

CR-17-00360-PHX-JJT-1, February 28, 2019

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

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5	United States of America,	)	
6		)	
7	Plaintiff,	)	
8	vs.	)	
9		)	CR-17-00360-PHX-JJT-1
10	Abdul Khabir Wahid,	)	
11		)	
12	Defendant.	)	
13		)	February 28, 2019
14		)	10:01 a.m.
15		)	
16		)	

**BEFORE: THE HONORABLE JOHN J. TUCHI, JUDGE**

**REPORTER'S EXCERPT TRANSCRIPT OF PROCEEDINGS**

BENCH TRIAL - DAY 3 (Witness testimony only)

(Pages 318 through 409)

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Proceedings Reported by Stenographic Court Reporter  
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A P P E A R A N C E S

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MATTHEW LEVITT - Direct

P R O C E E D I N G S

1 (The following excerpt was separately transcribed.)

2 (Court was called to order by the courtroom deputy.)

3 (Proceedings begin at 10:01.)

4 (The defendant is present and out of custody.)

10:01:10

5 THE COURT: Good morning, everyone. Please be  
6 seated.

7  
8 All right. Before we commence, I want to remind  
9 everyone here that by the local rules of practice, there is no  
10 recording of any proceedings in the courtroom. And I'm going  
11 to make sure that the parties monitor that, including any  
12 family members that you might have here.

10:01:22

13 Mr. Wahid, I do not know that a recording was  
14 occurring, but I want to remind everybody right now that cannot  
15 happen. We can resume.

10:01:39

16 MS. BROOK: Your Honor, before I had mentioned -- I  
17 had mentioned at the close we had about 20 more minutes. It's  
18 probably more like 30 but we'll keep it as brief as possible.

19 (MATTHEW LEVITT, a witness herein, was previously  
20 duly sworn or affirmed.)

10:01:54

**DIRECT EXAMINATION** (Continued)

21  
22 BY MS. BROOK:

23 Q. We left a off yesterday talking about *Dabiq* issue number  
24 five and put out by the Islamic State.

25 MS. BROOK: I'm going to place on the overhead what

10:02:02

United States District Court

MATTHEW LEVITT - Direct

- 1 has already been admitted as Government's Exhibit 18. 10:02:04
- 2 BY MS. BROOK:
- 3 Q. Do you recognize this issue of *Dabiq*?
- 4 A. Yes. This is the eighth issue of *Dabiq*.
- 5 Q. And when was it published? 10:02:20
- 6 A. In March, late March 2015.
- 7 Q. Again, this is the same publication of *Dabiq* of which is
- 8 produced by the Islamic State?
- 9 A. Yes.
- 10 Q. And in this particular issue of *Dabiq*, what was detailed, 10:02:31
- 11 discussed, in the forward?
- 12 A. The forward always covers recent events and in this one,
- 13 it covers a series of attacks and issues related to a
- 14 particular instance regarding another drawing of Prophet
- 15 Muhammed. 10:02:58
- 16 Q. Again, a pretty obvious question but, for the record,
- 17 where is the placement in this particular magazine?
- 18 A. It's the very first article. So cover page, the table of
- 19 contents forward.
- 20 Q. Table of contents, again, you had mentioned yesterday that 10:03:10
- 21 Zarqawi's quote is always there on the header?
- 22 A. Yes, and there it is.
- 23 Q. Turning to page three and then to page four and five. I
- 24 want to focus in, who was Abu Ramadan?
- 25 A. Abu Ramadan -- his real name is Omar Hussain -- is a 10:03:48

United States District Court

MATTHEW LEVITT - Direct

1 Danish citizen, Muslim who carried out an attack, a couple of 10:03:51  
2 attacks actually in Copenhagen, one targeting a gathering of  
3 people who were celebrating cartoons, including cartoons  
4 depicting the Prophet Muhammed, and one cartoon in particular  
5 depicting the Prophet Muhammed in a particularly insulting way, 10:04:08  
6 and then also carried out an attack on a Jewish synagogue in  
7 Copenhagen.

8 Q. Did this article detail the Islamic State's position about  
9 the purpose of this particular attack?

10 A. Correct. Yes. 10:04:25

11 Q. Did it go on to talk about the purpose, to intimidate the  
12 West?

13 A. It does.

14 Q. And, in effect, to try to bring about Dabiq?

15 A. Correct. 10:04:39

16 Q. Can you read for -- what it says there under Abu Ramadan's  
17 picture?

18 A. This is the bottom right-hand corner of page five. "It  
19 was also the rejection of nationalism that drove Abu Ramadan  
20 al-Muhajir (Omar Abdel Hamid el-Hussein -- may Allah accept 10:04:51  
21 him) despite his Danish birth and upbringing -- to target  
22 Danish Jews and Danish mockers of the Messenger" -- Prophet be  
23 upon him it says in Arabic -- "until he achieved martyrdom in  
24 Denmark, after pledging bay'ah to the Khilafah from Denmark,"  
25 pledging allegiance to the caliph. 10:05:22

United States District Court



MATTHEW LEVITT - Direct

- 1 Q. So in effect, did he target civilians and attack them 10:05:33  
2 attempting to harm and kill people?
- 3 A. Exactly.
- 4 Q. And what was the Islamic State's position on the purpose  
5 of that attack and the effect of it? 10:05:41
- 6 A. Their position was that this is a response to the call  
7 that they had put out asking for exactly this type of attack  
8 and highlighted the fact that he had not given credence to his  
9 Danish nationality, that the idea of nationalism was an  
10 anathema to them. One was a Muslim and a member of the Muslim 10:06:03  
11 nation, the ummah, and that was all that mattered, whatever  
12 one's, quote unquote, nationality.
- 13 Q. Whose picture is that right there?
- 14 A. On the left? Lars Vilks, who is the cartoonist who drew  
15 this particularly insulting cartoon. 10:06:19
- 16 Q. And based upon the content of this article, what's the  
17 purpose of having his picture there?
- 18 A. He is the face of disbelievers who are the types of people  
19 who should be attacked, among others.
- 20 Q. Can you read for us the words put out by the Islamic State 10:06:39  
21 starting here at the top of column two on this page?
- 22 A. Starting with "The Khalifah"?
- 23 Q. Yes. And I guess maybe it would be better to start down  
24 here. Perhaps, "He gathered."
- 25 A. "He gathered what he could of arms, surveyed targets, 10:06:58

United States District Court

MATTHEW LEVITT - Direct

1 relied upon his Lord, and executed his brave and selfless 10:07:01  
2 attack, terrorizing the Christians, Jews, and athiests of  
3 Denmark," go up to the next column, "a pagan nation that  
4 insulted the Messenger," peace be upon him in Arabic, "and a  
5 member of the crusader coalition against the Islamic State. 10:07:22  
6 The filthy blood of the Danes was spilled by his blessed hands,  
7 by which he guaranteed for himself a place in Paradise,  
8 inshaallah," God willing. "And with the noble blood and  
9 tireless sweat of his likes, history is written and preserved."  
10 "And now, has the time not come for the crusaders, 10:07:41  
11 athiests, and apostates to realize that the Islamic State and  
12 its message to the world is here to stay?"  
13 "The Khalifah said, quote, Let the world know that we  
14 are living today in a new era. Whoever was heedless must now  
15 be alert. Whoever was sleeping must now awaken. Whoever was 10:08:01  
16 shocked and startled must comprehend. The Muslims today have a  
17 loud, thundering statement, and possess heavy boots. They have  
18 a statement" --  
19 Q. I'm sorry. Let me go back for just a moment. Did the top  
20 of this one paragraph that we started halfway through also 10:08:19  
21 speak to the issue of, quote, citizenship, in quotes, and how  
22 Abu Ramadan didn't let citizenship prevent him from carrying  
23 out the duties of the Islamic State?  
24 A. That's right.  
25 MS. BROOK: We've covered this in a stipulation but 10:08:51

MATTHEW LEVITT - Direct

1 we might as well cover in testimony, too. 10:08:53  
2 BY MS. BROOK:  
3 Q. Are you aware that the Islamic State is a designated  
4 terrorist organization?  
5 A. Yes. 10:08:58  
6 Q. And who are they so designated by?  
7 A. The State Department as a foreign terrorist organization  
8 and there's also designation under the Treasury, especially  
9 designated global terrorist entities list.  
10 Q. And, in fact, they were so designated back in 2014 and 10:09:11  
11 2015 just as they are today?  
12 A. Correct.  
13 Q. Are you aware, based upon your research, your work in the  
14 field, of the attack on the Curtis Culwell Center that happened  
15 on May 3 of 2015? 10:09:26  
16 A. I am.  
17 Q. And we're going to return to an issue, *Dabiq* issue number  
18 nine, in a moment but are you aware of who claimed  
19 responsibility for that attack?  
20 A. The Islamic State did. 10:09:38  
21 Q. Placed on the overhead what's already been --  
22 MS. BROOK: You know actually, Your Honor, I'm going  
23 to place on the overhead Exhibit Number 71. These were  
24 discussed yesterday and read. I don't believe they were  
25 actually admitted so the Government would move to admit them. 10:09:53

United States District Court

MATTHEW LEVITT - Direct

1 THE COURT: This is 71, the Twitter screen shots? 10:09:59  
2 MS. BROOK: Correct.  
3 THE COURT: All right. I'll give Mr. Wahid a second  
4 to catch up.  
5 Mr. Wahid, is there any objection? 10:10:06  
6 MR. WAHID: No.  
7 THE COURT: All right. 71 is admitted.  
8 (Exhibit Number 71 was admitted into evidence.)  
9 BY MS. BROOK:  
10 Q. In terms of attacks here on the United States soil, was 10:10:16  
11 this the first attack on the United States soil that the  
12 Islamic State claimed responsibility for?  
13 A. Yes.  
14 Q. And are you familiar with Junaid Hussain?  
15 A. I am. 10:10:31  
16 Q. Can you read for us the second tweet here that I'm  
17 pointing to?  
18 A. "The 2 Brothers attained shahdah in Texas. O Kuffar know  
19 that death is better than living humiliated! Allahu Akbar!!  
20 #garlandshooting." 10:10:43  
21 Q. Okay. Does the Islamic State use mediums like Twitter to  
22 communicate messages to supports?  
23 A. Extensively, on multiple platforms.  
24 Q. And does it also use to gain supporters?  
25 A. Absolutely. 10:11:05

United States District Court

MATTHEW LEVITT - Direct

1 Q. Is it used to carry out messages from the Islamic State? 10:11:05

2 A. Yes.

3 Q. Junaid Hussain's role within the Islamic State, what's his  
4 position? Well, let me ask a better question. What was his  
5 position back in May of -- well, let's do January through May 10:11:14  
6 of 2015?

7 A. Junaid Hussain was a hacker and had become one of the  
8 heads of the Islamic State's external operations so he was  
9 tremendously intimately involved recruiting, encouraging, and  
10 sometimes even directing people to carry out attacks on 10:11:38  
11 multiple platforms -- Twitter, Kick, Surespot and many  
12 others -- and has been tied to a significant number of cases,  
13 not only in the United States but around the world.

14 Q. Are you familiar with the execution videos that are  
15 released by the Islamic State? 10:11:54

16 A. I'm afraid so.

17 Q. Based upon your research in this field, familiarity with  
18 the Islamic State, what's the purpose for both the release of  
19 those videos as well as having individuals watch those videos?

20 A. Islamic State released both videos that tried to show its 10:12:13  
21 kind of idyllic caliphate that it was building, but it also  
22 released these horrific videos of beheadings and burning people  
23 alive and stuff like that as a means of demonstrating how  
24 powerful they are, how ascendent they are. Remember this  
25 millennial apocalyptic idea had been purveyed by others, 10:12:35

MATTHEW LEVITT - Direct

1 including Anwar al-Awlaki, who we discussed yesterday. And 10:12:40  
2 here they are actualizing that prophecy and from the -- from  
3 their perspective, it also helped, as we discussed yesterday,  
4 radicalize people and get recruits, inspire people to do things  
5 of their own and sometimes also would be successful in terms of 10:13:00  
6 fundraising.

7 From the consumers' point of view, especially when  
8 we're talking about the home-grown violent extremist which is,  
9 maybe not in Europe but certainly in the United States, the  
10 primary terrorist threat we face. This is a way of giving 10:13:15  
11 someone a sense of belonging. This like-minded follower  
12 watches these things and feels like he or she is a part of  
13 this. And for many it can actually be a form of not only  
14 belonging but of worship, but of -- because this is a religious  
15 calling. This is getting in on the ground floor and doing 10:13:40  
16 something that is bigger than yourself and is changing the  
17 world in God's image and is helping to bring Islam around the  
18 world. Borders don't matter, countries don't matter and you're  
19 a part of it. And it becomes a form of worship.

20 And it's a key element in helping not only radicalize 10:13:58  
21 people but then mobilize people. Lots of people get  
22 radicalized. We stub our toes and get angry but far fewer  
23 people get mobilized to go do something violent about it. And  
24 mobilization that is critical and part of the video is, we've  
25 come and done this. You can do it. You can come and join us 10:14:15

United States District Court

MATTHEW LEVITT - Direct

1 here and do it. You can do where you are at home, and it's 10:14:18  
2 become a very effective radicalizing and mobilizing tool.

3 Q. You had mentioned also the component of you can come here  
4 and help or you can act where you are, where you happen to be;  
5 right? 10:14:33

6 A. Correct.

7 Q. The concept of coming to the Islamic -- well, coming to  
8 the area of Iraq and Syria to help, is that called hijrah?

9 A. Correct.

10 Q. And are you familiar with Government's Exhibit Number 19, 10:14:43  
11 already admitted, placing on the overhead? Are you familiar  
12 with this?

