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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
HONORABLE DAVID O. CARTER, JUDGE PRESIDING

- - - - -

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
1) NADER SALEM ELHUZAYEL; )  
2) MUHANAD ELFATIH M.A. BADAWI, )  
 )  
Defendants. )  
\_\_\_\_\_ )

**CERTIFIED**

No. 8:15-CR-0060-DOC  
Day 7, Volume I

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Jury Trial

Santa Ana, California

Wednesday, June 15, 2016

Debbie Gale, CSR 9472, RPR, CCRR  
Federal Official Court Reporter  
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1           **SANTA ANA, CALIFORNIA, WEDNESDAY, JUNE 15, 2016**

2                           **Day 7, Volume I**

3   (8:02 a.m.)

07:57 4           *(Outside the presence of the jury.)*

08:02 5                       THE COURT: All right. Then we're on the record  
6 in the matter of Mr. Elhuzayel and Mr. Badawi.

08:02 7                       Let the record reflect all counsel are present, all  
8 parties are present, both defendants are present.

08:02 9                       We received a call this morning about 7:15 a.m.  
10 from Juror No. 3, Jesus Ambriz, who has two flat tires and  
11 is on the freeway waiting a response. He's not here yet,  
12 and we haven't gotten a call back.

08:03 13                      So Deb is going to inform the jury of that in just  
14 a moment, while we take another matter, which is the juror  
15 that we spoke about, who's the alternate, Scott Kirby.

08:03 16                      Would this be the appropriate time to ask Mr. Kirby  
17 to join us?

08:03 18                      MS. CORRIGAN: Yes, Your Honor.

08:03 19                      THE COURT: I would suggest that we have Mr. Kirby  
20 describe what occurred in his own words. I don't want to  
21 put that juror on the spot, as if they've done something  
22 inappropriate, if they're responding or innocently saying  
23 something to opposing counsel.

08:03 24                      So why don't we -- because, then, if there is an  
25 issue for cause, we'll excuse him. If there's not, I just

**DEBBIE GALE, U.S. COURT REPORTER**

1 don't want that juror then in what I call the "poisoned  
2 well" thinking badly of either counsel.

08:03 3 So if you'd ask Mr. Scott Kirby to join us for just  
4 a moment.

08:04 5 *(Alternate juror escorted into the courtroom.)*

08:04 6 **DISCUSSION WITH ALTERNATE JUROR**

08:05 7 THE COURT: Mr. Kirby, if you would have a seat  
8 for just a moment. Any location's fine, sir.

08:05 9 Yesterday, it came to our attention that there  
10 might have been a conversation or a brief conversation with  
11 one of the counsel. And we just wanted to see what  
12 occurred, if anything, during that conversation.

08:05 13 Did you have a brief conversation with either  
14 counsel for the government or counsel for the defense?

08:06 15 ALTERNATE JUROR KIRBY: I believe I asked the  
16 origin of Mr. Lengyel-Leahu. I think I asked him where his  
17 name originated from.

08:06 18 THE COURT: And what was the response?

08:06 19 ALTERNATE JUROR KIRBY: Transylvania.

08:06 20 THE COURT: Did you then say anything in return?

08:06 21 ALTERNATE JUROR KIRBY: No.

08:06 22 THE COURT: Did he say anything further to you?

08:06 23 ALTERNATE JUROR KIRBY: I don't believe so. No.

08:06 24 THE COURT: Okay. The reason I'm asking is I  
25 don't want there to be any conversation. They're invisible



1 to people and, as such -- if you had a chance to discuss  
2 anything with the government counsel or either defense  
3 counsel, I think you'd like these people immensely. They're  
4 very nice people. But it gives the impression to the other  
5 side who's not present or to Court -- we don't know what's  
6 being said. And I have to create a record of that, which is  
7 why you're here.

08:06 8 ALTERNATE JUROR KIRBY: Gotcha.

