

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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3 United States of America,)
4 Plaintiff,) File No. 15-CR-46
) (MJD)
5 vs.)
6 Abdullahi Mohamud Yusuf,) Minneapolis, Minnesota
) September 21, 2016
7 Defendant.) 9:48 a.m.
8) **VOLUME II**
9)

10 United States of America,)
11 Plaintiff,) File No. 15-CR-49
12 vs.) (MJD/FLN)
13 (1) Hamza Naj Ahmed,)
14 (3) Adnan Abdihamid Farah,)
15 (5) Zacharia Yusuf Abdurahman,)
16 (6) Hanad Mustafe Musse,)
17 Defendants.)

18 United States of America,)
19 Plaintiff,) File No. 16-CR-37
20 vs.) (MJD)
21 Abdirizak Mohamed Warsame,)
22 Defendant.)
23)

BEFORE THE HONORABLE
MICHAEL J. DAVIS
UNITED STATES DISTRICT COURT JUDGE
(EVIDENTIARY HEARING)

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P R O C E E D I N G S

I N O P E N C O U R T

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2
3 THE COURT: Let's continue. Who is up next? Good
4 morning.

5 MR. DWORAK: Good morning, Your Honor.

EXAMINATION

6
7 BY MR. DWORAK:

8 Q. Good morning, Mr. Koehler.

9 A. Good morning.

10 Q. Welcome back.

11 A. Thank you.

12 Q. I want to start by following up just briefly on a couple
13 of the things that you testified to yesterday.

14 A. Okay.

15 Q. Yesterday you testified that these terror organizations
16 are very sophisticated in their recruiting?

17 A. That is correct.

18 Q. And that they put out propaganda and propaganda that's
19 targeted at young people. Is that correct?

20 A. Among other things, yeah.

21 Q. Men and women I think you said?

22 A. That is correct.

23 Q. And they target people like these six defendants here?

24 A. That's correct.

25 Q. Now, they do so by appealing to theology?

1 A. Partially but also to other cultural elements like
2 action, adventure, justice, freedom and any aspects of that.

3 Q. And I've read one of your interviews where you said, in
4 your experience, the majority of the people are not drawn by
5 theology. Is that correct?

6 A. That is correct.

7 Q. ISIS, for example, uses the suffering of women and
8 children in Syria?

9 A. Among other topics, that's correct, yeah.

10 Q. Now, you're also a counselor, right?

11 A. That's correct.

12 Q. And you help these people?

13 A. That's correct.

14 Q. And you help to bring these misguided youth out of the
15 direction of these terror organizations, right?

16 A. That is correct.

17 Q. And de-radicalize them?

18 A. You could say that, yeah.

19 Q. And that's, you know, at least in part why you're here,
20 right?

21 A. That's correct.

22 Q. Now, people can be de-radicalized?

23 A. Not every single one, but I believe if you work with
24 individuals, if you look at their individual motivations, if
25 you see them as human beings in their own development, I

1 think, I definitely think that people can be de-radicalized,
2 can be reformed and reintegrated.

3 Q. I mean, you're a highly educated man, right?

4 A. I wouldn't be able to tell.

5 Q. I looked at your résumé. I think you're a highly
6 educated man. It doesn't strike me like you would be doing
7 something like this or devoting your life's work to it if
8 you didn't think people could change?

9 A. That's correct.

10 Q. Now, people can be de-radicalized at all phases, right?

11 A. Yes, I've seen that work, yes.

12 Q. So people on the low end?

13 A. That's correct.

14 Q. In the middle?

15 A. That's correct.

16 Q. And also on the high end?

17 A. That's correct.

18 Q. And I read in one of your interviews that it's possible
19 to de-radicalize somebody that hasn't even thought in any
20 way about changing?

21 A. Well, it is possible to work with a person to develop
22 that doubt and that opening, the cognitive opening we talked
23 about yesterday. It's difficult, it takes a lot of time,
24 but it is possible.

25 Q. Takes more time and more resources, but it could be

1 done?

2 A. That's correct.

3 Q. Now, if I understand your testimony from yesterday
4 correctly, all things equal, the earlier you start these
5 programs, the more likely they're to succeed?

6 A. That's correct.

7 Q. You've been doing this for five or six years. Is that
8 correct?

9 A. That is correct.

10 Q. And I think you gave us a number. It was a long day.
11 It was probably a longer day for you than it was for me.
12 But was it, like, 200 evaluations?

13 A. Not evaluations. I worked with about 200 family
14 counseling cases in the last six years.

15 Q. And those are neo-Nazis and Jihadists?

16 A. 95 percent Jihadists.

17 Q. Okay. Have you ever evaluated somebody that succeeded
18 in joining a terror organization?

19 A. With evaluation, you mean those persons who had a
20 advanced stage of radicalization? Is that --

21 Q. Not quite. Somebody that actually went out and joined
22 ISIL.

23 A. Yeah, that's correct.

24 Q. Have you ever evaluated somebody that fought for a
25 terror organization?

1 A. That's correct.

2 Q. Did a violent act for a terror organization?

3 A. That's correct.

4 Q. Did you institute any programming for any of these
5 people?

6 A. That's correct.

7 Q. Did your program work?

8 A. The question of evaluating impact of such a program is
9 very, very different and difficult because you have to take
10 the timing into account and to see if the program is
11 actually executed the way it was supposed to be. There are
12 other influences you cannot foretell at the moment, but I
13 would say at least in those cases I have assisted in
14 developing a program, the radicalization process at least
15 stopped so we were able to mitigate any future development,
16 at that given point. As you have said, the higher and the
17 later you start, the higher the radicalization stages, the
18 more difficult, the more resources you need, the longer it
19 would take. But I would say they were at least effective in
20 the sense they were able to stop the radicalization process.