13 A. I am.

14 Q. In terms of locations where individuals may fly in in  
15 order to commit hijrah, are there some popular destinations? 10:15:01

16 A. The most popular and simplest way to get to Syria was via  
17 Turkey, especially before the Turks really started monitoring  
18 that about 100-mile swath of the border which then President  
19 Obama actually called them out on publicly. So it was very  
20 common for people to fly into Istanbul and then either rent a 10:15:27  
21 car, take a bus or take a flight to airports closer to the  
22 border. So you see here to the left here Gaziantep, Sanliurfa,  
23 et cetera, towns closer to the border through which they could  
24 then make the final leg of the journey south into northern  
25 Syria. 10:15:45

MATTHEW LEVITT - Direct

1 MS. BROOK: I'm placing on the overhead now, Your 10:15:45  
2 Honor, Exhibit Number 42 already admitted, screen shots from  
3 the phone, also admitted, that was found in Simpson and Soofi's  
4 apartment on that phone.

5 Q. What is Sabihan Gökçen? 10:16:10  
6 A. An airport, Turkish airport.  
7 Q. And how about Ataturk?  
8 A. That's the main airport, yes. Istanbul.  
9 Q. I'm going to place back on the overhead the next page of  
10 Exhibit 42 already admitted. Can you read that message for us? 10:16:51  
11 A. "You're not one way. You're have a trip both ways to  
12 IST and back to Bulgaria."  
13 Q. Is that message consistent with the instructions in the  
14 hijrah literature put out by the Islamic State?  
15 A. Yes. It was better not to book a one-way trip ticket 10:17:14  
16 which is more suspicious to law enforcement.  
17 Q. Placing on the overhead one of the screen shots from  
18 Exhibit Number 74, also already admitted. Can you read for us  
19 what Elton Simpson there under Bird of Green wrote?  
20 A. "I wonder what it means when one sees imam Anwar in a 10:17:55  
21 dream. You don't have to ask the sheikh akhi lol."  
22 Q. And then there we have Miski.  
23 A. Who responds, "Maybe he's telling you what he told nidal."  
24 Q. Let's break that apart just for a moment. Miski, who is  
25 that? 10:18:14



MATTHEW LEVITT - Direct

1 A. Goes by the name Muhajir Miski. He's on your board here 10:18:15  
2 in the bottom middle, Mohamed Abdullahi Hassan, originally from  
3 Minneapolis, went to Somalia, joined al-Qaeda there, the  
4 al-Shabaab group, but over time became a follower and promoter  
5 of the Islamic State. 10:18:35

6 Q. Based upon the context of this direct message, who do you  
7 interpret Nidal to be?

8 A. I interpret this to be a reference to Nidal Hassan, Major  
9 Nidal Hassan, who carried out a shooting attack in Fort Hood in  
10 2009 killing I think 13 and wounding 30 something people. The 10:18:53  
11 reason is because Nidal Hassan had also been or had been in  
12 direct contact with Anwar al-Awlaki. That was very much in the  
13 public domain. And here you have Elton Simpson talking about  
14 Imam Anwar, which seems clearly to be a reference to Anwar  
15 al-Awlaki, saying, what happens if I saw Anwar al-Awlaki in my 10:19:18  
16 dream? Maybe he's telling you what he told Nidal. And what  
17 Anwar al-Awlaki told Nidal was to go carry out this attack.

18 Q. Placing on the overhead what has not yet been admitted,  
19 Government's Exhibit Number 72. So we can see it in its  
20 entirety. I'm going to scan it so you can see it in its 10:19:56  
21 entirety.

22 Do you recognize this?

23 A. Yes.

24 Q. And have you had the opportunity to review all of Exhibit  
25 Number 72? 10:20:06

MATTHEW LEVITT - Direct

1 A. Yes. And not only -- I saw it when it came out, not just 10:20:08  
2 for this case.

3 Q. What's it from?

4 A. This is from another edition of *Dabiq* magazine, number  
5 nine I believe, which came out about three weeks after the 10:20:18  
6 Garland attack.

7 Q. And what part of *Dabiq*, issue number nine, did this appear  
8 in, this forward?

9 A. This is in the forward which is that first section of  
10 articles after the cover and the table of contents. 10:20:33

11 Q. Explain for us what this forward discusses.

12 A. Like most forwards for *Dabiq*, it discusses current events.  
13 This one discusses again attacks on Prophet Muhammed depictions  
14 and, in particular, it discusses the attack at Culwell Center  
15 in Garland. 10:20:57

16 MS. BROOK: Your Honor, the Government moves to admit  
17 Government's Exhibit Number 72.

18 THE COURT: All right.

19 Mr. Wahid, any objection?

20 MR. WAHID: No. 10:21:05

21 THE COURT: All right. 72 is admitted.

22 (Exhibit Number 72 was admitted into evidence.)

23 BY MS. BROOK:

24 Q. Who does that photograph depict?

25 A. This is Geert Wilders whose is a far right Dutch 10:21:10

MATTHEW LEVITT - Direct

1 parliamentarian who has been convicted actually of inciting -- 10:21:13  
2 incitement against the Moroccan community in the Netherlands  
3 and he's quite the Islamophobic politician.

4 Q. Are you familiar with these pages here? Whose pictures  
5 are these? 10:21:42

6 A. This is Simpson and Soofi.

7 Q. And what does the article say about them and their actions  
8 specifically?

9 A. It lauds them as examples to follow, as people whose  
10 actions should help inspire others to overcome any reticence 10:21:57  
11 they may have to like Simpson and Soofi, do what needs to be  
12 done on behalf of the Islamic State.

13 Q. Here it says, "As for those who continue to suffer from  
14 the disease of being indifferent or the obligations of hijrah,  
15 jihad, and bay'ah, so much so that they see nothing wrong with 10:22:15  
16 residing amongst, and paying taxes to," that particular  
17 section, does that resonate with the message?

18 A. It does. In other words, for those people who might  
19 still, as they put it here, suffer from the disease of not yet  
20 following the message and they continue living among 10:22:34  
21 disbelievers and they maybe even continue paying taxes to those  
22 countries that are fighting the Islamic State and who belittle  
23 Islamic law, Shariah, and on their entertainment programs and  
24 who imprison and torture Muslims, maybe even burn the Qur'an  
25 and mock the Prophet Muhammad, specifically as mentioned here, 10:22:52

MATTHEW LEVITT - Direct

1 then -- and I quote here at the end of that paragraph, quote, 10:22:57  
2 then let them prepare their flimsy excuses for the angels of  
3 death, end quote, meaning even -- not just disbelievers who are  
4 not Muslim but even Muslims who are not sufficiently believers  
5 and are, therefore, disbelievers, they are eligible to face a 10:23:14  
6 flimsy death, too. They will have no argument to make to God  
7 at the end of the day when they go up to the pearly gates  
8 having not followed through on this call to action.

9 Q. Does this article state exactly how the Islamic State  
10 views Elton Simpson and Nadir Soofi? 10:23:42

11 A. Absolutely.

12 Q. What does it say?

13 A. I'll quote: "The hypocrites will sit back, the true men  
14 will step forward, and the kuffar will have no peace and no  
15 security." 10:23:54

16 "May Allah accept our two brothers amongst the  
17 leaders of the shuhada in Jannah." They are martyrs in  
18 paradise.

19 Q. Based on your knowledge of terrorist attacks, specifically  
20 home-grown extremist attacks in the West, are you familiar with 10:24:17  
21 cases where material is found in the aftermath of the attack  
22 that would have been and was of value to law enforcement?

23 A. That describes just what every case there's been. The  
24 nature of investigating case terrorism or otherwise is running  
25 down the leads that you get access to, especially in the 10:24:40

MATTHEW LEVITT - Direct

1 immediate aftermath of the attack. This material can often 10:24:44  
2 have a short expiration date. In other words, its value is  
3 only useful for a short period of time. So there's a rush  
4 against the clock to get it and exploit it to be able to  
5 identify not only kind of what that material was, was it money? 10:24:59  
6 Was it access to a locker, you know, a key for something, or  
7 was it just to be able to identify who it was being delivered  
8 to and whether that person or persons are some type of network,  
9 whether there's additional plotting going on. So that can be  
10 very important. 10:25:18

11 Q. Why is the transfer of currency or money important?

12 A. Well, we have plenty of cases where people raised or  
13 collected funds to do something and didn't use it all. Think  
14 of 9/11. The 9/11 hijackers actually sent back to the Middle  
15 East unused funds so that that money, considered sacred for 10:25:36  
16 them, can be used for another attack.

17 Q. Based upon your understanding of the Islamic State, is the  
18 return of unused money for an attack an important concept to  
19 them?

20 A. I do think that they would consider that an important 10:25:50  
21 concept. Again, because for them these types of attacks are a  
22 form of worship. They are a form of service. That money is,  
23 in a sense, sacred and just operationally, the religious or  
24 ideology side, why waste that money? Provide to it someone  
25 else who can do something else with it in support of the 10:26:13

MATTHEW LEVITT - Direct

1 Islamic State.

10:26:16

2 Q. We've talked about different forms of support, du'a, that  
3 people can make towards the Islamic State, does the Islamic  
4 State ask for people to make financial contributions?

5 A. Sure.

10:26:27

6 Q. And is that, too, a form of support that a person who  
7 supports the Islamic State can provide?

8 A. Yes.

9 Q. Based upon the research you've done, your awareness of  
10 what happens in the aftermath of these terrorist attacks, have  
11 you encountered situations where information may appear  
12 innocuous but actually has value to the investigation?

10:26:46

13 A. Again, that's a description of almost any case I've ever  
14 heard of. Sometimes you'll find assumptions that -- that  
15 clearly is relevant. You'll find a weapon. You'll find a  
16 suicide note. But you'll also find all kinds of other material  
17 that you simply cannot know if it's relevant until you run it  
18 down. Which is why, you know, if you -- in your exercise of a  
19 search warrant, you're going to be looking for all kinds of  
20 things whether or not they have a brass plate next to them  
21 saying "this was related to the attack" to be able to determine  
22 if it had anything to do with the attack, with the people  
23 involved in the attack, again, whether there were others  
24 involved in the planning.

10:27:09

10:27:27

25 So I would argue that the majority of the information 10:27:39

MATTHEW LEVITT - Direct

1 actually is going to seem innocuous and won't be known to be 10:27:41  
2 relevant or not until people who are properly trained and have  
3 the tools to be able to run down those leads can do so.

4 Q. You had mentioned a moment ago that time was of the  
5 essence in gathering that information. How have you seen that 10:27:55  
6 appear in cases that you're aware of --

7 A. Like I said, the most pressing is concern that perhaps  
8 there are other operatives who are planning similar types of  
9 activities and it can become even more time-sensitive because  
10 when an operation, a terrorist attack happens, when one is 10:28:15  
11 thwarted, we have many cases where then operatives who were  
12 planning other attacks decide to move up their timetable and  
13 attack more quickly.

14 So, for example, there was one last Islamic State  
15 terrorist from the late 2015 attacks in Paris, Abduo Salam, who 10:28:31  
16 had escaped. He was ultimately found in Brussels, which is  
17 where he had been from -- but when authorities kicked down a  
18 door in an apartment and he had just escaped but found one of  
19 his compatriots and an Islamic State flag and a weapon, et

20 cetera, other people who were part of that cell and were 10:28:57  
21 planning a series of attacks moved up their planning and  
22 carried out attacks at the Brussels Metro and the Brussels  
23 Airport earlier than they had anticipated because they were  
24 afraid that they, too, would get caught. So there really is a  
25 rush against the clock. 10:29:13

United States District Court

MATTHEW LEVITT - Cross

1 Q. And the type of involvement in a cell can include 10:29:14  
2 financial providers?

3 A. Absolutely. It can include financial providers, people  
4 who are actually going to carry out an attack, people who might  
5 provide weapons or lookout or automobiles or safe houses. 10:29:25  
6 There's a tremendous spectrum of types of activity that need to  
7 go into a successful operation.

8 MS. BROOK: May I have one moment, Your Honor?

9 THE COURT: You may.

10 MS. BROOK: I don't have any other questions. 10:29:48

11 THE COURT: All right. Thank you.

12 Mr. Wahid, do you have any questions for this  
13 witness?

14 MR. WAHID: I just got one question.

15 **CROSS - EXAMINATION** 10:29:57

16 BY MR. WAHID:

17 Q. I am Muslim myself and even I don't know very much about  
18 ISIS and like most Main Street Islam --

19 MS. BROOK: Objection, Your Honor. Statement, not a  
20 question. 10:30:24

21 THE COURT: You need to get to the question, Mr.  
22 Wahid.

23 MR. WAHID: Okay.

24 BY MR. WAHID:

25 Q. What is your opinion on the matter, do you agree that ISIS 10:30:31



MATTHEW LEVITT - Cross

1 has no bias and that they will not only attack people in the 10:30:34  
2 West. They also attack Muslims who are the very people ISIS  
3 organization claims it is a part of?

4 MS. BROOK: Your Honor, can you repeat the question.  
5 I just couldn't hear him. 10:30:45

6 THE COURT: I'm going to have the court reporter read  
7 it back, please.

8 (Requested portion of record read: What is your  
9 opinion on the matter, do you agree that ISIS has no bias and  
10 that they will not only attack people in the West. They also 10:31:07  
11 attack Muslims who are the very people ISIS organization claims  
12 it is a part of?)

13 A. ISIS does attack Muslims, but I would argue it's because  
14 of extreme bias. The bias is against anybody who does not  
15 practice the Muslim faith as they say it should be practiced. 10:31:14

16 And as I said yesterday, that excludes the vast  
17 majority of Muslims around the world who reject them. So this  
18 extreme bias, even more than al-Qaeda and others, means for the  
19 Islamic State if you are not Muslim like us, then you are  
20 liable to be killed just like anybody else. So they will 10:31:31  
21 absolutely kill Muslims as well.