08:06 9 THE COURT: Do you feel that this would cause any  
10 bias or prejudice, sympathy or favoritism towards or against  
11 any of the -- or biases against either of the parties?

08:07 12 ALTERNATE JUROR KIRBY: No.

08:07 13 THE COURT: Would you remain fair, then?

08:07 14 ALTERNATE JUROR KIRBY: Yes.

08:07 15 THE COURT: Okay.

08:07 16 Now, Counsel, do you have any questions on behalf  
17 of any counsel?

08:07 18 MS. HEINZ: No, Your Honor.

08:07 19 MS. CORRIGAN: No, Your Honor.

08:07 20 MR. LENGYEL-LEAHU: No. Thank you, Your Honor.

08:07 21 THE COURT: All right.

08:07 22 Sir, if you'd return to the jury room. Please  
23 don't discuss with any of the jurors what we've asked you.  
24 We appreciate your answers. Thank you, sir.

08:07 25 ALTERNATE JUROR KIRBY: Not a problem.

08:07 1 THE COURT: Now, Counsel, is there a motion for  
2 cause?

08:07 3 MS. HEINZ: Not from the government.

08:07 4 MS. CORRIGAN: No, Your Honor.

08:07 5 MR. LENGYEL-LEAHU: No, Your Honor.

08:07 6 THE COURT: Well, then he'll remain.

08:07 7 We're simply now waiting for that one juror with  
8 the two flat tires. And I don't know who's responding, if  
9 it's a family member, Triple A. We didn't get notice of  
10 where he was.

08:07 11 THE CLERK: Triple A.

08:07 12 THE COURT: Triple A?

08:07 13 THE CLERK: Yeah.

08:07 14 THE COURT: They're pretty quick.

08:07 15 **DISCUSSION RE EXHIBITS**

08:07 16 MS. CORRIGAN: Your Honor, there's -- couple  
17 other -- two little matters that I think can be handled.

08:07 18 THE COURT: Okay.

08:07 19 MS. CORRIGAN: And they're -- one of 'em is, um,  
20 yesterday, on one of the calls that was played, I just wanna  
21 alert the Court that as to 803.2A the government is just  
22 gonna make a minor revision to it to indicate that my  
23 client's not one of the participants. So there will be a  
24 clean Exhibit 803.2A put into the record.

08:08 25 THE COURT: Oh, I thought you were referring to

1 the Evidence Code section for a moment, Counsel.

08:08 2 MS. CORRIGAN: No.

08:08 3 THE COURT: I'm just joking with you.

08:08 4 MS. CORRIGAN: That's just -- more just  
5 housekeeping than anything.

08:08 6 THE COURT: Okay.

08:08 7 MS. CORRIGAN: And that was one'a the calls that  
8 was played.

08:08 9 **DISCUSSION RE DEFENDANT BADAWI'S HEALTH**

08:08 10 MS. CORRIGAN: The other issue's, uh, I have  
11 spoken briefly to my client and this, uh -- this can be in  
12 front of everybody and -- about the taking of his vitals  
13 twice a day. I'd also spoke with Marcelino Hazelwood, who's  
14 in the courtroom. He would -- he's with the Marshals  
15 Office, and he's conferred with Santa Ana Jail.

08:08 16 As the Court can probably -- has probably observed,  
17 my client appears to be in good shape. He's been talking  
18 with me during the court proceedings. He's been, you know,  
19 alert, and he seems to be maintaining his weight.

08:09 20 The other thing is, is based on his mother's  
21 request he had -- and, uh, Mr. Hazelwood did confirm for  
22 me -- that he has been eating throughout the day and, uh,  
23 passed on fasting due to, obviously, him needing to maintain  
24 his energy. So I just wanted to let the Court know that he  
25 is -- I am informed that he is eating through the day, and

1 that there haven't been any issues on that. And I've  
2 noticed that there've been Boosts.

