

DISTRICT ATTORNEY

COUNTY OF NEW YORK

ONE HOGAN PLACE

New York, N. Y. 10013

(212) 335-9000



CYRUS R. VANCE, JR.
DISTRICT ATTORNEY

September 29, 2020

VIA CM/ECF

Catherine O'Hagan Wolfe

Clerk of Court

U.S. Court of Appeals for the Second Circuit

Thurgood Marshall United States Courthouse

40 Foley Square

New York, NY 10007

Re: *Trump v. Vance*, 20-2766

Dear Ms. Wolfe:

Appellee Cyrus R. Vance, Jr. respectfully submits the attached correspondence to apprise the Court of his position regarding enforcement of the subpoena at issue in this matter.

Respectfully submitted,

s/ Carey R. Dunne

Carey R. Dunne, *General Counsel*

New York County District Attorney's Office

One Hogan Place

New York, NY 10013

CC: counsel of record

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VIA ELECTRONIC MAIL

William Consovoy, Esq.
Consovoy McCarthy PLLC
1600 Wilson Boulevard
Suite 700
Arlington, VA 22209
will@consovoymccarthy.com

Re: *Trump v. Vance*, 20-2766

Dear Will:

We write in response to your request for an additional brief period of forbearance from enforcement of the subpoena duces tecum issued by a New York County grand jury to Mazars USA, LLC on August 29, 2019 (the "Mazars Subpoena"). We understand that, in the event the Second Circuit issues an appellate ruling affirming the district court decision in this case, it is your plan to immediately request from the Supreme Court an administrative stay of the Mazars Subpoena. The purpose of the administrative stay would be to permit your client to then litigate the question of whether the Court should provide interim relief preventing enforcement of the Mazars Subpoena during the pendency of your client's subsequent petition for certiorari.

As we have consistently made clear, we do not believe your client's claims have merit, and we anticipate that the Supreme Court, after briefing, will deny your request for interim relief, at which point our office will be free to enforce the Mazars Subpoena, regardless of whether your client decides to continue to seek certiorari. To ensure that a decision is reached on this enforcement question as quickly as possible, and to avoid confusion or other procedural delays, we agree to a brief period of forbearance in exchange for your agreement to expedited briefing, as set forth below.

In the event the Second Circuit issues an appellate ruling affirming the opinion by the district court (the "Appellate Ruling"), and Appellant thereafter seeks interim relief from the Supreme Court to prevent enforcement of the Mazars Subpoena during the pendency of a petition for certiorari, we agree to forbear enforcement of the Mazars subpoena until a decision is issued by the Supreme Court denying such a request for interim relief (the "Interim Relief Ruling"), provided Appellant complies with the following briefing schedule:

1. Appellant will file and serve Appellee via email any request to the Supreme Court to prohibit enforcement of the Mazars Subpoena during the pendency of a petition for certiorari no later than 5:00 pm on the fifth calendar day after an Appellate Ruling is issued by the Second Circuit affirming the decision of the district court.
2. Appellee will file and serve Appellant via email a response no later than 5:00 pm five calendar days thereafter.
3. Appellant will file and serve Appellee via email a reply no later than 5:00 pm two calendar days after that.
4. If any date under this schedule falls on a weekend or holiday, the requirement to serve the opposing party will remain as set forth above, but the requirement to file will be extended until the next day that the Supreme Court is open for filing.

For the avoidance of doubt, the term “Appellate Ruling” as used herein shall refer to the earliest opinion, order, decision, or other substantive ruling issued by the panel of the Second Circuit that heard argument in this appeal on September 25, 2020, and not to the issuance of any judgment, mandate, or any other opinion, order, ruling, or decision of any court. The term “Interim Relief Ruling” as used herein shall mean the earliest opinion, order, or other ruling issued by the Supreme Court, or any Justice thereof, resolving any motion filed by Appellant and not to the issuance of any judgment, mandate, or any other opinion, order, ruling, or decision of any court.

Sincerely,

s/ Carey R. Dunne
Carey R. Dunne, *General Counsel*
New York County District Attorney’s Office
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New York, NY 10013