21 Q. Okay. And you believe in second chances?

22 A. I do.

23 Q. Second chances are the core principle in a democratic,
24 pluralistic society?

25 A. That's correct.

1 Q. Mr. Musse is 20 years old. You understand that?

2 A. I understand that.

3 Q. He was 19 when he was arrested?

4 A. Yeah, that's correct.

5 Q. He never fought for ISIL?

6 A. That's correct.

7 Q. And he never committed a violent act for the terror
8 organization?

9 A. That's correct.

10 Q. He's had no history of violent acts?

11 A. That's correct.

12 Q. In fact, he's got no criminal history whatsoever?

13 A. Except the fact that he did something to be arrested
14 right now.

15 Q. No prior criminal history?

16 A. Correct.

17 Q. Okay. Not even a misdemeanor?

18 A. Correct.

19 Q. He doesn't own any weapons?

20 A. As far as I know.

21 Q. Never spent any time in Syria?

22 A. As far as I know.

23 Q. He never spent any time in Iraq?

24 A. As far as I know, no.

25 Q. And he wasn't one of the emirs in this group?

1 A. No.

2 Q. Now, you've interviewed him?

3 A. That's correct.

4 Q. Was it -- it was for an hour? Hour and a half?

5 Something like that?

6 A. About an hour and half, yeah.

7 Q. And that was in April of this past year?

8 A. That is correct.

9 Q. And that was about three weeks before three of his
10 co-defendants went to trial?

11 A. Yeah, about, correct.

12 Q. And during that interview he didn't tell you the truth?

13 A. He did not.

14 Q. And he talked about himself as though he acted alone?

15 A. Correct.

16 Q. And not part of a group?

17 A. That's correct.

18 Q. He wrote you a letter afterwards?

19 A. That's correct.

20 Q. And in that letter, he apologized for the interview?

21 A. That's correct.

22 Q. He told you that he didn't want to say anything that
23 would hurt his friends who were awaiting trial?

24 A. That is correct.

25 Q. He asked to meet with you again?

1 A. That's correct.

2 Q. He told you he wanted to tell you more about his
3 situation?

4 A. That is correct.

5 Q. Give you some insight into him?

6 A. Correct.

7 Q. He also said that he was looking to turn a new page?

8 A. Correct.

9 Q. And to fix his wrongs?

10 A. Correct.

11 Q. And to pay back his family for all the stupid mistakes
12 he made?

13 A. Correct.

14 Q. He wrote that letter to you in August, right?

15 A. Sounds about right.

16 Q. And that was before you issued your report?

17 A. Correct.

18 Q. So before he learned what you had to say about him?

19 A. Well, I spoke to him and I took that into account and I
20 took that letter into account, but it was before I had
21 issued the report.

22 Q. You didn't meet with him again?

23 A. No.

24 Q. Was that your decision?

25 A. I gave an opinion to Judge Davis, because Judge Davis

1 also received that letter, and we discussed it, and my
2 opinion was that at that point in time it wouldn't be a good
3 idea to meet with him again.

4 Q. Now, in your qualitative model, talking to -- or I guess
5 rather listening to the subject is the most important part,
6 right?

7 A. That's correct.

8 Q. Would you agree that sitting in jail can be a formative
9 experience for a young person?

10 A. It can be.

11 Q. There's a lot of time to self-reflect?

12 A. I wouldn't know about that, but I guess so.

13 Q. Now, one of the bases, in your report, for your high
14 risk assessment of my client is his family situation, right?

15 A. That is correct.

16 Q. And you understand that he's an American citizen, born
17 in the United States?

18 A. I do.

19 Q. And he was born here in Minnesota?

20 A. I do.

21 Q. And that his parents are divorced and were divorced or
22 separated when he was two?

23 A. I do.

24 Q. And that his mom now lives in Kenya?

25 A. I do.

1 Q. And his father lives here?

2 A. I do.

3 Q. You understand that he lived with his mom most of his
4 life?

5 A. I do.

6 Q. He lived with her in the United States, and then when
7 she got remarried and moved to Kenya he went with?

8 A. I know.

9 Q. And he ultimately came back to the U.S., in part for the
10 education?

11 A. That's correct.

12 Q. And then later when his mom got diagnosed with cancer,
13 he went back to live with her?

14 A. That's correct.

15 Q. And he took care of her and the siblings while she
16 underwent treatment?

17 A. That's correct.

18 Q. And then he ultimately returned here to continue with
19 his education?

20 A. That's correct.

21 Q. You never interviewed his mother?

22 A. That was not possible, no.

23 Q. Well, I understand your travel situations didn't align?

24 A. I don't know what the reason was, but it was not
25 possible to interview her. We tried to arrange that.

1 Q. Well, did you -- did you ever offer to interview her
2 over the phone or by Skype?

3 A. Of course.

4 Q. Did you --

5 A. We tried to organize that through the probation office.

6 Q. Was that ever conveyed to myself or one of the
7 other -- Mr. Musse's other counsel?

8 A. The fact that I was willing to talk on the phone --

9 Q. Yes.

10 A. -- to his mother? I didn't tell you in person as far as
11 I can recollect, but I have done telephone and Skype
12 interviews with other defendants and families, so that was
13 always an option.

14 Q. But as far as you know, was that ever conveyed to me?

15 A. Did you talk with the probation office about arranging
16 these interviews? The probation office was in charge of
17 organizing the interviews.

18 Q. Okay. So you don't know, you can't say whether or not
19 that was conveyed to me?

20 A. I cannot say anything how you communicated with the
21 probation office about that.

22 Q. Now, mothers are important in a young person's life,
23 right?

24 A. That is correct.

25 Q. And they're also very important in your particular line

1 of work, right?

2 A. That is correct.

3 Q. I saw that you wrote an opinion piece titled "Who Can
4 Stop a Jihadi, Try his Mother"?

5 A. That is correct.

6 Q. And you also run that program you were talking about
7 yesterday, Mothers for Life?

8 A. That is correct.

9 Q. One of the other bases for your assessment of my client
10 in your report is lack of cognitive opening?

11 A. That is correct, based on the fact that he misstated a
12 number of facts that contributed to his own guilty plea,
13 even upon multiple questions if he was sure that his
14 statement is what he wanted to give me, and he reiterated
15 his statements.

