

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

UNITED STATES OF AMERICA)	
)	
)	Case No. 2:07CR00003
)	
v.)	OPINION AND ORDER
)	
YAYAH TALIB,)	By: James P. Jones
)	Chief United States District Judge
Defendant.)	

Jennifer R. Bockhorst, Assistant United States Attorney, Abingdon, Virginia, for United States; Yayah Talib, Pro Se Defendant.

The defendant, Yayah Talib, has requested a personal copy of the transcript of an evidentiary hearing held before the magistrate judge for use on his appeal. For the reasons stated hereafter, I will deny his pro se motion.

Talib, an inmate at the United States Penitentiary Lee County, was convicted by a jury of drug offenses and was sentenced on March 5, 2008. He represented himself at his trial and sentencing, although the court did appoint standby counsel who attended the trial and sentencing. Following the trial and prior to his sentencing, the defendant was provided personally with transcripts of the trial evidence for his use in arguing his post-verdict motions. At his request following sentencing, the clerk filed a timely Notice of Appeal on his behalf. That appeal is now pending.

The defendant requests that he now be provided personally with a copy of a transcript of an evidentiary hearing held before the magistrate judge on August 16,

2007, regarding various pretrial motions. The transcript has been prepared and is part of the record but a copy has not been supplied to the defendant.

The government opposes providing the defendant personally with this transcript on the ground that Talib will likely use it to retaliate against a witness at the hearing who gave testimony against him. I agree with the government that this is a substantial risk.

Strong and credible evidence was presented at the hearing and at Talib's sentencing that during this case Talib used discovery material and court documents to provide "proof" to his inmate friends and associates of the cooperation given to the government by other inmates, in order to retaliate against them, and to intimidate them against further cooperation.

Moreover, the court of appeals has now appointed counsel for Talib and thus Talib has a reduced need for the transcript of the hearing. *See United States v. Moussaoui*, 333 F.3d 509, 512 n.3 (4th Cir. 2003) (stating that the right of self-representation in a criminal case does not extend to appeals).

It is accordingly **ORDERED** that the pro se motions seeking a transcript of the August 16, 2007 hearing (Doc. Nos. 305, 380, and 382) are DENIED.¹ The clerk will

¹ The court will direct the preparation of the transcript of the sentencing hearing for use on the appeal.

send a copy of this Opinion and Order to the defendant at his place of confinement and to the clerk of the court of appeals.

ENTER: March 21, 2008

/s/ JAMES P. JONES
Chief United States District Judge