22 MR. WAHID: Gotcha.

23 Nothing else, Your Honor.

24 THE COURT: All right. Thank you.

25 Is there any redirect? 10:31:43

STEWART WHITSON - Direct

1 MS. BROOK: No. 10:31:44

2 THE COURT: All right. I'm he going to be able to  
3 excuse you and let you go. Thank you.

4 THE WITNESS: Thank you, Your Honor.  
5 (Witness excused.) 10:31:58

6 THE COURT: If the Government will call its next  
7 witness, please.

8 MS. BROOK: Thank you, Your Honor. The Government  
9 calls Special Agent Stewart Whitson.

10 THE COURT: Agent Whitson, if you would step forward 10:32:33  
11 to the courtroom deputy, she'll swear you in.

12 COURTROOM DEPUTY: If you can please state your name  
13 and spell your last name for the record.

14 THE WITNESS: Stewart Whitson. W-H-I-T-S-O-N.

15 COURTROOM DEPUTY: Thanks you. Raise your right 10:32:44  
16 hand.

17 (STEWART WHITSON, a witness herein, was duly sworn or  
18 affirmed.)

19 **DIRECT EXAMINATION**

20 BY MS. BROOK: 10:33:09

21 Q. Good morning.

22 A. Good morning.

23 Q. Would you please introduce yourself to the Court?

24 A. Good morning, Your Honor. I'm Stewart Whitson. I'm a  
25 Special Agent with the Federal Bureau of Investigation. 10:33:16

STEWART WHITSON - Direct

1 Q. And, sir, how long have you been an FBI agent? 10:33:20  
2 A. I've been an FBI agent for seven years.  
3 Q. Back in May of 2015, where were you assigned?  
4 A. In May of 2015 I was assigned to Phoenix Division Office  
5 here in Arizona. 10:33:33  
6 Q. I want to talk about some of the positions you've held  
7 since you became an FBI agent seven years ago. Where were you  
8 first assigned?  
9 A. So my first assignment was withing Phoenix Division.  
10 Q. And what focus or specialty did you have as you worked 10:33:44  
11 here in the Phoenix Division?  
12 A. I was a counter-terrorism agent so it was essentially a  
13 case agent that investigated terrorism investigations here in  
14 Arizona.  
15 Q. Prior to joining the FBI, what was your educational 10:33:55  
16 background?  
17 A. Prior to joining the FBI, I have -- I had obtained a law  
18 degree from the University of Minnesota and a bachelor of arts  
19 degree from the University of Minnesota.  
20 Q. And were you in the military? 10:34:10  
21 A. Yes.  
22 Q. What was the nature of your service in the military?  
23 A. I was in the U.S. Army. I was an infantry officer and so  
24 I served as a platoon leader in Iraq where I was stationed for  
25 16 months and then I was later a company commander for an 10:34:22

STEWART WHITSON - Direct

1 infantry company.

10:34:25

2 Q. In early May of 2015, did you become the lead case agent  
3 in the Phoenix FBI investigation into the attack on the Draw  
4 the Prophet Muhammad?

5 A. Yes.

10:34:42

6 Q. And can you briefly describe for us the scope of the FBI  
7 investigation into the attack?

8 A. Yes. So following the attack, which occurred on May 3,  
9 2015, the FBI launched what could be described as the largest  
10 terrorism investigation in the history of the office here in  
11 Phoenix. Obviously it spanned three different divisions  
12 because the attack had occurred in Dallas. It involved the  
13 Dallas Division as well as the Phoenix Division. But it  
14 encompassed work being done by hundreds of agents, not just  
15 from Phoenix but across the nation, as well as numerous  
16 intelligence analysts and other FBI professionals.

10:34:59

10:35:15

17 Q. At what point did it become clear that this was a  
18 terrorism investigation?

19 A. Immediately from the outset of the investigation it was  
20 clear that this was a terrorism investigation.

10:35:28

21 Q. How was that?

22 A. Numerous factors. One was the tweet that one of the  
23 attackers sent out 16 minutes prior to the attack pledging  
24 loyalty to Amir al-Muminin, commander of the faithful, is  
25 Arabic for commander of the faithful, which is a title bestowed

10:35:52

STEWART WHITSON - Direct

1 on Abu Bakr al-Baghdadi, the leader of ISIS. So that tweet 10:35:53  
2 that gone out 16 minutes prior to the attack. And then  
3 obviously the nature of the attack itself. It was an attack  
4 upon a contest, a drawing contest of the Prophet Muhammed which  
5 was obviously something offensive to many Muslims. So that 10:36:11  
6 would be a natural target.

7 And then obviously the subjects involved in the  
8 attack, one of which was Elton Simpson, which had been known to  
9 the FBI as an individual who had been investigated for  
10 terrorism-related offenses in the past. 10:36:26

11 Q. Based upon your work in the military and your work in the  
12 FBI, specifically in the Counter-Terrorism Division, did you  
13 have specific knowledge and training as it related to terrorism  
14 investigations?

15 A. Yes. 10:36:43

16 Q. And can you explain how you came about that information  
17 and what sort of special skills you had?

18 A. Well, obviously there's -- all agents receive training at  
19 FBI academy at Quantico and with terrorism being the number one  
20 priority of the FBI, a large part of that training is focused 10:37:00  
21 on terrorism-type training. So that includes familiarization  
22 with the groups in the areas where a lot of these groups  
23 operate out of but also just the investigative techniques that  
24 are involved in these kinds of investigations which oftentimes  
25 are the same techniques we use in criminal investigations as 10:37:17

STEWART WHITSON - Direct

1 well. But just the added knowledge of the groups involved such 10:37:20  
2 as ISIS and other terrorist groups.

3 Q. So let's turn back to the investigation itself. Out of  
4 the Phoenix Field Division roughly how many interviews were  
5 conducted in this terrorism investigation? 10:37:31

6 A. My best estimate would be somewhere between 300 and 400  
7 interviews were conducted related to this investigation.

8 Q. And roughly how many search warrants were executed in the  
9 aftermath of the attack here in Phoenix?

10 A. My best estimate would be well over 30 and probably a lot 10:37:52  
11 more than 30 but at least 30 search warrants.

12 Q. Additionally, were 2703(d) warrants sought and obtained?

13 A. Yes.

14 Q. So during this investigation, did you familiarize yourself  
15 with the associates of Nadir Soofi and Elton Simpson? 10:38:11

16 A. Yes.

17 Q. And did you come to learn that there was a core group of  
18 individuals who hung out with Simpson and Soofi?

19 A. Yes.

20 Q. In terms of adults, like on a more regular daily basis, 10:38:28  
21 who would that be?

22 A. Their closest most intimate group I guess you would  
23 describe them as would have been Elton Simpson, Nadir Soofi,  
24 Mr. Wahid, and Abdul Malik Abdul Kareem. And there was another  
25 individual that was close to others was Saabir Nurse but he 10:38:48

STEWART WHITSON - Direct

1 wasn't as close to that inner group. 10:38:53  
2 Q. Do any of the associates, those close associates, look  
3 like Abdul Khabir Wahid?  
4 A. No.  
5 Q. Just for the purposes of the record, are you familiar with 10:39:15  
6 what a 2703(d) order is?  
7 A. Yes.  
8 Q. What is it?  
9 A. So it's something a little less than a search warrant but  
10 essentially it's seeking content related to communications 10:39:23  
11 devices. It has a lower standard than a search warrant which  
12 requires probable cause. I'm just requires reasonable  
13 suspicion but gives you a little less than what a search  
14 warrant would give you.  
15 Q. Based upon your knowledge of this investigation and the 10:39:42  
16 prosecutions that have come from it, what role did Ali Soofi  
17 serve in the investigation?  
18 A. Ali Soofi served a critical role as witness in the  
19 investigation.  
20 Q. Did he provide valuable information? 10:39:56  
21 A. Yes.  
22 Q. In fact, did he provide valuable information in the  
23 investigation of Abdul Malik Abdul Kareem?  
24 A. Yes.  
25 Q. Are you familiar with Abdul Malik Abdul Kareem being 10:40:11

STEWART WHITSON - Direct

1 indicted in this courthouse back in 2015? 10:40:12

2 A. Yes.

3 Q. In CR -- case number CR 15-00707?

4 A. That sounds right.

5 Q. Was that a case in front of Judge Bolton? 10:40:24

6 A. Yes.

7 Q. And what was he charged with?

8 A. On June 10 he was initially charged with illegal

9 transportation of firearms and I believe under 18 USC 92 and

10 then ultimately there was a superseding indictment where he was 10:40:37

11 charged with additional charges including material support to

12 terrorism under 18 USC 2339(b) as well as felon in possession

13 of a firearm. And then I believe the two charges of 924 were

14 already there and then also false statement under 1001.

15 Q. The factual basis of that indictment, did it span from -- 10:41:00

16 well, tell us. What conduct did it come from?

17 A. The factual basis?

18 Q. Yes. So what, in essence, was the indictment? What

19 conduct did it relate to?

20 A. It related to the conduct of the group essentially 10:41:13

21 conspiring together and planning to conduct attacks first in

22 the Phoenix area and then later the Garland attack.

23 Q. And was that during the time period of 2014 and 2015?

24 A. Yes. The current time would have been from June of 2014

25 through the attack that occurred on May 3, 2015. 10:41:33

United States District Court



STEWART WHITSON - Direct

1 Q. As the lead case agent, did you sit through the trial in 10:41:35  
2 that case?  
3 A. Yes, I did.  
4 Q. And are you familiar with one of the subjects at trial  
5 being Abdul Malik Abdul Kareem's conduct and activities that 10:41:41  
6 occurred inside Soofi's 19th Avenue apartment?  
7 A. Yes.  
8 Q. As it is specifically related to actions inside the  
9 apartment, which witness testified specifically about that  
10 conduct? 10:41:58  
11 A. Ali Soofi.  
12 Q. Was he the only witness that testified about Abdul Malik  
13 Abdul Kareem's conduct and actions inside Simpson's and Soofi's  
14 apartment on 19th Avenue?  
15 A. Yes. 10:42:12  
16 Q. Are you familiar with a search warrant that was issued on  
17 that apartment, the 19th Avenue apartment, on the evening of  
18 May 3 of 2015 and into the early morning hours of May 4 of  
19 2015?  
20 A. Yes. 10:42:50  
21 Q. As part of the execution of that search warrant, did  
22 agents locate a small notebook?  
23 A. Yes.  
24 Q. And inside that small notebook -- I'm placing on the  
25 overhead exhibit that was already admitted, Exhibit Number 45, 10:42:58

STEWART WHITSON - Direct

1 page two, Major Gena M. Feroduk's name? 10:43:03  
2 THE COURT: Excuse me. Ms. Brook, I don't have 45 in  
3 evidence.  
4 MS. BROOK: You do not? The Government would move to  
5 admit Exhibit Number 45. 10:43:29  
6 May I approach and grab 44?  
7 THE COURT: 44 is in.  
8 MS. BROOK: 44 is in.  
9 THE COURT: So 45 has been moved.  
10 Mr. Wahid, is there any objection? 10:43:44  
11 MR. WAHID: No.  
12 THE COURT: 45 is in evidence now.  
13 (Exhibit Number 45 was admitted into evidence.)  
14 BY MS. BROOK:  
15 Q. And for clarification of the record, we had talked about 10:43:53  
16 the small blue notebook and you had mentioned you recognized  
17 these pages from the small, blue notebook. Is that true?  
18 A. I do recognize these pages from the small, blue notebook  
19 discovered in Simpson's and Soofi's apartment.  
20 Q. I'm placing on the overhead Exhibit Number 44 which is 10:44:09  
21 already admitted. Is that the notebook we're talking about?  
22 A. Yes, it is.  
23 Q. Do you recall where it was found?  
24 A. Yes. It was found in the common area, the living room,  
25 next to the couch. There's an L-shaped couch that faced the 10:44:29

United States District Court

STEWART WHITSON - Direct

1 only TV in that room and it was found next to that couch on the 10:44:32  
2 floor.

3 Q. What value, if any, did that name have in the course of  
4 this investigation?

5 A. It had a lot of value. 10:44:40

6 Q. How so?

7 A. That name was a name that was included on a kill list that  
8 was published by the Islamic State Hacking Division back on  
9 March 20 of 2015, also known as the ISHD. ISIS had essentially  
10 published a list of 100 U.S. service members along with their 10:44:59  
11 addresses and provided that list to U.S.-based supporters as  
12 essentially a target list for U.S.-based supporters who were  
13 unable to travel to the Islamic State or perform hijrah.

14 On that list of 100 was this -- this was the only  
15 name of a person who resided in Arizona that was on that list 10:45:15  
16 of 100, and it was Major Gena Fedoruk who resided at the  
17 address that you can see on that page in Phoenix, Arizona.

18 Q. That's exactly what I was going to ask. I'm going to  
19 place on the overhead already admitted Exhibit Number 21. When  
20 you spoke about the Islamic State Hacking Division's list of 10:45:35  
21 100, the kill list, is this what you were referring to?

22 A. Yes.

23 Q. Do you know approximately when this list was released?

24 A. Yes. It was on March 20 of 2015.

25 Q. Based upon your training and experience in the aftermath 10:46:20

STEWART WHITSON - Direct

1 of a terrorist attack, what sort of material, as an FBI agent, 10:46:24  
2 are you looking to collect?

3 A. Well, you're looking for evidence, first of all, to see if  
4 there's a follow-on attack. So safety is first and foremost so  
5 you're worried about a follow-on attack, so you're looking for 10:46:39  
6 evidence to see if there is any such follow-on attack that is  
7 about to take place and you want to try to disrupt that.

8 The other thing you're looking to do is to understand  
9 why that attack took place and to gather evidence that might  
10 bring to justice those involved in the attack that had already 10:46:51  
11 occurred and so, obviously, a motive is part of that as well as  
12 physical evidence that might implicate people.