08:09 3 So what I'm gonna ask, if the Court would permit a  
4 modification to perhaps ratcheting down the daily vitals to  
5 taking the vitals once a day. They prick his finger every  
6 day for the sugars. And, um, so to -- my understanding is  
7 there isn't any problem in Santa Ana Jail, uh, my  
8 understanding is -- would not -- would not have any issue  
9 with the Court modifying that, or just going on to regular  
10 schedules of whatever they would normally do for taking  
11 vitals. I think that -- or, I think --

08:10 12 THE COURT: If he's eating and maintains his  
13 strength, then -- and I'll make the record that he does  
14 appear in very good health conditions (*verbatim*) at the  
15 present time. It's also been relayed to me that he  
16 fluctuates between 130 and 132 pounds. I have no desire to  
17 have an excessive amount of vitals taken. It was only  
18 necessary if he was he dissipating in strength and health.

08:10 19 I'm going to order that that be reduced to once a  
20 day.

08:10 21 (*To U.S. Marshal:*) And can that be handled  
22 informally, Marcelino, with a call over? Or do you need an  
23 order?

08:10 24 U.S. MARSHAL: No, Your Honor. This will suffice  
25 I'll just call over.

08:10 1 THE COURT: All right.

08:10 2 Then, Ms. Corrigan, once a day.

08:10 3 MS. CORRIGAN: Great. Thank you.

08:10 4 THE COURT: Now, is there anything further that  
5 you'd like to raise at this time?

08:10 6 MS. CORRIGAN: No, Your Honor.

08:10 7 THE COURT: Mr. Lengyel-Leahu, anything further?

08:10 8 MR. LENGYEL-LEAHU: No. Thank you, Your Honor.

08:10 9 THE COURT: Counsel for the government?

08:11 10 MS. HEINZ: No, Your Honor.

08:11 11 THE COURT: We have information about the missing  
12 juror?

08:11 13 THE CLERK: He is currently with Triple A and  
14 being moved off the highway. He's going to try and Uber it  
15 here and hopefully will be here within half an hour.

08:11 16 MS. CORRIGAN: That's easy.

08:11 17 THE COURT: Counsel, would you like me to send the  
18 Marshal to get him?

08:11 19 MS. HEINZ: No, Your Honor.

08:11 20 THE COURT: You think I'm joking. I'm not joking.

08:11 21 MS. HEINZ: No, I'm not. Although he might  
22 appreciate it, but --

08:11 23 THE COURT: I'm just wondering if we couldn't get  
24 him through traffic. And Marcelino would be happy to go get  
25 him.

08:11 1 (To U.S. Marshal:) He's over on the 57 Freeway in  
2 traffic, Marcelino. I'm just joking. You're not going out  
3 there. But, uh, we could. And we could get him here very  
4 quickly, if you'd like. It's just a lotta drama doing that,  
5 frankly. But he would make it through traffic.

08:11 6 MS. CORRIGAN: I think that -- that, uh, he'll  
7 probably make it quicker, rather than them going all the way  
8 to get 'em.

08:11 9 Plus, also, we have potential communication, then,  
10 with a government agent.

08:11 11 THE COURT: I -- I'm just joking with all of you.  
12 We're not gonna get him with the Marshal car. But I do want  
13 the Court, Deb, to get that receipt from Uber, and I want  
14 that paid for by the court.

08:12 15 THE CLERK: Okay.

08:12 16 THE COURT: Okay? All right.

08:12 17 Well, Counsel, why don't you just visit with each  
18 other, and we'll be back as soon as the marshal -- or as  
19 soon as the gentleman gets here.

08:12 20 But how long ago did you get the information that  
21 he --

08:12 22 THE CLERK: I just talked to him.

08:12 23 THE COURT: Just talked to him.

08:12 24 THE CLERK: Just talked to him.

08:12 25 THE COURT: You know, my guess is by the time Uber

1 responds and gets him to court --

08:12 2 From what location?

