowly tailored to protect the rights of the victim, the parties, the public and the press while ensuring a fair trial for the State and the defendant. Therefore, the State respectfully requests that the Court grant the following protective measures:

1. An order prohibiting the taking of photographs, digital pictures, video taping, or otherwise depicting the image of Jane Doe IV or her immediate family members while in the Courthouse during the proceedings in this matter;
2. An order that Jane Doe IV not be required to testify regarding "locating information" under Utah Code Annotated § 77-38-6;
3. An order that the video record of court proceedings be directed away from Jane Doe IV while she is testifying; and

- 4. An order requiring that the defendant have no contact with Jane Doe IV or her immediate family directly or indirectly while this matter is proceeding.

Respectfully submitted this 1st day of November, 2006.



Brock R. Belnap
Washington County Attorney

CERTIFICATE OF DELIVERY

I hereby certify that, on the 1st day of Nov., 2006, I caused to be served a true and correct copy of the foregoing document as follows:

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