13 Q. Is time of the essence in collecting that information?

14 A. Absolutely.

15 Q. How so? 10:47:06

16 A. Well, every bit of time that is allowed to pass could lead  
17 to the loss of evidence, evidence could be destroyed or simply  
18 misplaced or lost by individuals involved. People's memory  
19 fades over time. Your ability to go out and conduct interviews  
20 of individuals that might be yet unknown co-conspirators. With 10:47:28  
21 the passage of time they are able to get with each other and  
22 establish common stories and things like that. So time is  
23 definitely of the essence in this or any kind of investigation.

24 Q. Are you looking for farewell messages?

25 A. Absolutely. 10:47:46

STEWART WHITSON - Direct

1 Q. In what sense? 10:47:48

2 A. Well, so it's common for individuals engaging in terrorist  
3 attacks where they give their lives or martyr themselves to  
4 leave farewell messages and things like that. And a lot of  
5 times those messages will explain that very thing we're looking 10:48:01  
6 for, their motive. And sometimes it can implicate others,  
7 whether they mean for that to happen or not. So, obviously,  
8 that's one thing we're searching for.

9 Q. Somewhat obvious question, but are those types of messages  
10 things that can be easily destroyed? 10:48:16

11 A. Absolutely.

12 Q. Are you looking for evidence of financial transfers?

13 A. Yes.

14 Q. How so? I guess a better question, what sort of  
15 information would those provide you? 10:48:30

16 A. Obviously, in order to conduct an attack, it generally  
17 costs money so it costs money for weapons or ammunition or  
18 things like that. And so conducting a financial investigation  
19 allows to us determine where people got money from to use in  
20 support of the attack and what they spent that money on. It's 10:48:47  
21 just one of the many pieces that we can pull together to try to  
22 get a clear picture of what happened, who all was involved and  
23 kind of establish a timeline of the events leading up to the  
24 attack and after the attack but it's obviously a critical  
25 component. 10:49:04

United States District Court

STEWART WHITSON - Direct

1 Q. Throughout the course of this particular investigation, 10:49:05  
2 did you come to learn at some point that Elton Simpson had  
3 provided Abdul Khabir Wahid an envelope less than 48 hours  
4 before the attack?

5 A. Yes. 10:49:22

6 Q. And did you also come to learn that Elton Simpson had  
7 provided a set of keys to Mr. Wahid less than 48 hours before  
8 the attack?

9 A. Yes. A key.

10 Q. How was it you came to learn that? 10:49:34

11 A. Well, the first time I think it became clear that an  
12 envelope and a key had been given to Mr. Wahid by Elton Simpson  
13 was when Mr. Wahid himself told us that on June 10 of 2015. So  
14 the same day that Abdul Malik Abdul Kareem was arrested Abdul  
15 Wahid was interviewed and he told them, after being interviewed 10:50:00

16 earlier, he then told them that there was an envelope and he  
17 revealed that the envelope had a title in it. And then some  
18 months later we then interviewed -- once we heard that it had  
19 the title to his car, we interviewed Elton Simpson's father,  
20 Dunston Simpson and learned that he had received the title of 10:50:21  
21 Simpson's car from Saabir Nurse which is who the person that  
22 Wahid said he had given the envelope to with the title to. I  
23 guess at that moment on 11-30, then it kind of became clear  
24 that that had indeed happened.

25 Q. So back on May 6 of 2015, would having known that Elton 10:50:38

STEWART WHITSON - Direct

1 Simpson had given the defendant, Mr. Wahid, an envelope been of 10:50:44  
2 consequence to you in your investigation?

3 A. Yes.

4 Q. What would you have done?

5 A. We would have immediately sought to obtain that envelope 10:50:55  
6 for its evidentiary purposes. So quickly we would have  
7 determined where was it? Try to seek a search warrant using  
8 the evidence. So had he told us that, we would take that  
9 statement, include it in a warrant and ask permission of a  
10 judge to go search whatever we thought that might be with the 10:51:12  
11 aim of looking at the content and seeing if that would develop  
12 other leads, or clues if you will, that would lead us down  
13 other paths and in furtherance of the investigation.

14 Q. Without having that information on May 6 of 2015, were you  
15 able to obtain a search warrant or attempt to obtain a search 10:51:32  
16 warrant of Nurse's house?

17 A. We were not able to secure a warrant of Nurse's house.

18 Q. Were you able to seek to obtain or -- let me put it a  
19 better way. Were you able to successfully obtain a  
20 2703(d) order on Nurse? 10:51:46

21 A. We were not able to successfully obtain one.

22 Q. Would that information have been placed inside a document  
23 in an attempt to get it?

24 A. Yes. We would have used that information to try to seek a  
25 2703(d) certainly against Nurse. 10:51:59

United States District Court

STEWART WHITSON - Direct

1 Q. If at that time there was a suspected financial transfer 10:52:06  
2 between Simpson's and Nurse, would that have been important to  
3 your investigation?

4 A. Yes.

5 Q. And what would you have done? 10:52:13

6 A. Well, we would have immediately focused in on Nurse's  
7 finances obviously to see if we could find evidence of that  
8 exchange. In our questioning of Nurse and other related  
9 individuals we would have asked pointed questions about that to  
10 get to the bottom of that, how much was the amount? When did 10:52:28  
11 the exchange take place? What was the purported reason for the  
12 exchange? Numerous investigative actions would have taken  
13 place. Obviously resources, massive resources that were  
14 allocated to many different subjects and target would have been  
15 shifted and focused toward Nurse immediately. 10:52:46

16 Q. So you say that resources would have been shifted and  
17 focused to Nurse at that point based upon this information, the  
18 knowledge that Simpson that given Wahid the envelope and keys  
19 with directions to give them to Nurse after the attack. Why is  
20 that? Why would your resources have been shifted to Nurse? 10:53:03

21 A. Because it was so important. The envelope, this was the  
22 last package or envelope that he had given to anyone. There's  
23 nowhere in our investigation had we found any evidence that he  
24 had given anything like this to anyone else other than Mr.  
25 Wahid. 10:53:23

United States District Court



STEWART WHITSON - Direct

1 Q. "He" being Simpson? 10:53:23

2 A. Elton Simpson. So, obviously, this is, in a sense, his  
3 final act before departing on an attack where he's going to  
4 die. This is a critical piece of evidence that would have been  
5 of the utmost importance. 10:53:37

6 Q. Through the course of this investigation, was the FBI able  
7 to recover the envelope?

8 A. We were not.

9 Q. Is the FBI able to know for certain exactly what was in  
10 the envelope? 10:53:48

11 A. We do not know for certain.

12 Q. Are you familiar with an indented letter that was  
13 recovered and forensically analyzed by an individual by the  
14 name of Antoine Frazier?

15 A. Yes. 10:54:09

16 Q. And through the course of this of the case, did you  
17 receive the results of that forensic analysis from him?

18 A. Yes.

19 Q. Actually, let's use the exhibit. The PDF is a little  
20 easier. It's Exhibit 49. 10:54:23

21 MR. KOEHLER: There's 48 and 49. You want 49.

22 BY MS. BROOK:

23 Q. We're looking at the 48 and then going to 49. Do you  
24 recognize this?

25 A. Yes. 10:54:44

United States District Court

STEWART WHITSON - Direct

1 Q. And what is it? 10:54:45

2 A. This is the indented letter. This is one of the copies.  
3 And, ma'am, could I ask you, could you go back to 48 real  
4 quick?

5 Yes. So this is the same letter. It's two different 10:54:56  
6 copies. What Mr. Frazier had provided is one where the writing  
7 is in black with a background white and another, which is the  
8 other exhibit, the writing is in white but the background  
9 black, with the idea being by comparing the two, you can get a  
10 better idea of what the message is. But it's essentially the 10:55:17  
11 same letter in two different formats.

12 Q. You said be able to look at it and get an idea of what the  
13 message is. Through the course of your investigation, did you  
14 do just that?

15 A. Yes. 10:55:28

16 Q. And when was it that you obtained this information back  
17 from the FBI forensic examination lab?

18 A. So I received this on or about October 20 of 2015.

19 Q. What were you able to do with this document?

20 A. Well, so the first step was to look at it and essentially 10:55:47  
21 come up with my assessment of what's written there and then  
22 once I had that information, to then launch into a myriad of  
23 investigative leads based off of it.

24 Q. Were you able to do just that?

25 A. Yes. 10:56:01

United States District Court

STEWART WHITSON - Direct

1 Q. Can you read for us what you were able to produce from 10:56:02  
2 this document?

3 A. Yes. May I see a copy of my --

4 Q. Did you write a 302 on it?

5 A. Yes, I did. 10:56:12

6 Q. And was that Exhibit --

7 MS. BROOK: Your Honor, can I just give him the  
8 physical?

9 THE COURT: You may.

10 THE WITNESS: Thank you. 10:56:42

11 BY MS. BROOK:

12 Q. So starting here where it says "bismillah," can you read  
13 for us which you were able to deduce from looking at the  
14 indented letter?

15 A. Yes. It reads: Bismillah. Dear akhi. Fil Lah. Subhan 10:56:51  
16 Allah. There was a change in plans indeed. Something dreadful  
17 came up. The money that I had from you was being used for what  
18 was needed for the initial plan but that changed. This money  
19 is what was left over. And then that word I can't tell so I've  
20 written "unintelligible." 10:57:17

21 I will leave you with the title of my car to do as  
22 you please with it. I believe Abdul Malik knows how to get  
23 notarized. I was also going to give you my tax return but it  
24 won't be here in time. Please forgive me if you do not get all  
25 the money back. 10:57:34

United States District Court

STEWART WHITSON - Direct

1 Always fear Allah and keep me in your du'a insha 10:57:35  
2 Allah. You have benefited me greatly. Allah grant you Jannah.  
3 Forgive me for my shortcomings and may Allah unite us in Jannah.  
4 Signed Ibrahim.

5 Q. Based upon the results of your investigation, were you 10:57:54  
6 able to determine who this letter was intended for?

7 A. We were able to assess who the letter was intended for but  
8 not ultimately to determine with certainty.

9 Q. And that's a good word choice. Were you able to assess  
10 who you suspect this letter was intended for? 10:58:13

11 A. Yes.

12 Q. And who was that?

13 A. Saabir Nurse.

14 Q. And I just want to go back for a second to the letter  
15 itself. So how was it you were able to actually read it and 10:58:25  
16 pull words from the page off of it?

17 A. So, again, essentially had to look at two separate copies  
18 that are in the different formats. You piece together part of  
19 a word from one and then you could flip over to the other to  
20 get the rest of the word and so I did that exercise. I had an 10:58:44  
21 analyst also do that exercise with me and we arrived at the  
22 same language and then we -- where we found parts were where we  
23 simply could not determine what was there I wrote  
24 "unintelligible" or with the acronym UI inside my 302.

25 Q. And approximately when, timewise, was it that you were 10:59:06

United States District Court

STEWART WHITSON - Direct

1 able to do exactly that process with this indented letter? 10:59:08

2 A. I serialized this 302 the day after I received this and so  
3 I don't recall the precise time but it would have been in less  
4 than 24 hours from receiving the CD from Antoine Frazier, the  
5 302 was serialized into FBI database. 10:59:29

6 Q. We've talked a fair bit about the letter itself and the  
7 envelope. Was there investigative value that would have come  
8 from knowing that Simpson provided a key to Wahid to give to  
9 Nurse on May 6 of 2015?

10 A. Yes. 10:59:52

11 Q. And what value would that have been?

12 A. For the key?

13 Q. For your investigation.

14 A. For our investigation, obviously, the first question would  
15 be, what is that key to? Sometimes in terrorism investigations 11:00:01  
16 it's a key to a storage facility or something like that that  
17 leads to other evidence.

18 Again, backing up, we're worried about follow-on  
19 attacks. So, obviously, knowing there's a key, we would be  
20 searching what is it a key to? If it's a key to a vehicle, 11:00:17  
21 that's important, too, because we know that a lot of times  
22 people will mask the transfer of funds between folks by using  
23 valuable commodities to trade. And vehicles are a perfect one  
24 for them to do that with and so they will provide a vehicle to  
25 someone else as a way that they think is masking a contribution 11:00:37

STEWART WHITSON - Direct

1 to someone else, so that would be important. 11:00:40

2 But, again, all that financial analysis we talked  
3 about before, all of that would be taking place right away  
4 related to this to try to get to the bottom of it.

5 Q. I think you answered this but in this investigation in May 11:01:12  
6 and during the month of May, were you able to do any of that  
7 follow-up that you said would have been necessary and you would  
8 have wanted to do as it relates to Simpson's vehicle?

9 A. No.

10 Q. Were you ever able to find out how much money accompanied 11:01:54  
11 that letter?

12 A. I'm sorry. Could you say that again?

13 Q. Yes. Were you ever able to ascertain how much money  
14 accompanied that letter?

15 A. No. 11:02:06

16 Q. And a more obvious question, were you ever able to  
17 actually find the letter?

18 A. No.

19 Q. When we talk about the indented letter, we spoke yesterday  
20 about the indented letter process, based on your knowledge, how 11:02:15  
21 did that indented letter come to be?

22 A. So essentially that little blue notebook we spoke about  
23 earlier, next to that a large spiral notebook was discovered.  
24 That spiral notebook had a blank page in it. We sent that  
25 entire spiral notebook to the FBI lab for processing. And in 11:02:33

STEWART WHITSON - Direct

1 one of the processes they did to that was called an 11:02:39  
2 ElectroStatic Detection Apparatus Test upon the pages are just  
3 white. And in conducting that test, they were able to see  
4 indents that are left on the page from a page that was on top  
5 of that page as the author wrote their letter. 11:02:52

6 So, essentially, someone wrote that letter presumably  
7 in that notebook, ripped the page out leaving the indent behind  
8 on the notebook which we were able to capture at the FBI lab.

