

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Estate of James D. Redd,)
)
Plaintiff,)
)
 v.)
)
 Daniel Love,)
)
Defendant.)
 _____)

Case Number: 2011-cv-478-RJS

DECLARATION OF GREGORY BRETZING IN SUPPORT OF
INDIVIDUAL FEDERAL DEFENDANT DAN LOVE'S
MOTION FOR SUMMARY JUDGMENT

I, Gregory Bretzing, under penalty of perjury, do hereby declare as follows:

1. I am the Special Agent in Charge (“SAC”) of the Portland Division of the Federal Bureau of Investigation. I have held this position since 2014. Prior to becoming the SAC of the Portland Division, I was an Assistant Special Agent in Charge (“ASAC”) in the Salt Lake City Division of the Federal Bureau of Investigation (“FBI”). I was assigned to this Division in 2004 and was the ASAC from 2007 to 2012.¹ As ASAC, I supervised approximately one hundred FBI employees.

2. I was the Salt Lake City ASAC on June 10, 2009, when arrest and search warrants were executed as part of the large-scale federal investigation known as Operation Cerberus. During the course of my duties as ASAC, I supervised various aspects of Operation Cerberus, a joint investigation with the Bureau of Land Management (“BLM”).

¹ From 2012 to 2014, I worked at FBI Headquarters in the Inspection Division.

3. This declaration is based on my experience as a law enforcement officer, my personal observations; my review of the FBI's records of the events at the Redd home on June 10, 2009 (including the Crime Scene Sign-In Log); and my supervisory activities in the course of my duties as ASAC on the day of the arrests.

4. I have reviewed the First Amended Complaint and am familiar with this lawsuit to the extent that it relates to the execution of the arrest and search warrants at the Redd residence located at Santa Fe Heights 104-9, Blanding, Utah ("the Redd home").

5. On or about January 21, 2009, the United States District Court issued arrest warrants for James and Jeanne Redd pursuant to an initial indictment. *See USA v. Redd, et al.*, 2009-cr-00044 (D.Utah). A superseding indictment returned on May 27, 2009. On June 8, 2009, a Special Agent of the FBI's Salt Lake City Division applied for a search warrant at the Redd residence to locate evidence of the criminal activities for which the Redds were indicted.

Operation Cerberus Warrants

6. Operation Cerberus was a joint Bureau of Land Management (BLM)-Federal Bureau of Investigation (FBI) investigation, which identified a large network of illegal traffickers of Native American artifacts in Southern Utah and the Four Corners Region.

7. Operation Cerberus began in approximately October 2006. BLM Agent Dan Love joined Operation Cerberus in approximately December 2006.

8. By June 2009, Agent Love was the lead BLM case agent for Operation Cerberus.

9. On or about June 9, 2009, FBI and BLM agents involved in this investigation determined that the arrest and search warrant operations for all of the different locations would be executed nearly simultaneously. It was also determined that FBI would take the role of lead agency in

these operations based on its availability of resources for effectuating large-scale and multiple-location arrests and search warrants.

10. The Redd home was one of approximately twelve locations in the Blanding, Utah area, where Operation Cerberus warrants were being executed on that same date. Accordingly, the FBI's available resources were shared among the locations.

11. The Operation Cerberus warrants were executed virtually simultaneously because the subjects were part of a network of trading, selling, and excavating Native American artifacts and were known to communicate with one another in furtherance of the illegal activities for which they were about to be arrested. Thus, the FBI and BLM were concerned about targets warning one another if the warrants were not executed as close to simultaneously as possible.

Operation Cerberus Arrest and Search Teams

12. At some Operation Cerberus sites, arrest warrants were served but not search warrants. *See* Ex. 4. The teams assigned to those locations consisted solely of BLM and FBI law enforcement officers.

