

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 1:07CR209 (TSE)
)	
WILLIAM J. JEFFERSON,)	
)	
Defendant.)	

**DEFENDANT’S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION
TO TAKE FOREIGN DEPOSITIONS PURSUANT TO FED. R. CRIM. P. 15(a).**

During the hearing on January 15, 2009, the court asked counsel for the defendant, with respect to the two Nigerian citizens who were the subject of the motion under Fed. R. Crim. P. 15(a) to obtain foreign evidence, i.e., Suleiman Yahyah and Atiku Abubakar, to provide representations regarding the following: (1) the defense’s inability to learn from Mr. Yahyah or Mr. Abubakar whether they would waive their 5th Amendment privileges and testify fully if deposed, and (2) whether Mr. Yahyah or Mr. Abubakar would agree to appear at trial and give testimony if their travel expenses were paid by the defendant. Counsel is mindful that on January 23, 2009 the court issued a Letter Rogatory asking for the same information. Nevertheless, counsel wishes to advise the court of his efforts to obtain the information sought by the court.

On January 15, 2009, following the hearing earlier that afternoon, counsel for Mr. Jefferson spoke with Christopher Mead, one of the attorneys for Atiku Abubakar and his wife, Jennifer Abubakar. Counsel advised Mr. Mead that the court had approved alternative means of service of the trial subpoena on Ms. Abubakar. With respect to Mr. Abubakar, counsel made the inquiries requested by the court. Mr. Mead advised he would have to confer with his client to determine how he would respond to these questions. Counsel has made subsequent phone calls to

Mr. Mead, but as of this time Mr. Mead is unable to provide further information in response to the court's questions.

With respect to Mr. Yahyah, as a result of our prior efforts to contact him, we received a letter dated March 25, 2008 from Alhaji Abdullahi Ibrahim, who advised that he was the attorney for Mr. Yahyah and that Mr. Yahyah was not and would not be available to speak with counsel for Mr. Jefferson. *See* Exhibit A (Dkt. No. 197-2) to Defendant's Reply in Support of Motion for Foreign Depositions. During a hearing on October 10, 2008, the court requested an affidavit from Mr. Yahyah describing the testimony Mr. Yahyah would give and whether he would be willing to testify at a deposition. After several attempts to contact Mr. Ibrahim by phone, counsel for Mr. Jefferson sent an email to Mr. Ibrahim on October 16, 2008 in which counsel advised Mr. Ibrahim of the court's questions, to wit, whether Mr. Yahyah would be willing to provide an affidavit setting forth his willingness to testify at a deposition as to the following subjects: whether Mr. Yahyah ever discussed with Mr. Jefferson making payments to either the then vice-president of Nigeria, Atiku Abubakar, or to his wife, Jennifer Abubakar, or to other Nigerian officials in exchange for assistance in promoting the use of iGate technology in Nigeria. The email further requested that Mr. Yahyah include in his affidavit what his testimony would be on the identified topics. Counsel received a response to this email on November 6, 2008. Mr. Ibrahim advised that Mr. Yahyah cannot be of assistance since "he knows nothing of the subject matter of prosecution." He went on to state that Mr. Yahyah's previous position had not changed and he requested that counsel make no further effort to communicate with Mr. Yahyah.

Notwithstanding Mr. Ibrahim's request that counsel not communicate further with him, on January 15, 2009, after the hearing, counsel for Mr. Jefferson emailed Mr. Ibrahim and

advised him that the communication was made at the request of the court to determine whether Mr. Yahyah would be willing to come to the United States to testify at trial if his travel expenses were paid for by the defendant. The next day, January 16, 2009, Mr. Ibrahim responded that he was no longer counsel in the matter but he had forwarded the earlier email request to Mr. Yahyah for him to respond directly if he chose to. As of this date, counsel has received no response from Mr. Yahyah.

Respectfully submitted,

/s/ Robert P. Trout

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Certificate of Service

I hereby certify that on this 30th day of January 2009, I electronically filed the foregoing Supplemental Memorandum with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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