16 Q. That was -- it was based on, in part or in large part,
17 on that interview, right?

18 A. That is correct.

19 Q. And you understand that seven of these defendants were
20 indicted together?

21 A. That is correct.

22 Q. And four of those defendants ultimately pled guilty?

23 A. Correct.

24 Q. Do you know the order in which the defendants pled
25 guilty?

1 A. No.

2 Q. Mr. Musse was the first to plead guilty out of those
3 seven?

4 A. Okay.

5 Q. And two others followed shortly thereafter?

6 A. Okay.

7 Q. And is it fair to say, then, that you didn't take that
8 into consideration?

9 A. I took into consideration that he pled guilty but he did
10 not choose to cooperate, for example.

11 Q. But you didn't take the order of the guilty pleas into
12 consideration?

13 A. No.

14 Q. And you read through the guilty plea?

15 A. Yes.

16 Q. And you see it contains a lengthy factual basis?

17 A. Yes.

18 Q. It says what he did and who he did it with, right?

19 A. Yes.

20 Q. Are you aware that that becomes a public document?

21 A. Of course.

22 Q. And the whole world can see it?

23 A. That's right.

24 Q. Now, you understand that in the United States criminal
25 justice system, a plea agreement is not enough, right?

1 A. Enough for what?

2 Q. Well, to enter a guilty plea, you have to actually show
3 up to court and have a plea hearing?

4 A. Okay.

5 Q. You understand that?

6 A. Yeah.

7 Q. You weren't retained at that time, right?

8 A. Could you elaborate?

9 Q. Yeah. My client pled guilty back in September of 2015.
10 You weren't retained at that time?

11 A. No.

12 Q. Right? So you didn't attend that plea hearing?

13 A. No.

14 Q. Did you review a transcript of his plea hearing?

15 A. Yes.

16 Q. So you understood that he stood up in the court, just
17 like this?

18 A. Yes.

19 Q. And told the judge what he did?

20 A. Yes.

21 Q. Who he did it with?

22 A. Yes.

23 Q. And why he did it?

24 A. Yes.

25 Q. And he answered all of the Court's questions?

1 A. As far as I know.

2 Q. And he answered all of the prosecutor's questions?

3 A. As far as I know.

4 Q. And he did it in front of the world media?

5 A. That is correct.

6 Q. And he did it before any of his co-defendants that were
7 indicted with him?

8 A. Okay.

9 MR. DWORAK: I have no further questions. Thank
10 you, Mr. Koehler.

11 THE WITNESS: Thank you.

12 **EXAMINATION**

13 BY MR. WINTER:

14 Q. Good morning, Mr. Koehler.

15 A. Good morning.

16 Q. Just a small point, and I think when Mr. Dworak was
17 asking about the order of guilty pleas, he inadvertently
18 omitted the fact that Abdullahi Yusuf was actually the first
19 person to plead guilty out of this case. Is that your
20 understanding?

21 A. Okay, yeah.

22 Q. Okay. And I think he was referring to the group that
23 was in the indictment later on, Mr. Musse was the first of
24 that particular group, but I just wanted you and everyone to
25 understand that that's your understanding?

1 A. Understood.

2 Q. That Yusuf pled first?

3 A. Okay.

4 Q. Okay. Now, I think from your testimony, it sounds as
5 if, and this is not a surprise, it takes more time and more
6 resources to de-radicalize someone who is assessed at a high
7 level, correct?

8 A. That is correct.

9 Q. A high level of risk. And that is really where you've
10 placed Mr. Musse. Is that correct?

11 A. That is correct.

12 Q. Now, Mr. Dworak asked about the time for reflection
13 while in jail pending sentencing, and I think you noted that
14 sitting in jail can be a good time for reflection. Can we
15 agree on that?

16 A. It can be, that's correct.

17 Q. And is it your understanding that Mr. Musse was arrested
18 in April of 2015?

19 A. That is correct.

20 Q. And your interview with him was in was it August of
21 2016?

22 A. That was also in April.

23 Q. April of 2016.

24 A. Yeah.

25 Q. Okay. So he had a full year of reflection prior to

1 sitting down with you. Is that accurate?

2 A. That is accurate.

3 Q. And then when he did sit down with you, he lied
4 repeatedly about his role in this offense, didn't he?

5 A. That is correct.

6 Q. Okay. And he did not cooperate in this case?

7 A. As far as I know, no.

8 Q. Okay. And one of the things he said to you was, in the
9 letter, was that he was protecting his, essentially, and I'm
10 paraphrasing a little bit, but he was saying that he was
11 protecting his coconspirators?

12 A. That's correct.

13 Q. When he talked to you?

14 A. That is correct.

15 MR. WINTER: Okay. I have nothing further, Your
16 Honor.

17 MR. DWORAK: No further questions, Your Honor.
18 Thank you.

19 MR. UDOIBOK: May I proceed, Your Honor?

20 THE COURT: Yes. Good morning.

21 MR. UDOIBOK: Good morning, Your Honor.

22 THE WITNESS: Good morning.

23 **EXAMINATION**

24 BY MR. UDOIBOK:

25 Q. Mr. Koehler, my name is Kenneth Udobiok, and I represent

1 Adnan Farah. You remember me, right?

2 A. I do.

3 Q. The reason I ask you that question is the -- when we
4 first met, that meeting was a -- would you consider it
5 testy?

6 A. Could you elaborate?

7 Q. Was it stressful?

8 A. For me or for your client?

9 Q. For me.

10 A. I guess so.

11 Q. I told you it was stressful?

12 A. Yeah.

13 Q. Yes. Now, after reading your report, would it surprise
14 you that I agree with the majority of your statements?

15 A. No.

16 Q. Why do you say that?

17 A. Because I feel that during the interview that we both
18 saw a lot of aspects and your client was very forthcoming
19 about his radicalization process and his ideas, and I would
20 think that from his position and your position that he would
21 be content with that.