08:12 3 THE CLERK: He said he's close by. 15 minutes.

08:12 4 THE COURT: Oh, close by.

08:12 5 You probably have at least 15 minutes, so if you  
6 want to get coffee or just relax.

08:12 7 Do you want to take the gentlemen back then, or do  
8 you wanna have -- visit with your clients, Counsel?

08:12 9 MR. LENGYEL-LEAHU: They can go back.

08:12 10 THE COURT: Go back? Counsel?

08:12 11 MS. CORRIGAN: I think my client's looking to have  
12 a little bit of a break.

08:12 13 THE COURT: Okay.

08:12 14 *(To U.S. Marshal:)* Well, Marcelino, if you'd be so  
15 kind, why don't the marshals take the gentlemen back so they  
16 can relax.

08:12 17 Counsel, we'll see you in about 15 minutes. Okay?

08:12 18 *(Recess held at 8:12 a.m. )*

08:51 19 *(Proceedings resumed at 8:52 a.m.)*

08:51 20 *(Outside the presence of the jury.)*

08:52 21 THE COURT: All right. Then we're on the record.  
22 The defendants are once again present. Counsel and the  
23 parties are present.

08:52 24 Mr. Jesus Ambriz has just arrived. He's the  
25 gentleman who has the flat tire.

08:52 1 But we are missing the alternate juror Dillon  
2 Cassell, who never checked in this morning. He's the young  
3 man in the front row, who we found it necessary to stand  
4 up -- on at least one or two occasions -- for.

08:52 5 Debbie's been calling him, but we've received no  
6 response. So it appears that we're continuing to wait.

08:52 7 *(To the clerk:)* And was that a cell phone you had,  
8 Debbie?

08:52 9 THE CLERK: Yes. I called and left a message.  
10 I'll try again.

08:53 11 THE COURT: Okay.

08:54 12 *(Clerk and court confer )*

08:54 13 THE COURT: Just a moment.

08:54 14 Debbie, why don't you just tell Counsel what I'm  
15 about to hear. That'll save it being transmitted from me.

08:54 16 THE CLERK: Mr. Cassell overslept. And he said he  
17 was going to call in to speak to the Court. He doesn't feel  
18 well and he did not know how that worked.

08:54 19 MR. LENGYEL-LEAHU: There's no indication of, if  
20 he left now, when he would get here?

08:54 21 THE CLERK: He's still at home.

08:54 22 MR. LENGYEL-LEAHU: Stip.

08:54 23 MS. CORRIGAN: Judy, you wanna stip?

08:54 24 THE COURT: As counsel meet and confer with each  
25 other.



08:54 1 MS. CORRIGAN: I think we have, Your Honor, a  
2 stip.

08:54 3 MS. HEINZ: The government would stip.

08:55 4 MR. LENGYEL-LEAHU: We'd stip, Your Honor.

08:55 5 THE COURT: All right.

08:55 6 Then, with that stipulation, we're going to thank  
7 and excuse the alternate who is Mr. Dillon Cassell; is that  
8 correct?

08:55 9 MS. CORRIGAN: Yes.

08:55 10 THE COURT: Deb, would you tell the juror, "thank  
11 you" for his service. He's excused.

08:55 12 THE CLERK: Yes.

08:55 13 THE COURT: Okay.

08:55 14 I think that that also may resolve another issue;  
15 and that is, Ms. Corrigan you called my attention to him on  
16 one occasion. I saw him on another occasion and had  
17 everyone stand. And yesterday I saw him drowsy-ing off.  
18 He's the only juror who I've seen do that.

08:55 19 And, therefore, if he was called as the alternate,  
20 I was going to raise with each of you *sua sponte* and just  
21 check and see if you really wanted that juror to serve.  
22 He's been unintentionally napping.

08:56 23 So, with that excuse, I think -- or consent by all  
24 of you and stipulation, I think that resolves a problem.