9 Q. Changing subjects, have you had the opportunity to review  
10 and to read Government's Exhibit 109 through 117? 11:03:13

11 A. Yes.

12 Q. And what do they represent?

13 A. If I'm remembering which part, it's the trial testimony of  
14 Mr. Wahid in the previous trial about Abdul Malik Abdul Kareem.

15 Q. So we had spoken a moment ago about the trial in CR 11:03:42  
16 15-00707. Being the case agent, you obviously were sitting at  
17 counsel table during the presentation of evidence in that case.

18 Did Mr. Wahid testify?

19 A. Yes.

20 Q. And do you see Abdul Khabir Wahid here with us in the 11:04:00  
21 courtroom?

22 A. Yes.

23 Q. Can you point to him and identify something that he's  
24 wearing?

25 A. Yes. He's the gentleman seated at the table to my right. 11:04:08

STEWART WHITSON - Direct

1 He's wearing a maroon-colored shirt. 11:04:11

2 Q. Okay.

3 MS. BROOK: Your Honor, may the record reflect that  
4 the agent has identified the defendant?

5 THE COURT: Yes. 11:04:18

6 BY MS. BROOK:

7 Q. Have you had a chance to thoroughly review these excerpts  
8 from Government's Exhibit 109 through 117?

9 A. Yes.

10 Q. Do they fairly and accurately represent portions of the 11:04:26  
11 defendant's testimony when he was called in the defense case to  
12 testify in that trial?

13 A. Yes.

14 MS. BROOK: Your Honor, the Government is going to  
15 move to admit Government's Exhibit 109 through 117. 11:04:38

16 THE COURT: Okay.

17 Any objection, Mr. Wahid?

18 MR. WAHID: No.

19 THE COURT: All right. 109 through 117 collectively  
20 are admitted. 11:04:56

21 (Exhibit Numbers 109 through 117 were admitted into  
22 evidence.)

23 BY MS. BROOK:

24 Q. That testimony occurred on March 8 of 2016?

25 A. Yes. 11:05:02

United States District Court



STEWART WHITSON - Direct

1 MS. BROOK: Your Honor, may I approach the witness? 11:05:16  
2 THE WITNESS: Yes.  
3 BY MS. BROOK:  
4 Q. I want to start by turning our attention to Exhibit  
5 Number 112 and it may be easier -- I'm going to use this so I 11:05:53  
6 have it closer to me but why don't we go ahead and read -- I'll  
7 read the question and you read the answer that the defendant  
8 was provided. We'll switch to the document camera so that the  
9 other copy is actually coming from the computer and then you  
10 can read 112 that you have physically in front of you if it's 11:06:19  
11 easier to do so.  
12 COURTROOM DEPUTY: Okay. What method are you going  
13 to use?  
14 MS. BROOK: I'm sorry. I said the Elmo but we're  
15 actually going to switch and transfer and use the computer. 11:06:28  
16 Thank you.  
17 Q. So starting off question for Mr. Wahid:  
18 Okay. Did you see either Elton Simpson or Nadir  
19 Soofi that evening of May 1?  
20 A. I can't remember. I think I may have. I think I may 11:06:42  
21 have, yeah.  
22 Q. Did they stop by your house?  
23 A. Yeah. They stopped by my house.  
24 Q. And what if anything, did they give you?  
25 A. Okay. Nadir came to me. I was kind of surprised because 11:06:53

STEWART WHITSON - Direct

1 I think it was more like kids answered the door and they came 11:06:57  
2 to me and they said Ibrahim and Nadir is here. And I was like  
3 Nadir? Because Nadir never comes to my house. So I thought it  
4 was kind of strange that he came with him.

5 Q. What time was it approximately, if you remember? 11:07:15

6 A. I want to say probably about maybe eight or 9 o'clock he  
7 came to my house.

8 Q. Okay.

9 A. He came to my house. Nadir gave me a bowl of soup.

10 He said: Are you hungry? 11:07:30

11 And I said: Yeah, why?

12 He said: I got a bowl of soup here for you fresh off  
13 the stove.

14 He had just made it.

15 And I said: Okay, thanks. I don't have to cook 11:07:46  
16 tonight.

17 So I laughed and I took the bowl from him and Ibrahim  
18 turned around said: I need you to give this to Saabir for me.

19 And at the time, I didn't know what it was, but he  
20 gave me an envelope and then he gave me a key. And I didn't 11:07:59  
21 look at the key, because if I had looked at the key, I would  
22 have realized that it was actually his car key. But I didn't  
23 pay nothing. I just grabbed it and said okay.

24 He said: Give it to him by Wednesday.

25 And I said: Okay. Fine, and that was that. 11:08:18

STEWART WHITSON - Direct

1 He then he said to me about my daughter needing, I 11:08:22  
2 believe, a female role model in my house, you know, as far as a  
3 Muslim is concerned. And he said my son is a good Muslim. And  
4 he stood there for like -- after there was like silence. Him  
5 and Nadir just stood there like for five minutes, like -- it 11:08:40  
6 was almost like they wanted to say something to me but they  
7 didn't say nothing. And they turned around and they left and  
8 that was the last time I ever saw them.  
9 MS. BROOK: Turning now to Exhibit 114, if we can  
10 place that on the overhead. And it's 114. 11:09:02  
11 MR. KOEHLER: That's 114.  
12 MS. BROOK: Hang on one second. Go to 113 then.  
13 They are all admitted, Your Honor, but for some reason --  
14 THE COURT: 113 and 114 are reversed.  
15 MS. BROOK: Yes. So this is going to be 113. 11:09:51  
16 BY MS. BROOK:  
17 Q. Do you have that?  
18 A. Yes, ma'am.  
19 Q. Let's do the same presentation where I read the question.  
20 Okay. At some point you now have this envelope and a 11:10:01  
21 key that Elton Simpson has given you the last you've seen him?  
22 A. Right.  
23 Q. All right. Who do you give that envelope to?  
24 A. I gave it to Saabir.  
25 Q. Saabir who? 11:10:15

STEWART WHITSON - Direct

1 A. Saabir Nurse. 11:10:16  
2 Q. And how do you know Saabir Nurse?  
3 A. From the masjid. You know I've known him for a few years.  
4 Q. Do you know whether or not he was friends with Elton  
5 Simpson? 11:10:30  
6 A. He was friends with him.  
7 Q. Okay. How do you know that?  
8 A. I don't know. Maybe because we all had sat down and ate  
9 before and laughed and talked and, you know, they used to work  
10 together at the same job. 11:10:41  
11 Q. Where do you understand that Elton Simpson and Saabir  
12 Nurse worked together?  
13 A. What do you call -- a dental practice.  
14 Q. What did you do with the car key -- or the key that you  
15 had? 11:10:54  
16 A. I gave it to Saabir like he asked me to.  
17 Q. Did you ever learn what was in the envelope that you gave  
18 to Saabir Nurse?  
19 A. Saabir called me on the phone and he told me: You know  
20 what was in that envelope? 11:11:07  
21 I said: What?  
22 He said, you know: It was his title to his car.  
23 Q. I want to turn next to what we hope is 115. Starting on  
24 the bottom of that page:  
25 Question: On that Friday, so the Friday before the 11:11:33

STEWART WHITSON - Direct

1 attack, Ibrahim texted you two times that day, correct? 11:11:38  
2 A. I believe so.  
3 Q. And you, after Ibrahim was killed, deleted those text  
4 messages, correct?  
5 A. Right. 11:11:53  
6 Q. In fact, you went through and deleted your entire contact  
7 history with Ibrahim after you found out he was killed,  
8 correct?  
9 A. Right. Right.  
10 Q. Okay. Do you want to read that answer again, just so it's 11:12:02  
11 clear?  
12 A. Right. Right.  
13 Q. Question: Okay. So you would agree with me that it was  
14 on May 6th -- I'm sorry -- yes, on May 6th of 2015 that you sat  
15 down and talked to the FBI for the first time? 11:12:18  
16 A. Yeah.  
17 Q. And on that day you told the FBI that immediately after  
18 you learned Ibrahim was killed, you deleted your entire contact  
19 history and all of your text messages with him, correct?  
20 A. Uh-huh, yes. 11:12:31  
21 Q. Back in May, so on May 3rd of 2015, was your phone number,  
22 in fact, 480-432-1637?  
23 A. Yeah.  
24 Q. Turning now to 116. Question: You had told Malik that  
25 you would call Ali Soofi and tell him not to talk to the FBI, 11:13:06

United States District Court

STEWART WHITSON - Direct

1 correct? 11:13:10

2 A. I may have. I don't know. I don't remember.

3 Q. It sounds like something you would have said to Malik?

4 A. Probably.

5 Q. And in fact, you did call and tell Ali Soofi to not talk 11:13:19

6 to the FBI?

7 A. Right.

8 Q. And as you testified here earlier on direct, you knew that

9 Ali Soofi himself had nothing to hide from the FBI, correct?

10 A. Yeah. 11:13:31

11 Q. But yet you still called and told him not to talk to the

12 FBI, correct? Just "yes" or "no."

13 A. I can't answer that "yes" or "no".

14 Q. You did, in fact, though, call him to tell him not to talk

15 to the FBI? 11:13:53

16 A. I guess I'd say no.

17 Q. Say that again?

18 A. I said I'd say no. I did tell him don't talk to the FBI.

19 Q. Okay. Because you did tell Ali Soofi not to talk to the

20 FBI? 11:14:06

21 A. Right. But not because he didn't have anything to hide,

22 because he didn't have anything to hide.

23 Q. Just answer the question. You called and told him not to

24 talk to the FBI?

25 A. Right. Yeah. 11:14:22

STEWART WHITSON - Direct

1	Q.	And 117.	11:14:33
2		Defense counsel asked you about some videos that	
3		Ibrahim showed you, in particular, one with a man who was	
4		burned alive in a cage?	
5	A.	Yeah.	11:14:57
6	Q.	And what did Ibrahim show that video to you on?	
7	A.	His phone.	
8	Q.	And where were you when Ibrahim showed you that video?	
9	A.	In my house.	
10	Q.	And was Nurse there?	11:15:07
11	A.	No.	
12	Q.	Was Malik there?	
13	A.	Nope.	
14	Q.	You mentioned another video that Ibrahim showed you, one	
15		where a man was being beheaded.	11:15:15
16	A.	Right.	
17	Q.	Is that "yes"?	
18	A.	Yes.	
19	Q.	And did he show you that video -- sorry.	
20		What did he show you that video on?	11:15:25
21	A.	His phone.	
22	Q.	And where were you when he showed you the video of the man	
23		being beheaded on his phone?	
24	A.	In my house.	
25	Q.	And was Nurse there?	11:15:40

STEWART WHITSON - Direct

1	A.	No.	11:15:41
2	Q.	Was Malik there?	
3	A.	Nope.	
4	Q.	You mentioned a third video as well that Ibrahim showed	
5	you.	What did he show you on that video -- what did he show	11:15:45
6	you that video on?		
7	A.	That video was the one where the guy was being thrown from	
8	a building.		
9	Q.	What did he show you that on?	
10	A.	Oh. On his phone.	11:15:56
11	Q.	His phone as well?	
12	A.	Uh-huh.	
13	Q.	And, again, where were you when he showed that you video	
14	on his phone?		
15	A.	In my house.	11:16:04
16	Q.	Who was there?	
17	A.	My kids were there, but they weren't in the room with us.	
18	Q.	Anybody else?	
19	A.	Nope.	
20	Q.	Did he show you these three videos all on the same day or	11:16:12
21	different days?		
22	A.	Different days.	
23	Q.	You testified earlier that in the months before the attack	
24	Ibrahim had told you about his plan to attack a U.S. Marine		
25	base?		11:16:30



STEWART WHITSON - Direct

1 A. Uh-huh. 11:16:30

2 Q. Is that a "yes"?

3 A. Yes. Sorry.

4 Q. Malik also told you about Simpson's plan to attack a  
5 Marine base? 11:16:36

6 A. I think so. I'm not sure. I think he did.

7 Q. Yes?

8 A. Yes.

9 Q. And, in fact, Malik told you that Simpson and Soofi  
10 together were going to attack a Marine base; is that true? 11:16:45

11 A. I believe so, yeah.

12 Q. And Malik went on to tell you that Simpson and Soofi must  
13 want to die.

14 A. I'm not sure. I think so, but I'm not sure.

15 Q. Does it sound like what you recall him saying? 11:16:59

16 A. I think so.

17 Q. And in that conversation you didn't tell him that you had  
18 heard from Ibrahim about that plan too?

19 A. Say that again?

20 Q. You didn't tell Malik that you had heard about that plan  
21 from Ibrahim? 11:17:15

22 A. I think I may have mentioned it to him.

23 Q. Now, you didn't tell Malik about what Ibrahim told you  
24 about the plan to attack the U.S. Marine base?

25 A. As I said, I think we discussed it. I'm almost sure we 11:17:31

STEWART WHITSON - Direct

1 may have talked about it, yeah. 11:17:34

2 Q. Malik told you that Ibrahim and Nadir had this plan before

3 the Garland attack, correct?

4 A. I believe so.

5 Q. Is that a "yes"? 11:17:45

6 A. Yes.

7 Q. On March 15 of 2017, did you interview the defendant?

8 A. Yes.

9 Q. During that interview -- was it recorded?

10 A. Yes. 11:18:10

11 Q. During that interview, did the defendant admit to you that

12 he watched ISIS type videos at Simpson and Soofi's house one

13 time?

14 A. Yes.

15 Q. Did he also say that Ali was also present in the 11:18:21

16 residence?

17 A. Yes.

18 MS. BROOK: May I have one moment, Your Honor?

19 THE COURT: Yes.

20 BY MS. BROOK: 11:19:23

21 Q. Are you familiar, based upon your role in this

22 investigation as well as the investigation against Abdul Malik

23 Abdul Kareem, with the recorded calls that Ali Soofi made to

24 the defendant?