13. Where search warrants were also served, teams included unarmed civilian cultural specialists (archeologists) as well as BLM and FBI law enforcement officers. *See* Ex. 3. However, only law enforcement officers participated in arrests. Cultural specialists helped the law enforcement officers identify, catalog, and safeguard artifacts.

14. Each team was headed by a Team Leader, a BLM or FBI law enforcement officer who reported directly to the Command Post established to monitor the simultaneous execution of the warrants.

15. Each team also had an Evidence Response Team ("ERT") Leader, who was in charge of the search for evidence and those personnel who participated in the search or assisted with the

search by creating evidence logs, photographing evidence, and similar tasks. In addition to cultural specialists, ERTs were made up of law enforcement officers who were not busy arresting, interviewing, or transporting suspects.

16. As teams completed their assigned duties at each location, they were reassigned to help with searching, arrests, and transport at other locations as needed. They received information regarding where assistance was needed from their assigned Command Post contact.

The Team Assigned to the Redd Home

17. Supervisory Special Agent (SSA) Lynda Viti (FBI) served as team leader for the Redd home, and BLM Agent Loren Good was assistant team leader.

18. Approximately eight other additional FBI and BLM law enforcement officers made up the team initially assigned to execute the arrest and search warrants at the Redd residence, interview the Redds, facilitate the Redds' transport, help search for items identified in the search warrant, collect evidence, inventory evidence, and take photographs. The Redd team also included one or two cultural specialists to assist with the evidence-related tasks.

19. The number of people initially assigned to the Redd home did not significantly exceed the number assigned to any of the other locations, which ranged from 8 to 21.

20. A SWAT team² was specifically assigned to one of the 12 locations where warrants were served, but not to the Redd home. Agents assigned to the Redd home expected to encounter at least three adults – James Redd, Jeanne Redd, and Jerrica Redd (as well as her young son).

² SWAT stands for "Special Weapons and Tactics." Each team has specialists, such as snipers, breachers, and assaulters. Please see the FBI's public website for any and all additional details about FBI SWAT at <https://www.fbi.gov/about-us/capabilities/fbi-swat-graphic>

Events at the Redd Home

21. At the Redd residence, two arrest warrants were served, one for each James and Jeanne Redd, with Jeanne being the primary subject of the criminal activities at the Redd residence according to the investigation and the indictment.

22. The FBI and BLM law enforcement officers who arrived at and departed from the Redd residence over the course of the day on June 10, 2009 signed in and out on a log, in accordance with standard operating procedure. This type of log is kept for purposes of maintaining the integrity of a crime scene, which this was and continued to be throughout the duration of the search.

23. Exhibit 38 is a true and accurate copy of that log.

24. According to standard operating procedure, FBI agents carrying out arrest warrants wear a bullet-proof vest (also called “soft body armor”) and carry a side arm, which is a handgun. FBI agents at the Redd home followed this procedure. BLM law enforcement officers at the Redd home also wore soft body armor and carried handguns.

25. To the best of my knowledge and belief, based on information provided to me in the course of my official duties and my personal observations while I was at the residence, none of the agents who arrived at the Redd residence for the purpose of executing the arrest warrants had weapons other than their sidearms (handguns) on his or her person.

26. FBI and BLM agents at the Redd home wore casual clothing that clearly identified them as law enforcement officers.

Arrests

27. The team arrived at the Redd residence at approximately 6:46 a.m. positioned themselves outside the residence, as appropriate for the location’s unique landscaping and physical features,

and pursuant to the agents' training and experience. Part of the team was positioned at the bottom of the driveway, and others were positioned close to the house.

28. Approximately four federal law enforcement officers approached the door. SSA Viti knocked. Jeanne Redd answered and was immediately placed under arrest without incident. Jeanne Redd advised FBI and BLM that her husband, James Redd, was not home, but would be returning shortly. She was then questioned in the kitchen.

29. At approximately 6:55 a.m., James Redd pulled into the driveway and exited in his car in front of the home. He was arrested without incident and taken to the garage for questioning.

