

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellant,
v.
YACOV YIDA,
Defendant-Appellee.

No. 06-10460
D.C. No.
CR-00-00274-CRB
Northern District
of California,
San Francisco
ORDER

Filed March 1, 2007

Before: Ronald M. Gould and Milan D. Smith, Jr.,
Circuit Judges, and Alfred V. Covello,* District Judge.

ORDER

The court invites supplemental letter briefs by the parties and any amicus curiae addressing some or all of the following questions raised in this appeal:

1. Under Fed. R. of Evid. 804(a)(5), what is the appropriate legal standard to be applied when evaluating a witness's "unavailability"?
2. Under Fed. R. of Evid. 804(a)(5), when assessing the proponent's efforts to ensure a witness's presence at the relevant proceeding "by process or other reasonable means," what is the relevant temporal period in which to assess the propo-

*The Honorable Alfred V. Covello, Senior United States District Judge for the District of Connecticut, sitting by designation.

ment's actions, and does it include a time period in which the proponent may have contributed to a witness's absence?

Any letter briefs responding to this order shall be filed simultaneously on or before thirty (30) days from the filed date of this order. The briefs shall not exceed fifteen (15) pages (double-spaced) or 4,200 words and shall be in the form of letters to the Clerk of this court. Any person or entity wishing to file a brief as an amicus curiae in response to this order is granted leave to do so pursuant to Fed. R. App. P. 29(a).

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