08:56 25 *(To the clerk:)* Deb, would you be kind enough to

1 get the jurors.

08:56 2 THE CLERK: Sure.

08:57 3 *(In the presence of the jury.)*

08:58 4 THE COURT: All right. The jury's present. The  
5 alternates are present.

08:58 6 *(To the jury:)* Out of your presence, the Alternate  
7 Dillon Cassell has been excused.

08:58 8 So the record should reflect, then, there are four  
9 alternates left, and twelve sitting jurors.

08:58 10 Counsel, if you would like to continue with the  
11 witness, please.

08:58 12 MS. HEINZ: Thank you, Your Honor.

13 **THUAN NGO, CALLED BY THE GOVERNMENT, PREVIOUSLY SWORN**

14 **RESUMED THE STAND**

08:58 15 **DIRECT EXAMINATION (Resumed)**

08:58 16 MS. HEINZ: Could we please show Exhibit 842.

08:59 17 *(Exhibit displayed.)*

08:59 18 BY MS. HEINZ:

08:59 19 Q. And, Special Agent Ngo, I'd like you to look at  
20 Government's Exhibit 842, please. Okay?

08:59 21 The next call -- I'm sorry -- the next recording that  
22 we're going to play is Exhibit 803.3.

08:59 23 Could you please let us know what the date and the time  
24 of that recording is?

08:59 25 A. Yes. It's 5/15/2015.

08:59 1 MS. HEINZ: And please play Government's Exhibit  
2 803.3.  
08:59 3 *(Audio recording played.)*  
08:59 4 *(Transcript displayed.)*  
09:01 5 BY MS. HEINZ:  
09:01 6 Q. Special Agent Ngo, to be, um -- we've been listening to  
7 a series of recordings yesterday and then again today.  
09:02 8 Are -- these recordings that are in the series of the  
9 Government's Exhibit 802 and 803, are these sequential  
10 conversations?  
09:02 11 A. Yes.  
09:02 12 Q. Okay. The next recording we're going to play is  
13 Government's Exhibit 804.  
09:02 14 Could you tell us the date of Government's Exhibit 804?  
09:02 15 A. Same date, 5/15/2015.  
09:02 16 *(Audio recording played.)*  
09:02 17 *(Transcript displayed.)*  
09:08 18 BY MS. HEINZ:  
09:08 19 Q. Special Agent Ngo, the next recording we're going to  
20 play is Government's Exhibit 828.1. Would you tell us the  
21 date of this recording?  
09:08 22 A. Yes. It's 5/16/2015.  
09:08 23 Q. So this is the following day; is that correct?  
09:08 24 A. Yes, ma'am.  
09:08 25 MS. HEINZ: Please play Exhibit 828.1.

09:08 1 (Audio recording played.)

09:08 2 (Transcript displayed.)

09:10 3 BY MS. HEINZ:

09:10 4 Q. Special Agent Ngo, one of the speakers in that

09:10 5 recording is identified by the initials "KB."

09:10 6 Would you please tell us who that is.

09:10 7 A. Yes.

09:10 8 MR. LENGYEL-LEAHU: Objection, Your Honor.

09:10 9 Foundation.

09:10 10 THE COURT: Overruled.

09:10 11 THE WITNESS: Yes, ma'am. It's Khalid Bahta.

09:10 12 BY MS. HEINZ:

09:10 13 Q. The next recording we're going to play is 828.2.

09:10 14 And Special Agent Ngo, is this a recording continuing in

09:10 15 the same conversations?

09:10 16 A. Yes.

09:15 17 Q. Special Agent Ngo, in that recording there is a

09:15 18 reference to Omar al-Farouk.

09:15 19 Do you know what that reference is?

09:15 20 A. Yes, ma'am.

09:15 21 Q. What is it?

09:15 22 A. It's a *masjid* in --

09:15 23 (Court reporter requests clarification for the

09:15 24 record.)

