

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

I. LEWIS LIBBY

also known as "Scooter Libby"  
Defendant.

CR. NO. 05-394 (RBW)

**MOTION FOR LEAVE TO SUPPLEMENT THE RECORD**

Defendant I. Lewis Libby, through his attorneys, respectfully moves this Court for leave to supplement the record in advance of oral argument on February 24, 2006. Defendant wishes to introduce the attached letter from Kathleen M. Kedian, Deputy Special Counsel, to Mr. Libby's lawyers, dated February 21, 2006.

Deputy Special Counsel Kedian's letter sets forth the reasons why the Office of Special Counsel is refusing to produce, upon defendant's request, the 2003 referral letter from the CIA to the Department of Justice. Among other reasons, it states that the referral letter contains "communications between the CIA [] and the Department of Justice" that are protected from disclosure by attorney-client privilege. The defense asserts that such unequivocal recognition of a relationship between the CIA and the Department of Justice is highly probative of the argument set forth in defendant's Motion of I. Lewis Libby to Compel Discovery of Rule 16 and *Brady* Material in the Possession of Other Agencies and, therefore, the defense expects to refer to

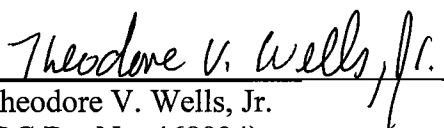
Deputy Special Counsel Kedian's letter during oral argument of this motion on February 24, 2006.

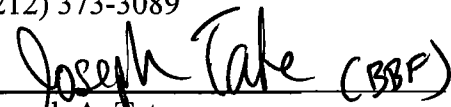
The government has informed the defense that it does not take a position on this motion.


For this reason, the defendant respectfully moves the Court to sign the attached order.


Dated: February 24, 2006

Respectfully submitted,

  
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