22 Q. And there are some assumptions that I've made. Your
23 report is not as detailed as some of the reports that we
24 commonly receive. I'm not saying those reports are better
25 than yours, but we are used to receiving a lot more data.

1 But nonetheless, is it because this area, de-radicalization
2 area, is new, it's a new endeavor? Is that why we don't
3 have a lot of data?

4 A. That is correct. There's really not a lot of data on
5 this, but I also would like to say that there was a
6 confidential recommendation part of that report.

7 Q. I realize that. We lawyers are commonly curious about
8 what that recommendation is. But let me -- there are a few
9 things I want to sort of explore a bit to clarify things.
10 You see, in this entire process, there's only one person who
11 is a neutral, and you can guess that's the Honorable Judge
12 Davis. The rest of us are advocates. The government here
13 have three lawyers, they're pretty good, and they may look
14 smart but they pack a heavy punch, and they are good
15 advocates, and I am one too. So at that meeting with you,
16 it was -- we didn't know -- I didn't know how to guide my
17 client through the process. And some of your questions,
18 though, towards the middle part of the conversation we got
19 to have some understanding of what the process was. But
20 after we left, though, you weren't able to convince me, or
21 my client, as to what -- how your recommendation is going to
22 impact him after his sentence. Do you remember we talked
23 about the Black Panther movement?

24 A. I do.

25 Q. Yes. So is it -- is it your position that all of the

1 defendants, every single one of them, will benefit from
2 counseling?

3 A. That depends on the structure of counseling, on the
4 program, on the training of the counselors, the training of
5 the coordinators and ultimately what happens with them in
6 prison. I cannot foretell the future and say that
7 counseling for everyone will be effective. I believe that
8 every single of the defendants should be made or should have
9 availability of the counseling program or some sort of
10 program, which I outlined in the reports and confidential
11 recommendation letters, and that, in the end, is to be
12 decided by the Court.

13 Q. Your conclusion that I -- that you can tell that I
14 agree. You recommend a reduced prison sentence or halfway
15 house.

16 A. That is correct, a specific form of halfway house.

17 Q. Yes. And the reason for your recommending that is you
18 don't -- let me back up for a bit. And there's another
19 phrase you use in your report that Mr. Farah -- I'll use
20 Adnan Farah because he's got a older brother in this case.

21 A. I know.

22 Q. Yeah. Adnan Farah is at a turning point?

23 A. That is correct.

24 Q. Correct me if I'm wrong, by that -- let me illustrate it
25 as if you -- well, do you skateboard?

1 A. No.

2 Q. Now, if you skateboarded up a hill and you get to a
3 point where the force will not take you beyond a point
4 you -- at a point where you're going to regress, is that the
5 same analogy with the radicalization of Adnan Farah? That
6 he's at a point where, with some intervention, he'll go back
7 to normalcy?

8 A. Well, to stay with your analogy, he's right now at the
9 top of a hill and he's at the point of either he goes
10 further up or further down.

11 Q. Correct.

12 A. So it is a critical turning point, right.

13 Q. It's a critical turning point, and that critical turning
14 point, what will help you to opine whether he'll go
15 backwards to normalcy would be his public confession, so to
16 speak, right?

17 A. That could be one potential tool. I would not recommend
18 this at that point, to be honest. Later on, down the road,
19 as your client said he would be willing to work with kids to
20 work against this issue of radicalization, but I also state
21 in the report that he still has a high degree of
22 radicalization, there's still a lot of radical ideology
23 active within him, so that has to come down the road
24 potentially, but it shouldn't be the start of any
25 counseling.

1 Q. But nonetheless, though, this is what he told you that
2 he would -- he would want to go publically to tell everyone
3 that he has disavowed ISIS?

4 A. That's correct.

5 Q. And that it was a wrong ideology?

6 A. Well, we -- we need to talk about that. He's definitely
7 disavowing ISIS, but he has definitely some aspects of this
8 ideology behind ISIS --

9 Q. Well, yes, we agree with that. We agree because he had
10 some ideology, otherwise the government would not have
11 indicted him?

12 A. That is correct.

13 Q. Yes. Okay. But my point is by the time we spoke with
14 you, it was shortly after he changed his plea. Remember it
15 was a few days?

16 A. Okay, yeah.

17 Q. And from your testimony, it sounds like you've read all
18 the transcripts of the change of plea hearing?

19 A. Yeah.

20 Q. You read Adnan Farah's?

21 A. Yeah.

22 Q. And did you get a sense from that transcript the
23 enormity of the moment for Adnan Farah, what it took for him
24 to change his plea, considering that his older brother was a
25 member of a -- is a co-defendant?

1 A. I think I do, and I took into account the very
2 significant fact that he changed his decision against the
3 opinion of his family, against his brother, and this had a
4 huge impact on my assessment.

5 Q. Thank you. And that's significant regarding
6 disengagement, right?

7 A. That is correct.

8 Q. And you wrote -- I believe you wrote a piece in 2005
9 about, let me just make sure, de-radicalization,
10 disengagement program. Do you remember that piece?

11 A. Where was it?

12 Q. It's a Institute of -- Institute for the Study of
13 Radical Movement?

14 A. Okay.

15 Q. And do you remember that article, though?

16 A. Yeah.

17 Q. Okay.

18 A. It was a long time ago.

19 Q. Yeah. You are quite a prolific writer, I must say.
20 That's a compliment.

21 A. Thank you.

22 Q. Now, you provided three, I believe you talked about it a
23 bit here earlier, you provided three categories, that is,
24 the macro level, the meso level and the micro level?

25 A. Four types of de-radicalization or counterterrorism

1 tools, yes.

2 Q. And one was prevention, repression and integration,
3 correct?

4 A. These are the types of tools you can have to combat
5 radicalization, terrorism, and these three types of tools
6 work with three different scales, which is macro, meso and
7 micro social.