09:15 25 THE WITNESS: I'm sorry. A *masjid*, or mosque, in

1 Anaheim.

09:15 2 BY MS. HEINZ:

09:15 3 Q. The next conversation, uh -- the next recording we're  
4 going to play is Government's Exhibit 829.1.

09:15 5 Could you tell us the date of that?

09:15 6 A. Yes. Same date, 5/16/2015.

09:15 7 THE COURT: 5/16? I couldn't hear you.

09:15 8 THE WITNESS: Yes, sir.

09:15 9 THE COURT: 5/16? All right. Thank you.

09:15 10 *(Audio recording played.)*

09:15 11 *(Transcript displayed.)*

09:18 12 BY MS. HEINZ:

09:18 13 Q. The next recording is Government's Exhibit 829.2.

09:19 14 Special Agent Ngo, is this also part of that same  
15 conversation?

09:19 16 A. Yes, ma'am.

09:19 17 Q. Okay.

09:19 18 *(Audio recording played.)*

09:19 19 *(Transcript displayed.)*

09:22 20 BY MS. HEINZ:

09:22 21 Q. Special Agent Ngo, as part of that recording there is  
22 something marked "cell phone."

09:23 23 Do you recognize that part of the recording -- recognize  
24 what it is?

09:23 25 A. Yes.

09:23 1 Q. What is it?

09:23 2 MR. LENGYEL-LEAHU: Objection, Your Honor. Lack  
3 of foundation.

09:23 4 THE COURT: Overruled.

09:23 5 *(To the witness:)* You can answer the question.

09:23 6 THE WITNESS: It's a speech by Anwar Awlaki. And  
7 it sounds like they're watching the video of the speech.

09:23 8 BY MS. HEINZ:

09:23 9 Q. Okay. The next recording we're going to play is 829.2.

09:23 10 THE COURT: I think, you just played 829.2.

09:23 11 MS. HEINZ: I'm sorry. 830.1.

09:23 12 THE COURT: 830.1. Thank you.

09:23 13 *(Audio recording played.)*

09:23 14 *(Transcript displayed.)*

09:24 15 BY MS. HEINZ:

09:24 16 Q. And the next recording we're going to play is  
17 Government's Exhibit 840.

09:24 18 And if you could tell us -- Special Agent Ngo, if you  
19 could look at what's been marked as Government's  
20 Exhibit 844.

09:24 21 MS. HEINZ: I believe this is already in evidence,  
22 so if we could show it?

09:24 23 BY MS. HEINZ:

09:24 24 Q. Could you let us know what the date and the time is of  
25 the recording that we're going to hear, which is

1 Government's Exhibit 840?

09:25 2 A. Yes. The date is 5/20/2015, and the time is 7:58,  
3 Pacific Standard Time, p.m.

09:25 4 *(Government counsel and technician confer.)*

09:25 5 MS. HEINZ: We will not be playing Government's  
6 Exhibit 840 at this time because we're having a technical  
7 issue.

09:25 8 THE COURT: Well, if you want, just take your time  
9 with it. It's the last exhibit you wanted to play.

09:25 10 MS. HEINZ: I think we're going to need a break to  
11 correct the issue.

09:25 12 THE COURT: *(To the jury:)* Why don't we take a  
13 break so Counsel can play the last exhibit. We'll come back  
14 and get you in 15 minutes or so. Just stretch for a moment,  
15 and we'll come right back. Let's see if we can get the  
16 technical glitch resolved.

09:26 17 Please don't discuss this matter amongst yourselves  
18 nor form or express any opinion concerning the case.

09:26 19 *(Recess held at 9:26 a.m.)*

09:41 20 *(Proceedings resumed at 9:41 a.m.)*

09:41 21 *(Outside the presence of the jury.)*

09:41 22 THE COURT: All right. We're back in session.

