

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

MELODY L. LEE, as Personal  
Representative of the ESTATE OF  
JOHN ANDREW MORTON, deceased

PLAINTIFF

V.

CASE NO. 08-2115

BOBBY A. OVERBEY and  
BRENT HIGGINGS TRUCKING, INC.

DEFENDANT

**ORDER**

Before the court is the Defendant's Unopposed Motion for an Order to Compel the Cooke County District Attorney to Produce the Audio Tape of Bobby Overbey's Oral Statement. (Doc. 158). The Defendants contend that Ron Poole, the prosecutor assigned to Bobby Overbey's pending criminal case in Texas, has refused their request for this evidence, stating that he could only give a copy of the audio recording to Bobby Overbey's criminal attorney. The undersigned has been in contact with Ron Poole, who has indicated that he has neither been served with nor contacted regarding the Defendant's request for a copy of his audio taped statement. He stated that he was not even certain that an audio tape of the statement was made.

To the extent that the request does not interfere with or impede any criminal prosecution the Motion is **GRANTED** and the Cooke County District Attorney is authorized to release a copy of the audio recording to the Defendants.

It is so ORDERED on this the 8<sup>th</sup> day of December 2009.

*/s/ J. Marschewski*

---

Honorable James R. Marschewski  
United States Magistrate Judge