8 Q. And did you take those into account when you made your
9 recommendations?

10 A. Of course.

11 Q. Okay. You also wrote an article for the *Journal for*
12 *De-radicalization* I believe in the winter of 2004, 2005?

13 A. No, that's way early. That would be winter 2014.

14 Q. Oh, sorry. 2014.

15 A. Yeah.

16 Q. And you -- the emphasis on that piece was on
17 de-radicalization -- or radicalization by internet, on-line?

18 A. That is correct. Based on interviews with former German
19 neo-Nazis.

20 Q. And Adnan told you he viewed quite a lot of on-line
21 publications, right?

22 A. That is correct.

23 Q. And also you know that the Jihadi movement used the
24 internet in order to recruit particularly adolescents?

25 A. That is correct.

1 Q. Now, what age do you consider adolescents, based on your
2 training?

3 A. Between 16 and 22.

4 Q. 16 and 22. And have you -- are you familiar with the
5 fact that at 22 the male frontal lobe is not completely
6 developed?

7 A. I'm not a biologist. But if you say so, I take it as a
8 fact right now.

9 Q. But you haven't read anything regarding the maturity of
10 how teenagers react to information?

11 A. Not enough that I would be able to give a qualitative
12 comment on that.

13 Q. All right. And based on your experience, did you find
14 that teenagers were easier to influence with radical
15 thoughts than adults?

16 A. Like we discussed in the question yesterday, I think it
17 depends on the individual in a situation. I have seen very
18 easily impressed grown adults, even imams, fathers, mothers,
19 the oldest case I was working with was 65 years old, I
20 worked with the family of that person, the youngest case was
21 12 years old, so it can happen in between. It's really
22 about the attraction points, the radicalization recipe, what
23 makes you drawn to that specific ideology movement but also,
24 that being said, ISIL itself, in its own recruitment manual,
25 targets young adults for specific reasons.

1 Q. I believe in your article that the winter 2014 article,
2 the average age sample was 26 and a half years?

3 A. That is correct, because these former neo-Nazis had to
4 get out of the movement and to be de-radicalized, went
5 through the program, so and that program was also targeting
6 more high ranking individuals, so they worked with
7 individuals that already had jumped up the ranks.

8 Q. But generally, would you agree with me, though, that a
9 child is easier to influence than an adult because they have
10 not accumulated enough experience, life experiences, to
11 desegregate what is right or wrong?

12 A. I wouldn't generalize on that. It depends on the
13 person.

14 Q. All right. In the case of Adnan, he consumed a lot of
15 these videos, correct?

16 A. That is correct.

17 Q. And there was something else I wanted to clarify. You
18 used the phrase Jihadi movement, Jihadism, and jihad. Can
19 you have -- can one participate in jihad without violence?

20 A. It depends on the understanding of the term "jihad."
21 There's obviously a greater and lesser jihad, and I know
22 that you are familiar with these concepts.

23 Q. Yes.

24 A. But to participate in lesser jihad without violence is
25 not possible and it is a key concept of the Jihadi movement,

1 the Jihadi environment, the militant groups that we talk
2 about, terrorist organizations, that performing the lesser
3 jihad exactly meaning taking up arms and using violence to
4 fight the infidels is an essential part of a Muslim
5 identity, that is what they believe. So they think you
6 cannot be a true Muslim if you do not perform a lesser
7 jihad. And this is what I talk about when I saw the Jihadi
8 movement or Jihadi. Obviously this is leaving out the fact
9 that there is a different understanding of Jihadists. I
10 know that, absolutely.

11 Q. And isn't it true, though, that at some point when Adnan
12 was speaking to you, he was describing some internal
13 religious development, piety and spiritual jihad, so to
14 speak. Isn't that -- do you recall that's --

15 A. Well, he did talk about the spiritual jihad.

16 Q. Yes.

17 A. We didn't talk about the concept of the jihad, but we
18 did talk about this identity struggle that he was going
19 through.

20 Q. But I want to understand, though, that you are not
21 saying that all jihad or all spiritual jihad experience is
22 wrong?

23 A. Of course not.

24 Q. Okay. Now, and you're not saying that being a Shiah is
25 necessarily a bad thing?

1 A. Of course not.

2 Q. You're not saying being a Sunni is a bad thing?

3 A. Of course not.

4 Q. Now, let's talk about caliphate. You're not also saying
5 that those Muslims that believe in the caliphate is
6 necessarily a wrong ideology?

7 A. Not necessarily, but if you believe in the caliphate of
8 ISIS, the way it is established and how it is being done,
9 that is a different caliphate.

10 Q. No, I'm -- that's not -- yeah, that's not what I'm -- I
11 just wanted to understand that the concept of caliphate
12 within Islam is not wrong. You're not saying that's wrong?

13 A. No.

14 Q. Because it -- you -- you equated the caliphate with the
15 state of Israel?

16 A. That is correct. It is a very mainstream fundamental
17 concept of Islam.

18 Q. Okay. Now, if a child develops religious piety and
19 hopes for the caliphate, that is not necessarily that this
20 child has been radicalized?

21 A. No.

22 Q. Now, what is the equivalent of a caliphate for
23 Christians?

24 A. I don't think there is an equivalent because mainstream
25 Christianity there is this differential separation between

1 the spiritual and the earthly realm, so basically after
2 reformation, church and state were separated and since then
3 there is no concept any longer of a religiously founded or
4 based political entity from the side of Christianity, so I
5 don't think there would be an equal concept any longer.

6 Q. So what about the Millennial Reign?

7 A. That is a spiritual, like a spiritual state.

8 Q. All right. I want to talk about the concept of implicit
9 bias and explicit bias. Are you familiar with that?

10 A. Yeah.

11 Q. Because the Court -- I can tell the Court has respect
12 for your opinion and your experience, and I do too, I want
13 to know to what extent you have any bias. You believe,
14 though, that we all have some biases, correct?

15 A. Well, I'm a human being who has an opinion, but in the
16 end, we are, in our professions, asked to have neutral
17 opinions and to act in our profession according to our
18 standards and guidelines and ethical principles.

