

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Raymond P. Moore**

Civil Action No. 14-cv-02615-RM

PRESTON COUSETT,

Applicant,

v.

PAM PLOUGHE, Warden, Skyline Corr. Facility, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER TO SUPPLEMENT STATE COURT RECORD

Applicant, Preston Cousett, has filed an Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. On January 21, 2015, the Court issued a Second Amended Order for State Court Record. (ECF No. 31). In the January 21 Order, the Court directed Respondents to file, within 30 days, a copy of the complete record of Applicant's state court proceedings in *People v. Preston Michael Cousett*, El Paso County District Court Case No. 06CR0313, including all documents in the state court file and transcripts of all proceedings conducted in the state court, but excluding any physical evidence (as opposed to documentary evidence) not relevant to the asserted claims.

On January 23, 2015, the El Paso County District Court submitted a CD-ROM to this Court which contains the hearing and trial transcripts from Applicant's state criminal proceeding, copies of People's Exs. 1-41, and the Court File. (ECF No. 33).

Missing from the state court record is the DVD police interview of Applicant, which was admitted at trial as People's Ex. 43. See State Court R., 11/08/07 Trial Tr., at 111. The DVD interview is relevant to Mr. Cousett's first claim for relief - that his videotaped inculpatory statements to the police were coerced and, therefore, constitutionally inadmissible at trial. Accordingly, it is

ORDERED that Respondents shall provide the Court with a copy of the DVD police interview of Applicant (People's Ex. 43 at trial¹) **within fourteen (14) days of this Order.** It is

FURTHER ORDERED that the Clerk of the Court is directed to send copies of this order to the following:

- (1) Clerk of the Court
El Paso County District Court
P.O. Box 2980
Colorado Springs, Colorado 80901-2980; and
- (2) Court Services Manager
State Court Administrator's Office
1300 Broadway
Denver, Colorado 80203.

DATED March 2, 2015, at Denver, Colorado.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Raymond P. Moore', written over a horizontal line.

RAYMOND P. MOORE
United States District Judge

¹The state court record reflects that Ex. 43 may have been lost at the time Applicant filed his Notice of Appeal in the Colorado Court of Appeals. See State Court R., Court File, at 113-115. However, Applicant's appellate counsel was able to obtain a copy of the DVD from trial counsel, and that copy was certified as part of the record in the direct appeal proceeding. *Id.* at 116-119.