25 A. Yes. 11:19:39

United States District Court

STEWART WHITSON - Direct

1 Q. Are you, in fact, familiar with one record call on June 6 11:19:39  
2 of 2015?

3 A. Yes.

4 MS. BROOK: And, Your Honor, I'm going to read from a  
5 clip. 11:19:49

6 Your Honor, may we play once again a short portion of  
7 the clip of already admitted Exhibit 118?

8 THE COURT: It's in evidence. You may.

9 (Exhibit 118 played.)

10 BY MS. BROOK: 11:21:41

11 Q. Who do you interpret Hassan to be?

12 A. A close friend of Simpson and Saabir Nurse's known as  
13 Abujihaad to the group whose last name was Hassan.

14 Q. Who is Abujihaad?

15 A. Abujihaad was an individual who was a former member of the 11:21:54

16 U.S. Navy who, back in or about 2008, was indicted on espionage  
17 and terrorism related charges based upon the allegation that he  
18 had provided information to al-Qaeda and he was sent to prison  
19 and then subsequently maintained contact through writings,

20 letters, to Saabir Nurse and Simpson and then would 11:22:21

21 occasionally talk to them on the phone.

22 Q. So based upon your investigation, at some point Hassan  
23 lived here in Phoenix?

24 A. Yes.

25 Q. And based upon your investigation, Hassan had ties to 11:22:32

1 Simpson and the defendant? 11:22:35

2 A. Yes.

3 MS. BROOK: I don't have any other questions.

4 THE COURT: All right.

5 Mr. Wahid, do you have any cross-examination? 11:22:49

6 MR. WAHID: No.

7 THE COURT: You do not? All right.

8 Then, Agent, you may step down. You are excused.

9 Thank you, sir.

10 THE WITNESS: Thank you, Your Honor. 11:23:01

11 (Witness excused.)

12 THE COURT: Does the Government have any further

13 witnesses?

14 MR. KOEHLER: It does not, Your Honor. If we may

15 have a moment to confer with the clerk that our exhibits that 11:23:09

16 we intend to admit are in.

17 THE COURT: You may.

18 MR. MCBEE: Your Honor, may we go to the restroom?

19 THE COURT: As soon as the Government is finished

20 conferring with the clerk, I'm going to call the morning break. 11:24:01

21 MR. KOEHLER: Your Honor, the Government rests.

22 THE COURT: All right. Thank you, Mr. Koehler.

23 THE WITNESS: Mr. Wahid, I know that you intend, or

24 at least the last time we spoke, you intended to testify. I'm

25 going to go ahead and call the morning break before we do that. 11:25:24

1 We'll come back and you may do that and/or call any other 11:25:27  
2 witnesses that you plan on calling.

3 So let's take a 15-minute break. We'll come back at  
4 11:40 and resume with trial. Thank you.

5 MR. WAHID: I hope you feel better. 11:25:40

6 THE COURT: Thank you.

7 (Recess at 11:25; resumed at 11:41.)

8 THE COURT: All right. Thank you, everyone. Please  
9 be seated.

10 The Government having rested, we are ready to hear 11:42:17  
11 from the defense now.

12 Mr. Wahid, you can call your first witness.

13 MR. WAHID: Say it again?

14 THE COURT: You can call your first witness. And if  
15 that's you, that's fine. 11:42:27

16 MR. WAHID: Sorry.

17 THE COURT: That's fine.

18 Mr. Wahid, if you would please step forward, the  
19 courtroom deputy will swear you in.

20 COURTROOM DEPUTY: Please state your name for the 11:44:41  
21 record and spell your first and last name for me.

22 THE WITNESS: Spell my first and last name?

23 My name is Abdul Khabir Wahid. I spell my name  
24 A-B-D-U-L, K-H-A-B-I-R, W-A-H-I-D.

25 (ABDUL KHABIR WAHID, a witness herein, was duly sworn 11:45:01

1 or affirmed.) 11:45:01

2 THE WITNESS: No, I affirm.

3 THE COURT: All right. Please step into the witness  
4 box.

5 All right. Sir, you may begin whenever you're ready. 11:45:26

6 **DIRECT EXAMINATION**

7 THE WITNESS: First I want -- first I want to address  
8 the issue of tampering with a witness. First and foremost and  
9 most important, I want to say I believe a lot of what was  
10 transcribed out of the recordings between I speaking to Ali 11:45:46

11 Soofi were taken completely out of context. And, therefore,  
12 deliberately made me look suspect. That's why I decided to  
13 take the stand, because the prosecution can only assume and  
14 speculate what I was trying to say to Ali Soofi. And the truth  
15 is, only I would know what I was trying to say since I was the 11:46:08  
16 one that spoke the words.

17 First I need to clarify something and get this out of  
18 the way. In the first recordings with Ali Soofi, I did state  
19 that if -- when asked, he should tell the authorities that he  
20 should say either there was no guns or he didn't see any guns 11:46:36

21 or videos, in my defense, I will say this. I will say this: I  
22 mentioned that statement was made initially in our very first  
23 conversation because I had only been in Ali Soofi's apartment  
24 no more than two times. And, therefore, naturally I forgot  
25 that Ali Soofi may have been in Nadir's apartment when Nadir 11:47:09

ABDUL KHABIR WAHID - Direct

1 showed me a gun and Ibrahim started to play a video. It wasn't 11:47:13  
2 until Ali Soofi jarred my memory in the third recording that I  
3 realized that Nadir showed me a gun. Therefore, it was  
4 important to understand I was not trying to mislead Ali Soofi  
5 by mentioning that he told the authorities that he didn't see 11:47:28  
6 any guns or videos. I just simply forgot.

7 Please also remember I was only at Nadir's apartment  
8 twice and each time not very long. The first time for no more  
9 than about -- the first time for no more than about an hour and  
10 the second time I was there no more than a half-hour. After 11:47:46  
11 that I never returned.

12 Now that I've gotten through -- now that I have  
13 gotten through part of the initial conversation, I will go on  
14 and explain my language as to what I meant when I was talking  
15 to Ali Soofi. Ali Soofi called me up one day in about 11:48:00  
16 midafternoon sounding frantic and said that the FBI wanted him  
17 to come in and testify and he sounded worried. Naturally, my  
18 first response was to try and help him and offer assistance. I  
19 believed in my mind I was giving Ali Soofi advice on how to  
20 protect himself from FBI harassment. I also believe 11:48:22  
21 erroneously that Ali Soofi not talk to the FBI would be  
22 exercising his Fifth Amendment that is preserved by the U.S.  
23 Constitution.

24 I also had no problem with Ali Soofi talking to the  
25 FBI. In fact, I even stated in the recorded conversation that 11:48:40

United States District Court

ABDUL KHABIR WAHID - Direct

1 I couldn't stop him from talking to the FBI and using -- I 11:48:44  
2 couldn't stop -- oh. I screwed up.

3 Basically, I couldn't stop him and this does not  
4 imply that I was trying to stop him from talking to the FBI.  
5 It meant the choice is yours and it is strictly up to you what 11:49:09  
6 you decide to do. The only thing I stated -- the only thing I  
7 stated and was concerned about, and I constantly repeated this  
8 to Ali Soofi, that should he decide to talk to the FBI, to pay  
9 attention to what he was saying to the FBI and to make sure by  
10 him involving someone by name that he does not get someone 11:49:33  
11 hurt.

12 I will explain momentarily what I meant by "getting  
13 someone hurt." Most of my conversations with Ali Soofi were  
14 spent with my constantly and repetitively telling Ali Soofi,  
15 "Don't mention other names. Don't mention other people's 11:49:48  
16 names," meaning just generally mention anybody's name, that he  
17 might get that person hurt, meaning by the FBI. I also stated  
18 to Ali Soofi that if he was going to mention people's names,  
19 then make sure you're being truthful, meaning if are you going  
20 to mention a person's name, then make sure are you going to 11:50:08  
21 tell the truth about that person when you mention their name.

22 I didn't mean what was I implying that by mentioning  
23 people's names, that I was trying to hide something about that  
24 person or conceal something.

25 What I meant by mentioning people's names is that it 11:50:21



ABDUL KHABIR WAHID - Direct

1 is best for him to be silent and not mention anyone's names 11:50:25  
2 because by Ali mentioning names, he could be implicating  
3 totally innocent person who has nothing to do with the  
4 situation at all. That's what I meant by "getting the person  
5 hurt." By implicating somebody by name who may be completely 11:50:40  
6 innocent, he has now subjected that person to the scrutiny of  
7 the FBI and gives the FBI the automatic right to treat this  
8 person as suspect and now this person is being harassed by an  
9 FBI investigation.

10 This is exactly how I was implicated in the FBI 11:50:57  
11 investigation, because little did I know Ali Soofi had  
12 mentioned my name to the FBI. And, therefore, I became a part  
13 of the investigation. And here I sit in the courtroom today.  
14 I am a prime example of what I mean by mentioning names in  
15 general and getting them hurt. Let me repeat that. I'm a 11:51:12  
16 prime example of what I meant by mentioning people's names in  
17 general and getting them hurt. I am hurt by the fact that I  
18 was completely innocent, yet my name was given to the FBI and I  
19 was treated suspect because over two years ago my home was  
20 invaded by FBI agents with a search warrant, all because simply 11:51:30  
21 because someone decided to give the FBI my name.

22 And also if Ali Soofi had not given the FBI an  
23 innocent man's name, I most likely would not be sitting in this  
24 courtroom fighting for my freedom.

25 Also, I was not trying to influence Ali Soofi to not 11:51:45

United States District Court

ABDUL KHABIR WAHID - Direct

1 say anything at all, nor was I trying to get him to testify in 11:51:55  
2 a certain way. That was never my intention. All I was trying  
3 to tell Ali Soofi, that if he was going to talk you, then be  
4 truthful and leave innocent people's names out of the  
5 conversation with the FBI. As I stated before, I had no idea 11:52:09  
6 Ali Soofi had implicated me by name in the FBI investigation  
7 until about a year later when I went to get a copy of the  
8 search warrant and read it. That's when I realized he had  
9 implicated me.

10 More important, I put the finishing pieces to the 11:52:25  
11 puzzle together when I was called as a witness for the defense  
12 by attorney Daniel Maynard in the Abdul Malik Abdul Kareem case  
13 is when I learned from Mr. Maynard, who played these audio CDs  
14 of recorded conversations of Ali Soofi and myself, is when I  
15 learned that Ali Soofi had been working with the FBI all along 11:52:43  
16 and had been recording all of my conversations. It was also  
17 said that I had been calling Ali Soofi on his cell phone and  
18 harassing him as to why he told the FBI about our wrongdoings.  
19 Wrongdoings may not assume conspiracy with Abdul Malik and  
20 Nadir Soofi and Elton Simpson. 11:53:03

21 However, that is the furthest thing from the truth,  
22 an absolute untruth. I never once talked to Ali Soofi by  
23 telephone since August of 2015.

24 After I found out that he had been recording me,  
25 which was a year later, I did not talk to Ali Soofi by 11:53:19

United States District Court

ABDUL KHABIR WAHID - Direct

1 telephone. For one, I had lost his number so I reached out to 11:53:21  
2 him on Facebook. I messaged him several times and I wanted to  
3 know from him why did he do what he did by getting me involved  
4 in something I clearly had nothing to do with? And that I felt  
5 I deserved an apology from him. He saw my messages but he 11:53:36  
6 never responded. He even had his mother at one point talk to  
7 me. The last time I actually talked with Ali Soofi on  
8 Facebook, I said something to him about him being cowardly  
9 because he couldn't man up and stand up and apologize to me.  
10 Those words actually made him angry because then he finally 11:53:54  
11 messaged me and basically told me to shut up, that he knew  
12 jujitsu. And if I didn't shut my mouth, he would personally  
13 come to Phoenix and do bodily harm, and then he blocked me from  
14 sending him any more messages.

15 Also in my defense, there was no information 11:54:11  
16 whatsoever in our phone conversation that I intended to hinder,  
17 delay, or prevent communication to a law enforcement officer,  
18 nor is there a possible commission of any federal offense, nor  
19 was there any indication in our conversation that demonstrated  
20 that a crime was going to take place. 11:54:27

21 Like I said, before, what I stated to Ali Soofi was  
22 taken out of context by the prosecution which -- let me repeat  
23 that. Like I said before I stated to Ali Soofi -- like I said  
24 before, what I stated to Ali Soofi was taken out of context by  
25 the prosecution, which made what I said to appear suspect. 11:54:48

United States District Court

ABDUL KHABIR WAHID - Direct

1 I never intended to hinder, delay, or prevent Ali  
2 Soofi from saying anything. What I actually was trying to  
3 convey -- what I actually was conveying to him was, it's better  
4 for you not to say anything if you should say something about  
5 anyone who was truly innocent. And if you do say something  
6 about anyone, just make sure that person really isn't -- let me  
7 slow down. I'm going to repeat that.

11:54:52

11:55:08

8 Ali Soofi from saying anything that was actually  
9 conveyed to him was, it's better for you not to say anything.  
10 If you should say something about anyone who is truly innocent  
11 and if you do say something about anyone, just make sure that  
12 person really isn't innocent.

11:55:23

13 And I did -- I didn't try to corrupt Ali Soofi. Like  
14 I just stated previously, I was conveying to him it's better  
15 for you not to say anything. If you should say something about  
16 someone who was truly innocent, and if you do say something  
17 about something -- about anyone, just make sure that person is  
18 innocent -- isn't innocent.