19 Q. Yes. Now, when you spoke with the government, did you
20 get any sense when talking with them that they were
21 advocating facts to persuade you about the culpability of
22 Adnan Farah?

23 A. No, I don't. They stated their opinions. They were
24 very explicit about not having subjective opinions. They
25 just stated the facts. They answered my question honestly

1 and truthfully to the extent they could, and they -- at some
2 points they actually said, "I do not want to issue a
3 personal opinion on these questions."

4 Q. That's --

5 A. They were very direct.

6 Q. That's good to know. Now, did you take into
7 consideration that Adnan Farah is the youngest of all the
8 defendants?

9 A. I took that into account.

10 Q. And did you take into consideration that prior to his
11 indictment Adnan has no criminal history?

12 A. Of course.

13 Q. Is it -- did you take into consideration that other than
14 his involvement with on-line communication or looking up
15 Facebook and researching certain areas within the Jihadi
16 movement that he never took specific steps such as entering
17 a plane to go to Syria?

18 A. He did not enter that plane, but he actively
19 participated in the planning of that travel and was very
20 active in that. And the time and intensity of the
21 expression of Jihadi ideology was extraordinary for
22 Mr. Farah, and it's -- he did it a long time, he did it very
23 extensively, he showed a lot of commitment, he explained and
24 stated many of the ideological factors that we talked about
25 yesterday.

1 Q. Yes.

2 A. So, yeah, he was, ideologically spoken, well down the
3 road.

4 Q. Well, I realize that. Look, the government would not
5 have indicted my client if there was not -- he didn't do
6 anything at all.

7 A. I hope so.

8 Q. That's not our position. My position is did he take
9 steps, i.e., getting to a plane, arriving in Syria, joining
10 a group out of the country, he didn't do any of those?

11 A. Not the things you mentioned, but he actively
12 participated in planning these travel attempts.

13 Q. Yes. I'm not arguing with you. I'm agreeing with you
14 on this.

15 A. Okay.

16 Q. Now, but did he -- did he at any time describe that he
17 intended to harm any American citizen here? I mean in the
18 U.S.

19 A. No, he didn't. But his statements, his statements on,
20 for example, Facebook were indicating direct violence.

21 Q. In Syria?

22 A. No, he just had pictures, for example, of a sniper on
23 the top of his Facebook page. That is the statement
24 indicating the use of weapons, for example. But where
25 locally --

1 Q. Okay.

2 A. But he used pictures of Anwar al-Awlaki. He referred to
3 him as the voice of the ummah. And Anwar al-Awlaki, his
4 statements and his position as the main spokesperson or
5 director of Al-Qaeda were directly against, among other
6 countries, against the United States.

7 Q. But do you realize that all of what you just described,
8 any citizen has a right to have that conversation? Do you
9 realize that?

10 A. I know that, yeah. I know --

11 Q. So that --

12 A. I was asked about the extent -- to assess the extent of
13 the radicalization process, not whether this will be legal
14 or illegal.

15 Q. Yeah, Mr. Koehler, I'm not -- I don't want you to
16 stretch anything. Just be straight up with me. I'm saying
17 that Adnan Farah didn't -- he didn't board a plane. He
18 didn't get to Syria. He was a 17-year-old kid, correct?

19 A. Correct.

20 Q. And your conclusion, as you said, took those into
21 consideration?

22 A. That's correct.

23 Q. All right. And now Adnan, you testified earlier that
24 he's at a turning point. That turning point is, with some
25 intervention that the Court is trying to design?

1 A. That is correct.

2 Q. We can get him back to a mainstream society, correct?

3 A. I believe so.

4 MR. UDOIBOK: Thank you. No further questions,
5 Your Honor.

6 **EXAMINATION**

7 BY MR. WINTER:

8 Q. In fact, Mr. Koehler, Adnan Farah is an 18-year-old
9 adult?

10 A. Okay.

11 Q. And you understand, obviously, in the American system,
12 at 18 you're considered an adult?

13 A. Okay.

14 Q. And is it fair to say that despite, you know, the
15 discussion about the biology of the frontal cortex and the
16 laws of gravity affecting skate boards, you've assessed
17 Mr. Farah as being currently active, having an active
18 radical ideology?

19 A. That is correct.

20 Q. He was a fan of Anwar al-Awlaki. Is that right?

21 A. That is correct.

22 Q. In fact, you mentioned that photo on his Facebook page;
23 it's a 50-caliber sniper rifle?

24 A. That is correct.

25 Q. And embedded within that photograph of an individual

1 pointing a 50-caliber sniper rifle is an image of Anwar
2 al-Awlaki. Do you remember that?

3 A. That is correct.

4 Q. And remind us what the tenets are that Anwar al-Awlaki
5 preaches or preached prior to his death?

6 A. He preached for Al-Qaeda basically to declare the
7 militant jihad against the United States, against the west,
8 and to commit acts of terrorism against civilians, against
9 the whole society.

10 Q. Is it fair to say that Anwar al-Awlaki was not talking
11 about the internal struggle, the internal jihad?

12 A. No, he didn't.

13 Q. You mentioned, in your testimony yesterday, about
14 families, family members being gatekeepers?

15 A. That is correct.

16 Q. Okay. No difference here, Mr. Farah's family members
17 would, in your mind, be considered gatekeepers?

18 A. His brother, for example, I wouldn't consider a positive
19 gatekeeper.

20 Q. Okay. And so there's positive and negative gatekeepers?

21 A. That is correct.

22 Q. Okay. And you're aware, because he talked about it and
23 it has been cited in your assessment, that his family or
24 members of his family were against him pleading guilty?

25 A. That is correct.

1 Q. And while you credit Mr. Farah for overcoming that in
2 entering a plea of guilty, would you agree that the fact
3 that these gatekeepers around him did not want him to, that
4 presents challenges in the future for Mr. Farah and his
5 de-radicalization?