09:41 23 The jury's not present. All counsel are present.  
24 The parties are present.

09:41 25 And, Deb, would you be kind enough to get the jury.

09:41 1 THE CLERK: Sure.

09:42 2 *(In the presence of the jury.)*

09:43 3 THE COURT: All right. The jury's present. The  
4 alternates are present. All counsel are present. The  
5 witness is present.

09:43 6 And, Counsel, if you would like to continue with  
7 840.

09:43 8 MS. HEINZ: Thank you, Your Honor.

09:43 9 So at this time we will play 840 and we're also  
10 going to put the translation up on the ELMO.

09:43 11 *(Audio recording played.)*

09:43 12 *(Transcript displayed.)*

09:45 13 BY MS. HEINZ:

09:45 14 Q. Finally, Special Agent Ngo, did you want to correct  
15 something that you said yesterday?

09:45 16 A. Yes. Yesterday defense counsel asked me, I believe --  
17 and I'm not sure of the exact question, but if I had talked  
18 to -- or listened to a recording of one of Mr. Elhuzayel's  
19 or Mr. Badawi's brothers. And I had forgotten and I said  
20 no, that I had not talked to them.

09:45 21 But Special Agent Nick Vicencia and I actually  
22 interviewed Mr. Elhuzayel's brother, Husam. And that was  
23 recorded, and I did listen to that recording. And that was  
24 the day of the arrest, so that was a little over a year ago.  
25 And I'm sorry. I'm -- deeply apologize. I forgot about



1 that.

09:46 2 MS. HEINZ: Thank you.

09:46 3 No further questions.

09:46 4 THE COURT: Cross-examination, Mr. Lengyel-Leahu.

09:46 5 MR. LENGYEL-LEAHU: Thank you, Your Honor.

09:46 6 **CROSS-EXAMINATION**

09:46 7 BY MR. LENGYEL-LEAHU:

09:46 8 Q. Good morning, agent.

09:46 9 A. Good morning, sir.

09:46 10 Q. My client has three brothers; is that correct?

09:46 11 A. That's my understanding; yes, sir.

09:46 12 Q. Three that you know about.

09:46 13 A. Three that I know about, yes.

09:46 14 Q. And you spoke to one of the brothers in person.

09:46 15 A. I did.

09:46 16 Q. What about the other brother?

09:46 17 A. I have not spoken to the other two brothers, no.

09:46 18 Q. Okay. And you know the one brother, he's autistic?

09:47 19 A. I am aware of that; yes, sir.

09:47 20 Q. He's been in court several times?

09:47 21 A. Yes, sir. I've observed him in court.

09:47 22 Q. Okay. And that causes certain speech disabilities with  
23 him; is that right?

09:47 24 MS. HEINZ: Objection, Your Honor. Beyond the  
25 scope, and relevance.

09:47 1 THE COURT: Sustained.

09:47 2 MR. LENGYEL-LEAHU: Thank you, Your Honor.

09:47 3 BY MR. LENGYEL-LEAHU:

09:47 4 Q. Do you know when the eavesdropping devices were placed  
5 in the vehicles?

09:47 6 MS. HEINZ: Objection. Law enforcement privilege.

09:47 7 THE COURT: "When" is different than the process  
8 or procedure, Counsel.

09:47 9 Are you still objecting as to the date?

09:47 10 MS. HEINZ: Um.

09:47 11 THE COURT: I'll overrule that objection.

09:47 12 *(To the witness:)* You can answer when.

09:47 13 THE WITNESS: I don't know specifically, sir, no.

09:47 14 BY MR. LENGYEL-LEAHU:

09:47 15 Q. You were part of the team that removed them?

09:47 16 A. No, sir. I wasn't part of the team that removed them.  
17 I just received the devices.

09:48 18 Q. Okay. So they were brought to you?

09:48 19 A. Yes, sir.

09:48 20 Q. What is your understanding as to when they were  
21 removed?

