



U.S. Department of Justice

United States Attorney
Northern District of Iowa

401 First Street, SE
Suite 400
Cedar Rapids, IA 52401-1825

319-363-6333
319-363-1990 (fax)
319-286-9258 (tty)

November 1, 2010

F. Montgomery Brown, Esq.
Brown & Scott, P.L.C.
1001 Office Park Road, Suite 108
West Des Moines, Iowa 50265

Re: *United States v. Sholom Rubashkin*, 8th Cir. Case No. 10-2487

Dear Mr. Brown:

I am in receipt of your letter of October 26, 2010, in which you purport to provide support for your September 7, 2010, e-mail request for unredacted copies of documents you received in response to a Freedom of Information Act ("FOIA") request you made to another agency. Your September 7, 2010, e-mail request stated you were requesting the documents "for purpose of litigating Defendant Rubashkin's Motion for New Trial." In turn, your later letter stated this request is made in connection with a "presently pending . . . Motion for New Trial." (Letter, p. 2).

As you are aware, Mr. Rubashkin's motion for new trial has now been denied. (Order at Docket Number 958, p. 20). His request for discovery was also denied in the court's order. (*Id.* (court concluding "there is nothing to discover that would support the Motion")). Therefore, your request is moot and it appears the government need not reply further to your request for additional discovery. If you believe otherwise, please provide the basis for that belief.

In the meantime, given the court's ruling on your motion for new trial and request for discovery, and given that I have no cause to believe any of the requested information falls within the purview of *Brady* or its progeny, I will not be obtaining or providing the documents you request. Indeed, the materials attached to your e-mail appear to have been redacted pursuant to the provisions of the FOIA. The United States Attorney's Office is not in a position to circumvent the legal limitations of the FOIA through unwarranted intervention on your behalf.

Sincerely,

STEPHANIE M. ROSE
United States Attorney

By:

Peter E. Deegan, Jr.
Assistant United States Attorney