

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA )

v. )

DAVID HOSSEIN SAFAVIAN, )

Defendant. )

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Criminal No. 05-0370 (PLF)

MEMORANDUM OPINION AND ORDER

On March 18, 2009, counsel for the defendant wrote a letter to the Court in order to bring to the Court's attention a recent potentially relevant court decision. In addition to simply transmitting the decision, however, counsel made arguments with respect to that decision.

On April 22, 2009, in response to a request by the Court, the parties jointly sent a letter to the Court identifying relevant pages from earlier filed briefs in support of their respective positions on the issue of vindictive prosecution. In addition to responding to the Court's direct request, however, the parties set forth legal arguments with respect to this issue. On the same date, April 22, 2009, the government submitted its own letter, citing cases and making arguments with respect to its reading of the cases and their application to the issues before this Court. On April 24, 2009, defense counsel sent a letter to the Court responding to the legal arguments presented by the government in its April 22 letter and citing additional authorities.

While one of the four letters submitted by counsel was in direct response to a request from the Court, the other three were not; and even the one that was responsive went well beyond the Court's request to identify pages from briefs and cases not previously cited. Counsel

are reminded that the Rules of this Court prohibit communications with the Court through letters rather than through formal filings. See L. Crim. R. 49.1(b) (“Except when requested by a judge, correspondence shall not be directed by the parties or their attorneys to a judge, nor shall papers be left with or mailed to a judge for filing”). Furthermore, when a letter is requested in order to bring to the Court’s attention supplemental authorities, while the letter may provide such authorities and state the reasons for providing them, it may not include legal argument. Cf. Fed. R. App. P. 28 (j). In any event, counsel are advised that the letters they have submitted will not be docketed and, while the Court will in this instance consider the arguments made therein, they are not a part of the formal record in this case and will not be a part of the record that will accompany the case to the court of appeals should an appeal prove necessary.

SO ORDERED.

DATE: May 1, 2009

/s/ \_\_\_\_\_  
PAUL L. FRIEDMAN  
United States District Judge