11:55:41

19 Moving along with the false statement, it is true  
20 that I did omit that what I was given by Elton Simpson, an  
21 envelope and a key. However, the material fact of the  
22 admission that made the statement false was corrected by the  
23 defendant before the false statement charge was even filed.  
24 Even Kim Jensen testified and admitted the fact that I  
25 corrected the statement. Doesn't matter whether he asked me

11:55:55

11:56:13

United States District Court

ABDUL KHABIR WAHID - Direct

1 two or three times. The fact still remains it was corrected. 11:56:15

2 Also in my defense, was never my intention to mislead

3 investigation as far as the false statement is concerned. As

4 you heard in the exhibit recorded clip, I real didn't give it

5 much thought about importance considering it was just an 11:56:30

6 envelope and a key. And when I found out what was in the

7 envelope, which was Elton Simpson's certificate of title to his

8 vehicle and the key was -- and the key was to his vehicle, I

9 still did not understand how a certificate of title to

10 someone's vehicle shed a lot of light on investigation as well 11:56:45

11 as a key to the vehicle.

12 However, when the FBI agent asked me if Elton Simpson

13 gave me anything, I was hesitant at first but then I did

14 volunteer and shared information about the envelope and the

15 key. I shared this information with the FBI agent because I 11:57:00

16 assumed that Abdul Malik Abdul Kareem had already mentioned it

17 to the agent.

18 So when he asked me I told him because I felt that if

19 I did not tell them then I stood chance of being brought up on

20 lying to the FBI. 11:57:18

21 And my reasons for not volunteering this information

22 when I first decide to do talk to him was because I didn't want

23 to dash let me start all over.

24 In my reasons for not volunteering this information,

25 when I first decided to talk to him was because I didn't want 11:57:31

United States District Court

ABDUL KHABIR WAHID - Direct

1 the FBI to harass Saabir like they were harassing me. I didn't 11:57:35  
2 feel that he needed to be aggravated by the FBI. That's all.  
3 There was no secret scandal or conspiracy or unfinished terror  
4 plot as the prosecution would like you to believe, Your Honor.

5 If that were the case, how come since I handed over 11:57:52  
6 the key -- sorry. If that were the case, how come since I  
7 handed over the vehicle key and the title to the car to Saabir  
8 Nurse no terror attacks have taken place? Also, as Kim Jensen  
9 testified, that since the envelope and the key were turned over  
10 to Saabir Nurse, no one was injured or killed. It has been 11:58:14  
11 almost four years since I gave Saabir Nurse the key to Elton  
12 Simpson's vehicle and the title to his vehicle. I believe  
13 naturally, as a result of me giving the key and the car and  
14 title to Saabir Nurse, if something was going to happen, such  
15 as more attacks, don't you think it would have happened by now, 11:58:31  
16 Your Honor?

17 With that, Your Honor, I have finished testifying.  
18 I'm done.

19 THE COURT: All right. Thank you, sir.

20 Ms. Brook, do you have any cross? 11:58:42

21 Mr. Wahid, she -- Ms. Brook gets the opportunity to  
22 ask you a question.

23 MS. BROOK: Thank you, Your Honor. May I have just a  
24 moment to grab a couple of things?

25 THE COURT: You may. 11:58:53

United States District Court

ABDUL KHABIR WAHID - Cross

**CROSS - EXAMINATION**

11:58:53

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BY MS. BROOK:

Q. Good afternoon.

A. Hello.

Q. Back in May of 2015 at the time of the attack, you did not own a car; correct?

11:59:58

A. No, I don't think so.

Q. You traveled around by bus?

A. Yes.

Q. Sometimes your friends would pick you up and take you to locations if you needed to get there?

12:00:15

A. Sometimes.

Q. The night that Ibrahim was killed, your friend Malik picked you up that night; right?

A. I can't say if he really picked me up the night that Ibrahim was killed because I wasn't sure whether Ibrahim was dead or not.

12:00:34

Q. So that night of the attack on May 3 when you suspected that something had happened to Ibrahim, you met up with Malik; right?

12:00:50

A. Well, he met up with me. He came to my house.

Q. So Malik came to your house. Did you call him or did he call you?

A. No. He didn't call me. He just showed up because my daughter, she answered the door.

12:01:00

ABDUL KHABIR WAHID - Cross

1 Q. And you got into his car with him? 12:01:02  
2 A. Yes.  
3 Q. Just the two of you?  
4 A. No. It was him and his nephew.  
5 Q. What was his nephew's name? 12:01:10  
6 A. I can't remember his name right now.  
7 Q. The three of you drove over to Ibrahim's house on 19th  
8 Avenue, that apartment?  
9 A. Correct.  
10 Q. And as you looked around, you saw that the FBI were 12:01:26  
11 swarming around that apartment.  
12 A. I didn't see the FBI swarming. I just saw police cars  
13 like Christmas lighting up around the apartment.  
14 Q. So like Christmas. There were a lot of police cars and  
15 lights that you could see? 12:01:41  
16 A. Right.  
17 Q. Is that correct?  
18 A. Yes.  
19 Q. And you looked up and you saw over the wall that they were  
20 there; correct? 12:01:46  
21 A. I didn't look over the wall.  
22 Q. Did you learn that they were there just by looking? You  
23 could see the lights?  
24 A. I could see that there was police presence there but I  
25 didn't know the FBI were there. 12:01:57



ABDUL KHABIR WAHID - Cross

1 Q. Pretty significant presence; right? Looked like 12:02:00  
2 Christmas?

3 A. Right.

4 Q. So you got back into the car with Malik and you, too, as  
5 well as perhaps with Malik's nephew, drove directly over to 12:02:06  
6 Ibrahim's parents' house; right?

7 A. Correct.

8 Q. And that night you sat with Ibrahim's parents in their  
9 home with Malik and watched the news coverage of what was going  
10 on and happening at the Garland attack; right? 12:02:23

11 A. Correct.

12 Q. Watched it on CNN?

13 A. I don't know exactly what we watched it on. His dad had  
14 saved the news I guess on his TiVo or something like that.

15 MS. BROOK: I'm going to use the Elmo for a minute 12:02:56  
16 placing on the overhead what has been marked as Government's  
17 Exhibit 52.

18 BY MS. BROOK:

19 Q. You recognize this, don't you, sir?

20 A. I'm not sure. What is it? 12:03:12

21 Q. Take a look. You notice that it's Simpson's writing.

22 A. I notice it's Simpson's writing because you told me it was  
23 his writing.

24 Q. Okay. Do you remember talking to the FBI before telling  
25 them that you noticed this was Simpson's writing? 12:03:26

ABDUL KHABIR WAHID - Cross

1 A. I'm not sure. 12:03:35

2 Q. In fact, as you look at this, you recognize it as

3 something that was found in your home; right?

4 A. Oh, you're referring to I guess this page that Elton had

5 gave to my son? 12:03:54

6 Q. So, yes, this was found in your home?

7 A. Yes. Yes. Yes.

8 Q. And in fact, you know that on May 1, that Friday of 2015,

9 Elton Simpson had come to your house before he met with you at

10 9 o'clock that night. He had come earlier that day; right? 12:04:06

11 A. No. He did not. That is totally incorrect.

12 Q. This list was given to your son Waseem by Ibrahim;

13 correct? Just "yes" or "no"?

14 A. Wait a minute. No. That's not -- that's an incorrect

15 question. What he did was, he came by my house when I wasn't 12:04:22

16 there. And you know that already.

17 Q. That's what I'm saying. He came by --

18 A. Well, why would you say that I knew this when you know he

19 was already there before I got there, because I was angry about

20 that. 12:04:38

21 Q. You were angry about that. You were angry about that

22 because you didn't like the idea of Simpson talking to your son

23 Waseem without you there?

24 A. Correct.

25 Q. And that frustrated you because you knew that Simpson was 12:04:46

ABDUL KHABIR WAHID - Cross

1 obsessed with violent jihad? 12:04:51

2 A. Exactly.

3 Q. You didn't want Simpson putting ideas into your son's head  
4 about violent ISIS attacks?

5 A. This is true. 12:05:00

6 Q. And you knew that because Simpson, just months before, had  
7 asked you to partake in an ISIS attack with him; right?

8 A. Correct.

9 Q. He had asked you to, with guns, go in and attack a  
10 military base; correct? 12:05:14

11 A. Right.

12 Q. And you would agree with me, as we look at this  
13 Exhibit 52, which the Government would move to admit.

14 MS. BROOK: I guess procedurally the Government moves  
15 to admit Exhibit 52. 12:05:44

16 THE COURT: Let's hold that off until the witness is  
17 done testifying and then when he resumes his role as his own  
18 counsel, I'll ask him if he has any objection.

19 BY MS. BROOK:

20 Q. You would agree with me that this list lists seven of the  
21 world's worst terrorists? 12:05:58

22 A. First of all --

23 Q. Just "yes" or "no".

24 A. No, I can't agree with you because I don't know who these  
25 people are. 12:06:11

ABDUL KHABIR WAHID - Cross

1 Q. You don't know who Anwar al-Awlaki is. 12:06:12

2 A. No. I don't. I know the first one? The name you  
3 mentioned, where is he? Where is he? Okay, Anwar al-Awlaki, I  
4 heard of him. The rest of these people, I don't know who they  
5 are. 12:06:26

6 Q. Simpson was a very close friend of yours; right?

7 A. True.

8 Q. You and he would spend nearly every other day spending  
9 some portion of time together; right?

10 A. Not every other day. Just a few times a week he would 12:06:42  
11 come over. He didn't come over every single day.

12 Q. He would come over at least a few times a week to your  
13 home; right?

14 A. Sporadically. I would say, like, maybe two, three times a  
15 week, no more. Maybe every two weeks or something like that. 12:07:00  
16 He didn't come over every day. He didn't come over every other  
17 day of the week.

18 Q. So fair to say, on average, a few times a week he would  
19 come over to your house; correct?

20 A. I just told you that he would only come over a few times 12:07:18  
21 every two weeks meaning like that. Not every day every week or  
22 anything like that.

23 Q. You all would also go out to eat often; correct?

24 A. True.

25 Q. You would go to an Afghani restaurant called Khyber Halal? 12:07:37

ABDUL KHABIR WAHID - Cross

1 A. I don't know the name of the restaurant but it was an 12:07:41  
2 Afghani restaurant. That's all I know.  
3 Q. And you would eat together?  
4 A. M'hum.  
5 Q. You would get coffee together? 12:07:47  
6 A. Sometimes.  
7 Q. You would go to the mosque together?  
8 A. No. We used to go to the mosque together many, many years  
9 ago. By the time I would say -- I don't know. There was a  
10 mosque that we used to go to on 27th Avenue and Orangewood. We 12:08:00  
11 stopped going there years ago and we split our ways. I don't  
12 know where he was going to mosque at.  
13 Q. So other than your family, who was a closer friend to you  
14 than Simpson or was he probably the closest?  
15 A. I can't say he's the closest, because I have a lot of 12:08:31  
16 friends. But I'm a very private person so a lot of people  
17 don't come to my house.  
18 So I want to say that -- I can't really say that --  
19 he's close but he maybe probably the only person that visited  
20 my the most, put it that way. 12:08:52  
21 Q. And Ibrahim trusted you; right?  
22 A. I assume he did.  
23 Q. He trusted you enough to ask you to attack that military  
24 base with him; right?  
25 A. I can't say "yes" to that. 12:09:15

ABDUL KHABIR WAHID - Cross

1 Q. Well, obviously, he realized you may have said "no"; 12:09:17  
2 right?  
3 A. Say that again?  
4 Q. Obviously he realized that when he asked you to attack  
5 that military base, that you might have said "no"? 12:09:24  
6 A. No. I don't know what he was thinking.  
7 Q. But you did say "no"?  
8 A. Yeah.  
9 Q. And you didn't call the police at that time to tell them  
10 that he was going to attack a military base, "yes" or "no"? 12:09:36  
11 A. No.  
12 Q. We've listened to the recordings, Government Exhibits 118  
13 through 153 and 162 which were the recordings from your  
14 conversations with Ali; right?  
15 A. M'hum. 12:10:12  
16 Q. You've heard them; right?  
17 A. Yes.  
18 Q. And you would agree with me that was your voice on those  
19 recordings?  
20 A. Yes. 12:10:21  
21 Q. And it's your testimony that if Ali Soofi hadn't told the  
22 FBI about you, that the FBI would not have had you under  
23 investigation; right?  
24 A. True.  
25 Q. The last time you saw Ibrahim and Nadir was outside your 12:10:51

ABDUL KHABIR WAHID - Cross

1 house at 9 o'clock at night on Friday, May 1; correct? 12:10:54

2 A. Incorrect because I wasn't sure whether it was 8 o'clock  
3 or 9 o'clock. It was at night and I was in the house and they  
4 knocked on my door. I was tired.

5 Q. So fair enough. 12:11:09

6 A. Yeah.

7 Q. So at some point between 8 or 9 o'clock that evening was  
8 the last time that you saw the two of them?

9 A. Correct.

10 Q. And as you stood with them outside your porch or on your 12:11:17  
11 porch, you saw Nadir's black car outside your house; right?

12 A. Yes.

13 Q. You knew that the two of them had driven over to your home  
14 to talk to you; correct?

15 A. I knew that they had driven to my house. I didn't know 12:11:35  
16 that they were coming to talk to me.

17 Q. You lived back on that day in the 3400 block of Port au  
18 Prince; right?

19 A. Correct.

20 Q. And that is near Greenway and 35th Avenue; right? 12:11:58

21 A. Correct.

22 Q. Do you know where Nurse lived?

23 A. Actually I don't.

24 Q. Did you know that he lived at Northern and I-17?

25 A. No, but thanks for sharing that because I didn't know. 12:12:13

ABDUL KHABIR WAHID - Cross

1 Q. Did you know that? 12:12:16

2 A. No.

3 Q. So that night as Simpson handed you the envelope and the  
4 keys, Simpson told you that was headed out of town?

5 A. Could you repeat that? I didn't hear it. 12:12:36

6 Q. As Simpson handed you the envelope and the keys, he told  
7 you he was headed out of town?

8 A. No, he didn't.

9 Q. So it's your testimony that you believed he was going to  
10 be in town? 12:13:02

11 A. I didn't know what to think. He didn't tell me where he  
12 was going.

13 MS. BROOK: Can we place on the overhead what's going  
14 to be marked as Government's Exhibit Number 164, please. It's  
15 on the computer. 12:13:16

16 THE WITNESS: And before you play that --

17 MS. BROOK: There's no question. Just hang on one  
18 second.

19 BY MS. BROOK:

20 Q. This is marked for identification. Can you see that 12:13:33  
21 picture all right there as Government's Exhibit number 164?