6 A. That is correct.

7 MR. WINTER: Okay. Thank you. I have nothing
8 else, Your Honor.

9 THE COURT: Anything further?

10 MR. UDOIBOK: Yes, Your Honor.

11 **RE-EXAMINATION**

12 BY MR. UDOIBOK:

13 Q. Just two questions. Adnan Farah told you about the
14 deception of Anwar al-Awlaki, right?

15 A. We talked about Anwar al-Awlaki, and he told me, during
16 the interview, that he still finds some kind of fascination
17 for him.

18 Q. I don't recall that, but it would --

19 A. Well, he said, "It's kind of cool if you look at it."

20 Q. Kind of cool in the sense of his ability to communicate,
21 not his ideology?

22 A. His way of thanking and that his lectures, he said,
23 quote, They make him kind of more radical.

24 Q. True. He told you that because he realizes he's
25 radicalized by watching his sermons and when he spoke with

1 you now he could tell how powerful an instrument his
2 messages are, albeit wrong, correct?

3 A. He did not say if they were wrong in the end or not. He
4 explained to me his fascination, and the way he stated his
5 fascination was still in the present form.

6 Q. Mr. Koehler, did you read his change of plea transcript?

7 A. Of course.

8 Q. Did you see the part where he specifically disavowed
9 Anwar al-Awlaki?

10 A. Of course.

11 Q. Okay. And he never told you he met him before, did he?

12 A. No.

13 Q. He read about him and read his messages, correct?

14 A. Yes.

15 Q. And disagrees with his messages now?

16 A. That's what he said in the agreement, but he didn't say
17 that explicitly in the interview, but I took into account
18 that he very much reflected upon the psychological process
19 leading him to that stage. If I remember correctly, he said
20 if they have access to your heart, they control your mind,
21 and the other way around. I think that he said access
22 to -- if they have access to your heart, they control your
23 mind?

24 Q. So that's a compelling narrative for a 19 year-old,
25 correct?

1 A. That is correct.

2 MR. UDOIBOK: No further questions.

3 **RE-EXAMINATION**

4 BY MR. WINTER:

5 Q. Just one question. There was discussion about what he
6 didn't do as part of his participation in this case, but
7 you're aware that he actually did purchase a fake passport
8 in order to get into Syria to join ISIS?

9 A. Yeah.

10 Q. And you factored that in, right?

11 A. That is correct.

12 MR. WINTER: Okay. Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: Let me go over some things that might
15 be helpful to both sides. I'm assuming that youth will be
16 brought up in all and the age of the defendants will be
17 brought out in your position papers. And not that it's on
18 the point, but at least it will give you some idea of how
19 I've dealt with that issue because I had to resentence a
20 defendant that was a juvenile at the time of the crime and I
21 sentenced him to life imprisonment, then *Mills versus*
22 *Alabama* came down by the United States Supreme Court and I
23 had to resentence Robert James Jefferson. The court file
24 No. Is 97-CR-276-4. And you can read my order in that. So
25 that will give you some idea of the Court's analysis dealing

1 with youth. And if you are really dealing with these issues
2 with the youth, you better take a look at *Mills versus*
3 *Alabama* and the detail that the Supreme Court went into and
4 the amicus briefs that were filed in that Supreme Court
5 case.

6 Now, I want to -- I've got to keep everybody on
7 track here. The defendants have all pled guilty to a
8 2339B(a)(1) conspiracy count to provide material support,
9 and because it's a terrorism conviction, understand where
10 the Court has to start from. Terrorists, even those with no
11 prior criminal behavior, are unique among criminals in the
12 likelihood of recidivism, the difficulty of rehabilitation
13 and the need for incapacitation. That has -- that is the
14 circuit law. That is the statute and the Sentencing
15 Guidelines. And so this is not like a regular criminal case
16 where we can just talk about X, Y, and Z and then go from
17 there. Terrorism is a different animal, and I want to make
18 sure that everybody understands where the Court is coming
19 from. And so making arguments like it would be a standard
20 criminal case is not going to be helpful for the Court in
21 making its decision on sentencing.

22 The next matter is dealing with I believe there
23 were three programs that you reviewed. There were
24 submissions of, I haven't seen them yet, I haven't -- I
25 won't until the final position papers, but Heartland and

1 then there's a mitigation report, nine pages, so
2 let's -- you are and your expertise is in developing
3 programs. You've had a quick look at these programs. And
4 what I will want you to do is we'll get copies of those
5 proposals to you and then I would want you to critique them
6 and we'll file that. But from what you can remember and
7 what is in your notes, if you have any, let's talk about the
8 Heartland case, and that's Yusuf's, right?

9 THE WITNESS: From the top of my head, what I can
10 remember is that the proposal on the program that had been
11 started is so far the most advanced in terms of detail and
12 different levels and elements that were included. However,
13 I found that there were no elements or mechanism theory
14 connected to the radicalization process.

15 The most important element here is to connect
16 counseling tools to the things you bring in, the kinds of
17 mentors, what you suggest, for example, meeting with
18 psychologists, meeting with imams, doing social work, has to
19 be connected to individual driving factors of that person.
20 If that person was not at all driven towards ISIL, for
21 example, by theological/religious issues, it would not make
22 sense to bring that person necessarily in touch with a imam,
23 for example. So you have to address the individual driving
24 factors. So I did not see that in either of the three
25 reports.

1 I did not see in the Heartland democracy proposal
2 specifically trained experts that have been -- have been
3 helped develop a skill set of, for example, risk assessment,
4 psychology of radicalization, ISIL ideology, so these things
5 were not in there as well. This is what I can remember off
6 the top of my head before reviewing the report in detail.

7 The third proposal that I've seen, the mitigation
8 report, was very brief and did not at all touch upon the
9 radicalization process, as with the first proposal, so it
10 was, from my perspective, a more or less general collection
11 of standard things like working, doing social work in a
12 mosque, a community with an imam, without actually
13 addressing that to any potential driving factors or
14 motivational factors of the client.