30. Approximately twelve law enforcement officers were at the Redd residence at the time of James Redd's return and arrest.

The Day-Long Search

31. Shortly after Jeanne and James Redd were arrested and the premises secured, the team began searching the residence pursuant to the search warrant.

32. Items to be seized as potential evidence of the Redds' criminal activity were located in all areas of the interior and exterior of the house – including in stacks behind furniture, inside of drawers, inside house plants, and stowed in virtually every corner of the large home, as well as scattered throughout the exterior areas within aspects of the landscaping.

33. By about 8:00 a.m., it had become apparent to the team that they would need additional law enforcement assistance in order to process all of the potential evidence so that the search could be completed as soon as possible.

34. During the day, FBI and BLM personnel from other teams came and went from the Redd residence to assist in the search and collection of evidence to be seized from the Redd residence. Those movements are documented on the sign-in log (Exhibit 38).

35. Agents continued to arrive at the Redd home after the Redds' arrests due to the number of artifacts that were located in and around the residence. Many of these artifacts were fragile and valuable. They could not be snatched up and thrown together in boxes; rather, they required sensitive handling, and photographing and marking for identification, for which the FBI and BLM agents had received special training.

36. Between approximately 6:45 a.m. and 5:30 p.m., a total of 53 federal personnel signed in at the Redd home. Based on information provided to me in the scope of my official duties, as well as my personal knowledge and observations during the time frame within which I was at the residence from 7:45 a.m. to 7:58 a.m., there were no additional federal personnel at the Redd home during that timeframe.

37. Of the 53 federal personnel identified on the sign-in log, 46 are current or former BLM or FBI law enforcement agents. The other 7 are cultural specialists.

38. Dr. Redd left the home no later than 10:34 a.m. for processing. The log indicates that at that point, a total of 22 federal personnel had been to the home. Of those, only 16 were still present at 10:34 a.m.

39. FBI records do not indicate that any member of the Redd family returned to the home until after all federal personnel had left. However, even if Dr. Redd had returned at 5:00 p.m., he would have encountered no more than 31 people, 2 of them cultural specialists.

40. No SWAT team was assembled at the Redd home while any member of the Redd family was there.

Threatening Voicemails

41. While at the Redd home (and after the Redds' departure), federal personnel overheard several voicemails left on the Redds' answering machine, two of which appeared to be directed to the search team.

- A. At approximately 11:55 a.m., one message was left saying: "Is anybody there? I know somebody's there. A whole bunch of you. You gonna pick up the phone? All right. I'll be in there in a little bit. Be ready."
- B. At approximately 1:13 p.m. a second message was left, saying: "Hey, you guys still too scared to answer the phone? Don't touch anything of mine. Trust me. You don't want to."

42. Officers interpreted these messages as threats and believed that they came from one of the Redds' adult sons.

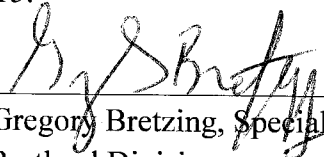
43. Because of the threat, FBI began to enlist the assistance of members of an FBI SWAT team, who (in their primary role as FBI agents) happened already to be at the residence assisting in the evidence search as described above at the time, to shift gears into protecting the residence so the agents could continue their safe and cautious processing of the search. This required them to stop the assistance with the search, the reason for which they initially responded to the residence, and transform into a protective role whereby they acquired long guns from their vehicles and took up tactical positions at or around the residence to ensure that no one could approach undetected in a hostile manner.

44. To the best of my knowledge, Defendant Love did not make this decision to provide a more protective environment for the federal agents to complete their search of the home by utilizing the FBI's available SWAT resources. I am not aware of BLM having SWAT teams and it is my understanding that the FBI was the only law enforcement agency involved in the execution of these warrants that had SWAT capabilities.

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I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on this 10 day of July, 2015.



Gregory Bretzing, Special Agent in Charge
Portland Division
Federal Bureau of Investigation