22 A. Which one. There's three of them.

23 Q. So just look at the one in the middle there.

24 A. Yeah.

25 Q. Do you recognize that individual? 12:13:47



ABDUL KHABIR WAHID - Cross

1 A. That's Saabir Nurse. 12:13:50  
2 Q. The same Nurse that Simpson instructed you to deliver the  
3 envelope and the keys to on that coming Wednesday?  
4 A. Correct.  
5 Q. The same Nurse who you didn't know where he lived? 12:14:04  
6 A. Correct.  
7 Q. You would agree with me that he was somewhat of a distant  
8 associate of yours, not a close friend?  
9 A. It was kind of strange. We were sort of close. We just  
10 never saw each other. 12:14:24  
11 Q. So let me ground you back in May of 2015, not what's  
12 transpired since. Back in May of 2015, you would agree with me  
13 that he was Ibrahim's friend much more than he was your friend?  
14 A. I guess you could say that because they both went to high  
15 school together. 12:14:46  
16 Q. So "yes"?  
17 A. Yeah.  
18 Q. When you interviewed with law enforcement in your living  
19 room on May 6 of 2015, you did not tell them, as you just  
20 testified, about the envelope or the keys that Simpson had 12:15:20  
21 given you?  
22 A. Correct.  
23 Q. And you didn't tell them about the envelope and the keys  
24 because you didn't want to get Nurse in trouble?  
25 A. No. I didn't say that. 12:15:34

ABDUL KHABIR WAHID - Cross

1 Q. Just "yes" or "no"? 12:15:36  
2 A. No.  
3 Q. You would agree with me that you were afraid of the FBI  
4 talking to Nurse?  
5 A. Say that again. 12:15:44  
6 Q. You didn't want the FBI talking to Nurse?  
7 A. No, I wouldn't say that, I didn't want him to talk to  
8 them, no.  
9 Q. So why is it that you didn't tell them about Nurse?  
10 A. Were you listening to my narrative? So why would you ask 12:15:59  
11 me that?  
12 Q. Why is it that you didn't tell them about Nurse?  
13 A. Okay. The reason why I didn't tell them -- I'm over here.  
14 The reason why I didn't tell them about Nurse was  
15 simply, like I said, I did not want them to harass him. Had 12:16:15  
16 nothing to do with there was some secret plot or anything like  
17 that. I just didn't want them to harass him. That's all.  
18 Q. Before you gave the envelope and the keys to Nurse, you  
19 talked to Abdul Malik Abdul Kareem about having the envelope  
20 and the keys; right? 12:16:42  
21 A. Yes.  
22 Q. And Malik told you that he wanted you to open the  
23 envelope?  
24 A. Correct.  
25 Q. You didn't open the envelope? 12:16:55

ABDUL KHABIR WAHID - Cross

1 A. No. 12:16:57  
2 Q. Malik pushed, right, and he argued with you?  
3 A. Yes, he did.  
4 Q. Malik is a pretty big guy, isn't he?  
5 A. Yes. 12:17:07  
6 Q. About six foot four?  
7 A. I don't think he's that tall.  
8 Q. Maybe six two?  
9 A. He may be. He just looks big. He looks tall because he's  
10 so fat so I would say -- he looks like he's five 11, something 12:17:22  
11 like that.  
12 Q. Did he physically try to open the envelope?  
13 A. He tried to snatch it from me but he didn't open -- I  
14 didn't let him.  
15 Q. How did you keep him from snatching it from you? 12:17:43  
16 A. Pulled it back like, "No."  
17 Q. And you told him that it would be disrespectful to Ibrahim  
18 for him to open it; right?  
19 A. M'hum.  
20 Q. Is that a "yes"? 12:18:05  
21 A. Yes.  
22 Q. You have three children; correct?  
23 A. They are right behind you.  
24 Q. And they are all adults. They are all over the age of 18?  
25 A. Yeah. 12:18:36

ABDUL KHABIR WAHID - Cross

1 MS. BROOK: May I have one moment? 12:18:49

2 BY MS. BROOK:

3 Q. Placing on the overhead Government's Exhibit Number 163,  
4 do you recognize this person?

5 A. Yes. 12:19:34

6 Q. Who is it?

7 A. Salim.

8 Q. Who is Salim?

9 A. Salim is Abdul Malik's nephew.

10 Q. Was that the individual you were referring to earlier who 12:19:44  
11 was in the car with you or was it somebody else?

12 A. No. It was his brother.

13 Q. You didn't know Nadir very well, Nadir Soofi?

14 A. No.

15 Q. Didn't spend much time with him? 12:20:34

16 A. No.

17 MS. BROOK: Placing on the overhead Government's  
18 Exhibit 84, if I can go back to the document camera.

19 BY MS. BROOK:

20 Q. Tell us about this day. 12:21:10

21 THE COURT: It's not up yet. Hang on.

22 THE WITNESS: Oh, okay. This was one time. It  
23 doesn't mean that he was with me all the time. This is one  
24 time a few years ago when he and me and his son were together  
25 and he came and he picked me up and he took me to somewhere far 12:21:30

ABDUL KHABIR WAHID - Cross

1 away. It was a river, and a lot of people and stuff like that. 12:21:36

2 That was it. We just took with them.

3 BY MS. BROOK:

4 Q. So this was something that happened occasionally?

5 A. No. No. No. This happened one time. 12:21:51

6 Q. One time?

7 A. Right.

8 Q. But you didn't remember this road trip that you took with  
9 Nadir?

10 A. It's been a few years. Why should I remember it? I'm not 12:21:58  
11 going to sit here and think about it. It has been a while  
12 since this -- I don't even know how you got this picture.

13 Q. And so this was certainly a bit before Simpson asked you  
14 to join Nadir and he and attack a military base in support of  
15 ISIS? 12:22:18

16 A. I would say so. Do you see any gray in my hair?

17 Q. So was that a, "yes"? This picture was taken before  
18 Simpson asked you to --

19 A. Way. Way. Way before.

20 Q. It was way before. 12:22:32

21 You would agree with me when the FBI came to your  
22 home to interview you on May 6 of 2015 that they were there to  
23 talk to you about Simpson and Soofi and the attack on Garland?

24 A. I will assume that, yeah.

25 Q. Yes? 12:23:18

ABDUL KHABIR WAHID - Cross

1 A. Yes. 12:23:19

2 Q. And it was important for them to know the truth about  
3 information that you might have had about Simpson and Soofi;  
4 right?

5 A. I guess so. 12:23:34

6 Q. Yes?

7 A. I guess so because I'm not sure.

8 Q. But you think that sounds right, right? The FBI needed to  
9 know the truth about information that you had about Simpson and  
10 Soofi; right? 12:23:47

11 A. To be honest with you --

12 Q. Just "yes" or "no"?

13 A. I'm going to say no then.

14 Q. They didn't need to know the truth?

15 A. No, I'm not saying that. 12:23:52

16 Q. You're refusing to answer the question?

17 A. No. Just that you're wording the question where I can't  
18 answer "yes" or "no" to it.

19 Q. Do you remember, as we all heard, that the FBI told you it  
20 was important to tell them the truth and, in fact, to lie to 12:24:08  
21 them was a crime; right?

22 A. True.

23 Q. And you knew that well before; right?

24 A. What do you mean?

25 Q. You've always known that it's a crime to lie to the FBI? 12:24:19

ABDUL KHABIR WAHID - Cross

1 A. Yeah. 12:24:24

2 Q. You knew that back from Hassan's investigation in 2008;  
3 right?

4 A. I didn't know anything about it. I just know they came to  
5 my house. 12:24:38

6 Q. You didn't want the FBI to go after Nurse; right?

7 A. Yes.

8 Q. You didn't want the FBI to go after Malik; right?

9 A. I don't follow you.

10 Q. You didn't want the FBI to investigate Malik; right? 12:25:00

11 A. I didn't know Malik was being investigated.

12 Q. But you wouldn't want the FBI to be doing that; correct?

13 A. I guess I wouldn't but it depends on the circumstances.

14 Q. So you didn't want the FBI investigating your friends;  
15 right? 12:25:24

16 A. Would you want the FBI investigating your friends?

17 Q. The way this is set up, I need you to answer the question,  
18 sir.

19 So you did not want the FBI investigating you;  
20 correct? 12:25:37

21 A. Investigating me?

22 Q. Correct.

23 A. Me?

24 Q. Yeah.

25 A. Sure. 12:25:43

ABDUL KHABIR WAHID - Cross

1 Q. You didn't want them investigating you; right? 12:25:44

2 A. Sure. For what? I didn't do anything.

3 Q. So that's a "yes," you didn't want them investigating you?

4 A. Yes.

5 Q. And you knew, obviously, the investigation was an 12:25:57

6 investigation into a terrorist attack; right?

7 A. Yes.

8 Q. I had asked you before about when you learned that lying

9 to the FBI is a crime. You would agree with me that back when

10 Simpson was prosecuted in 2010, Elton Simpson, he was your 12:26:20

11 friend; right?

12 A. Yes.

13 Q. And you learned through his prosecution that it's a crime

14 to lie to the FBI; right?

15 A. Yes. But he actually lied to the FBI. 12:26:34

16 Q. "Yes" or "no," you learned back then?

17 A. Yes.

18 Q. Is that a "yes"?

19 A. Yes.

20 MS. BROOK: Your Honor, I don't have any other 12:26:43

21 questions.

22 THE COURT: All right. Thank you, Ms. Brook.

23 Mr. Wahid, as you noticed during the trial, the order

24 is that the person who puts on -- or the side who puts on the

25 witness has a direct, then there's a cross and then if there's 12:27:00



ABDUL KHABIR WAHID - Cross

1 any redirect, then the proponent of the witness gets to do 12:27:03  
2 redirect.

3 It's a little awkward to have you do redirect of  
4 yourself. But if there's anything that you need to say to  
5 testify in response to the questions you were just asked, you 12:27:15  
6 have that right now. If you don't have anything, that's fine,  
7 too, but you have the opportunity.

8 THE WITNESS: To say what?

9 THE COURT: The idea of redirect, sir, is that if a  
10 side thinks that anything has been muddied by 12:27:32  
11 cross-examination, they can hit issues to attempt to clear it  
12 up. So if you think something was muddied by the  
13 cross-examination, I give you an opportunity to make a  
14 statement to clear it up. If not, you don't have to.

15 THE WITNESS: Okay. Let me think about it. 12:27:52

16 I just wanted to state that in my defense, it is true  
17 Ibrahim -- because he told me, he -- I forget what he said. It  
18 was something really stupid, too, but he actually -- oh. He  
19 mentioned something about jihad and he used the word "jihad" in  
20 a recorded conversation that he didn't know he was being 12:28:27  
21 recorded. And the FBI asked him if he ever used the word  
22 "jihad" and he said, "no," and that's how he they were able to  
23 get him, because he said, "no."

24 And my situation, I didn't actually lie. I did omit  
25 but I did not lie. And so to be honest with you, I mean from 12:28:56

1 what I know, I really thought that I had not told a lie because 12:29:09  
2 I admitted it. I didn't think that lying meant that by me not  
3 saying something, I was lying. I really did think that. So,  
4 no.

5 THE COURT: Thank you, sir. You are excused and you 12:29:29  
6 may step down.

7 (Witness excused.)

8 THE COURT: And Mr. Wahid, now, resuming your -- go  
9 ahead, please take your place at the table. Resuming your role  
10 now as advocate, there is a motion to admit an exhibit 12:29:48  
11 currently pending. I believe it's 52.

12 Is that right?

13 MS. BROOK: Yes, Your Honor. And I also didn't move  
14 to admit the other exhibit simply based upon the same.

15 THE COURT: Let's take care of 52 first. 12:30:02

16 Mr. Wahid, is there an objection?

17 MR. WAHID: No.

18 THE COURT: All right. 52, which was the list, is  
19 admitted.

20 (Exhibit Number 52 was admitted into evidence.) 12:30:09

21 THE COURT: Now, Ms. Brook, what was the other?

22 MS. BROOK: 84.

23 THE COURT: All right.

24 MS. BROOK: Which was the photo on the Elmo right  
25 now? 12:30:18

1 THE COURT: That was the photo in front of the body 12:30:21  
2 of water; correct?  
3 MS. BROOK: Yes.  
4 THE COURT: All right.  
5 Any objection, Mr. Wahid, to the photo? 12:30:27  
6 MR. WAHID: No.  
7 THE COURT: All right. Then 84 is also admitted.  
8 (Exhibit Number 84 was admitted into evidence.)  
9 (End of excerpted portion.)  
10 \* \* \* \* \* 12:30:32  
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C E R T I F I C A T E

12:30:32

1  
2  
3 I, ELAINE M. CROPPER, do hereby certify that I am  
4 duly appointed and qualified to act as Official Court Reporter  
5 for the United States District Court for the District of  
6 Arizona.

12:30:32

7  
8 I FURTHER CERTIFY that the foregoing pages constitute  
9 a full, true, and accurate transcript of all of that portion of  
10 the proceedings contained herein, had in the above-entitled  
11 cause on the date specified therein, and that said transcript  
12 was prepared under my direction and control, and to the best of  
13 my ability.

12:30:32

14  
15 DATED at Phoenix, Arizona, this 8th day of February,  
16 2019.

12:30:32

17  
18  
19  
20 s/Elaine M. Cropper

12:30:32

21 \_\_\_\_\_  
22 Elaine M. Cropper, RDR, CRR, CCP  
23  
24  
25

12:30:32

United States District Court