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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	No. 18 CR 696
vs.	)	
ASHRAF AL SAFOO, also known as Abu	)	
Al-Abbas Al-Iraqi, also known as	)	
Abu Shanab, also known as Abbasi,	)	Chicago, Illinois
Defendant.	)	October 25, 2018
	)	1:36 p.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HON. M. DAVID WEISMAN, MAGISTRATE JUDGE

APPEARANCES:

For the Government: MR. VIKAS K. DIDWANIA  
MS. MELODY WELLS  
MR. PETER S. SALIB  
United States Attorney's Office,  
219 South Dearborn Street, Room 500,  
Chicago, Illinois 60604

For the Defendant: MR. GEOFFREY M. MEYER  
MR. DANIEL P. McLAUGHLIN  
Federal Defender Program,  
55 East Monroe Street, Suite 2800,  
Chicago Illinois 60603

PATRICK J. MULLEN  
Official Court Reporter  
United States District Court  
219 South Dearborn Street, Room 1412  
Chicago, Illinois 60604  
(312) 435-5565

1 THE CLERK: 18 CR 696-1, U.S.A. versus Ashraf Al  
2 Safoo.

3 MR. DIDWANIA: Good afternoon, Your Honor. Vikas  
4 Didwania, Melody Wells, and Pete Salib on behalf of the United  
5 States.

6 THE COURT: Good afternoon.

7 MR. MEYER: Good afternoon, Judge. Geoffrey Meyer and  
8 Dan McLaughlin from the Federal Defender Program on behalf of  
9 Mr. Al Safoo.

10 THE COURT: Good afternoon. I'm told that the defense  
11 is seeking a continuance.

12 MR. MEYER: We are, Judge. I know the Court received  
13 a copy of the pretrial services report earlier, as did we.  
14 There was some confusion about getting Mr. Al Safoo's family in  
15 touch with pretrial. We've resolved that now, but we expect  
16 that there will be a supplemental report.

17 THE COURT: Okay.

18 MR. MEYER: We've spoken to the Government and your  
19 courtroom deputy, and we're preliminary suggesting --  
20 preliminarily suggesting Wednesday at 1:30 for the continued  
21 detention hearing.

22 THE COURT: All right. Then that's good with us,  
23 Ms. Owens?

24 THE CLERK: Yes.

25 THE COURT: And that works for the Government?

1 MR. DIDWANIA: Yes, that's fine, Judge.

2 THE COURT: While you're here, I want to raise another  
3 issue, and this has come up in other cases. The Government  
4 initially moved for detention based on risk of flight and  
5 danger to the community. I'm going to give a couple citations  
6 for both sides to look at.

7 Under 3142, there's only certain offenses that can  
8 constitute danger to the community. I think the practice of  
9 the U.S. Attorney's office is just to throw that out there, but  
10 as I read the statute, and more importantly as courts of  
11 appeals, not the Seventh Circuit but other circuits have looked  
12 at it, there's only certain types of offenses that you can use  
13 danger to the community as a basis for detention. I'm  
14 interested in hearing from both sides whether they believe this  
15 offense constitutes one of the prerequisite or requisite  
16 offenses, and from the Government in particular, if you do,  
17 under what theory.

18 United States versus Byrd, B-y-r-d, 969 F. 2d 106,  
19 that's a Fifth Circuit case. United States versus Ploof,  
20 P-l-o-o-f, 851 F. 2d 7, that's a First Circuit case. United  
21 States versus Himler, H-i-m-l-e-r, 797 F. 2d 156, that's a  
22 Third Circuit case. I'll give you a Westlaw cite for a Central  
23 District district court case. I actually did this research  
24 myself. I think this case collects all the cases I just gave  
25 you, but just to be sure, 2014 WL 3375028, and that's United

1 States versus Morgan.

2 So you can argue it on the 31st. If you want to file  
3 something, you can. As I said, I did this research myself. I  
4 think it's pretty straightforward. I'm interested as to the  
5 theory of the statutory basis for danger to the community.  
6 Risk of flight is obviously a whole separate issue and is  
7 always applicable.

8 All right. We'll see you on the 31st.

9 MR. DIDWANIA: Judge, one other matter. As we  
10 indicated in the record last week, we're in the process of  
11 producing early discovery to the defense. We've spoken with  
12 the defense, and we've come up with an agreed proposed  
13 protective order. So if I can just make an oral motion for  
14 entry of the protective order, I have copies of the proposed  
15 order if I can hand them up, Judge.

16 THE COURT: Sure. And it is agreed --

17 MR. McLAUGHLIN: Yes, Your Honor.

18 THE COURT: -- by defense counsel?

19 MR. MEYER: It is, Judge.

20 THE COURT: Is this the U.S. Attorney's standard  
21 protective order?

22 MR. DIDWANIA: It's mostly standard, Judge, but we --

23 THE COURT: Are there some FISA issues in here?

24 MR. DIDWANIA: There are not, but we've made it more  
25 restrictive in the sense that distribution is limited to only

1 the attorneys of record.

2 THE COURT: All right. And you're amenable to that?

3 MR. MEYER: We are, Judge. There's a provision in  
4 there as well that says that this will only go through the  
5 indictment and we will renegotiate the protective order at that  
6 time.

7 THE COURT: As I understand it, paragraph 4 allows the  
8 defendant to see the materials but he cannot keep them, is that  
9 correct?

10 MR. DIDWANIA: That's exactly right, Your Honor.

11 THE COURT: All right. I can enter it. Do you want  
12 to send an electronic one, or do you want me to just sign this  
13 and enter it that way?

14 MR. DIDWANIA: I can email an electronic version.

15 THE COURT: Okay. Thank you. Anything further from  
16 the Government?

17 MR. DIDWANIA: Nothing from the Government.

18 MR. MEYER: Judge, we would ask the Court to grant us  
19 leave to file subpoenas and have them returned early at this  
20 point in forma pauperis.

21 THE COURT: For purposes of the detention hearing?

22 MR. MEYER: Going forward in the case.

23 THE COURT: And what's the Government's view on that?

24 MR. DIDWANIA: We have no objection, Judge.

25 THE COURT: I don't know if I have the authority to do

1 that, to be candid, since it's not an indicted case.

2 MR. DIDWANIA: I've never dealt with the issue either.

3 MR. McLAUGHLIN: I guess what we could do, Your Honor,  
4 why don't we take another look at it. Then when we're back on  
5 Wednesday, we can let Your Honor know what our position is.

6 THE COURT: Yes, I'd be open to it if there's  
7 authority for it. I'm not aware of any. I'm not aware of any  
8 contrary, but if you want that relief you'll just need to show  
9 me I can do it.

10 MR. McLAUGHLIN: Understood.

11 THE COURT: All right. Anything further from the  
12 defendant?

13 MR. MEYER: No, Judge.

14 MR. McLAUGHLIN: No, Your Honor.

15 THE COURT: All right. We'll see you next week.  
16 Thank you very much.

17 MR. DIDWANIA: Thank you very much.

18 MR. MEYER: Thank you, Judge.

19 (Proceedings concluded.)

20 C E R T I F I C A T E

21 I, Patrick J. Mullen, do hereby certify the foregoing  
22 is an accurate transcript prepared from an audio recording of  
23 the proceedings had in the above-entitled case before the  
Honorable M. DAVID WEISMAN, one of the magistrate judges of  
said court, at Chicago, Illinois, on October 25, 2018.

24 /s/ Patrick J. Mullen  
25 Official Court Reporter  
United States District Court  
Northern District of Illinois