15 And the third report that I received is part of
16 the -- the documents, I believe, talked about sending your
17 client to a Sufi mosque to receive religious counseling and
18 support, and I believe in that case the bullying of that
19 person in his teenage years because of the Sufi beliefs of
20 his father were one initial starting point that created or
21 let down later on the radicalization process, and understand
22 that for that person, the father was well connected in Sufi
23 community and obviously the connection to the mosque came
24 from the father, and I realized that, I took that into
25 account, but it would not be good advice to actually use

1 that as a counseling tool because it would enforce that
2 understanding for that person that I think the person still
3 has an understanding that Sufis are not necessarily true
4 Muslims, so I definitely would not advise that.

5 And so these are the things that I can remember
6 off the top of my head.

7 THE COURT: Now --

8 THE WITNESS: I have yet to write detailed --

9 THE COURT: I'm sorry. Go ahead.

10 THE WITNESS: I have yet to write detailed
11 assessments.

12 THE COURT: Yes, please write a
13 detailed assessment.

14 THE WITNESS: Okay.

15 THE COURT: Let's do this as quick as possible so
16 we can get it to counsel so they can make their adjustments
17 if they can make adjustments.

18 I want to make it clear to everyone, and you know
19 I've made it clear to you, that I don't have to read
20 anything that you've said.

21 THE WITNESS: That is correct.

22 THE COURT: I've told you that from the start.

23 THE WITNESS: That is correct.

24 THE COURT: And in dealing with, I think it was
25 touched upon by the last counsel, we're finding our way

1 dealing with these types of issues. Would that be correct?

2 THE WITNESS: That is correct.

3 THE COURT: And even the outside counseling that
4 you do, not connected to any court system, it would be
5 accurate, the fail rate is great?

6 THE WITNESS: That is correct.

7 THE COURT: The training that you've been giving
8 the United States District Court Probation and Pre-trial
9 Services Office is educational and also gives them tools to
10 better supervise individuals that are on supervised release,
11 that usually means that they're coming from prison.

12 THE WITNESS: That is correct, and to coordinate a
13 plan, design, intervention programs to assess their impact.

14 THE COURT: And that helps the probation office in
15 their mission in making sure that, one, community is safe.

16 THE WITNESS: I hope so. That is the main goal.

17 THE COURT: And, two, to make sure that the person
18 coming out of prison can stay out of trouble and not -- and
19 have a crime-free existence?

20 THE WITNESS: That is correct.

21 THE COURT: Now, dealing with our training with
22 our Probation and Pre-trial Services Office and dealing with
23 the court system, does Germany or the other European nations
24 have that type of program going on or is this even a new
25 thing?

1 THE WITNESS: This is, from my perspective, a
2 completely new model, what is being done here.

3 THE COURT: All right. And that's what we sat
4 down and talked about?

5 THE WITNESS: That is correct.

6 THE COURT: We talked about what we had to do to
7 keep the community safe?

8 THE WITNESS: That is correct.

9 THE COURT: Okay. Thank you.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: One final thing, counsel. Again,
12 reread my last order. There are many factors under 3553(a)
13 that you can possibly apply in your individual defendant's
14 case. Make sure it's detailed.

15 Understand that you are the ones that have
16 received all of the discovery in this case. With these six
17 defendants, other than the plea of guilty and other than
18 those who testified at trial, there -- I may know very
19 little about your defendants, and so don't assume that I
20 know a lot about them. I don't. I don't know what is in
21 the discovery because it is never turned over to me unless
22 it's part of the trial or part of the plea negotiation.

23 And please do not spend a lot of time trying to
24 discredit this portion of the hearing. This is just a small
25 portion of how I'm going to -- the factors I'm going to be

1 using for sentencing, and for you to focus in on and try and
2 write a 20- or 30- or 40-page brief discrediting Mr. Koehler
3 is not going to help your defendant. This is not that large
4 of a factor, if it is a factor at all, in my sentencing. I
5 need you to advocate and give me the tools based on the
6 cases that we're seeing around the country and prior
7 material support cases that I've handled. So that's what I
8 need.

9 And then the government, you have the discovery,
10 and you have to make sure the Court has a full picture of
11 each defendant.

12 Those that are receiving the 5K1.1 motions by the
13 government, both sides, make sure that those are full and
14 complete so I know exactly what the substantial assistance
15 to the government is. So your position papers are going to
16 be quite important.

17 And, again, to give you an idea of how the Court
18 will be handling the sentencings, please look at the Amina
19 Ali sentencing because we had a two- or three-hour
20 sentencing where I asked quite a few questions, and, of
21 course, check the Eighth Circuit opinion affirming my -- the
22 trial and then also my sentencings on those two women, so
23 you have an idea of what sort of thing you'll be coming into
24 dealing with the sentencing hearing, because questions will
25 be asked, and that will help me make my final decision. And

1 I think most of you know that I don't make my final decision
2 until I have heard from the defendant and from counsel, both
3 the government and defense.

4 Well, thank you. One just one final comment, I'll
5 say it again and then we'll adjourn, dealing with the 5K's,
6 they can supersede quite a bit of, if it's really
7 substantial assistance, if it's nothing, but reciting extra
8 stuff that the government already knew and it's not helpful
9 to the government, it's not going to be that helpful. But
10 if -- if you testified and other information, at least you
11 can check out my previous sentencings, that's very
12 important, to have a significant report from the government
13 and from the defense. And if there's items that have to be
14 off the record, we can meet in chambers and discuss those.

15 All right? Anything further for the government?

16 MR. WINTER: No, Your Honor. Thank you.

17 THE COURT: For the defense? Thank you.

18 (Proceedings concluded at 10:56 a.m.)

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C E R T I F I C A T E

I, Staci A. Heichert, certify that the foregoing is
a correct transcript from the record of proceedings in the
above-entitled matter.

Certified by: s/ Staci A. Heichert

Staci A. Heichert,
RDR, CRR, CRC

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