09:48 22 A. They were removed the day that -- that the arrest  
23 occurred.

09:48 24 Q. Okay.

09:48 25 A. I think it went into the night, so you could consider

1 it the next day.

09:48 2 Q. Okay. And the devices themselves capture the  
3 conversation; is that right?

09:48 4 MS. HEINZ: Objection. Law enforcement privilege.

09:48 5 THE COURT: Sustained.

09:48 6 BY MR. LENGYEL-LEAHU:

09:48 7 Q. I believe your testimony yesterday is that you took  
8 these devices and downloaded the contents of this  
9 information onto an FBI computer; is that accurate?

09:48 10 A. Yes, sir.

09:48 11 Q. Okay. So the devices had certain information on 'em  
12 that was then transferred to the equipment that you were  
13 managing; is that right?

09:49 14 A. Yes.

09:49 15 Q. And you told it was an exact copy of that. (*Verbatim.*)

09:49 16 A. It is an exact copy; yes, sir.

09:49 17 Q. Okay. So -- just so we're clear, this wasn't a radio  
18 transmission in realtime; this was a collection of evidence  
19 that was later downloaded on to your computer.

09:49 20 MS. HEINZ: Objection. Law enforcement privilege.

09:49 21 THE COURT: I'm going to sustain that objection,  
22 Counsel.

09:49 23 BY MR. LENGYEL-LEAHU:

09:49 24 Q. Did you have occasion to listen to all of the  
25 information downloaded from the devices?

09:49 1 A. I've listened to -- there were -- there were more than  
2 one -- one device, and I did not listen to all of them. No.

09:50 3 Q. Well, I thought you testified that the information that  
4 you downloaded was an accurate duplication of what was on  
5 the devices?

09:50 6 A. They -- they are.

09:50 7 Q. Are you telling the jury that you're saying that it's  
8 accurate, but you hadn't listened to it?

09:50 9 A. I've listened to -- I've listened to one of the  
10 devices, and not the -- the devices captured different parts  
11 of hours in the day. So, um, that's -- what I mean is  
12 there's -- there are devices that continued on and there  
13 were other devices that didn't capture everything.

09:50 14 Q. So the devices that you did not listen to, you didn't  
15 compare them to determine if they were accurate?

09:50 16 A. No. I did compare them.

09:50 17 Q. Now I'm confused. Forgive me. I'm trying to follow.

09:51 18 Did you listen to the information contained on the  
19 devices?

09:51 20 A. I did, sir.

09:51 21 Q. Did you compare it to the information that you  
22 downloaded on to the FBI computer?

09:51 23 A. I listened to the ones that were the exhibits that  
24 we've discussed.

09:51 25 Q. Okay. So you don't have any testimony regarding the

1 parts that you didn't listen to, regarding them being  
2 accurately copied?

09:51 3 A. I don't have any testimony on the extra recordings that  
4 I didn't listen to.

09:51 5 Q. Are you aware of anybody in the FBI who may have  
6 compared the download to what the FBI collected on the  
7 computer just to make sure that it was accurate?

09:51 8 MS. HEINZ: Objection. Misstates the prior  
9 testimony.

09:51 10 THE COURT: Sustained.

09:52 11 BY MR. LENGYEL-LEAHU:

09:52 12 Q. Are you aware of any other devices that were previously  
13 installed and collected later from these vehicles?

09:52 14 MS. HEINZ: Objection. Law enforcement privilege.

09:52 15 THE COURT: Well, if you add "that he retrieved  
16 and downloaded," I'll allow the question. In other words,  
17 it's law enforcement privilege. If there are other devices  
18 inserted besides these two, it's law enforcement privilege.

09:52 19 If you're asking if he retrieved any others in  
20 addition to these two, I'm gonna allow you to ask him. I  
21 think he's answered that question, but...

09:53 22 BY MR. LENGYEL-LEAHU:

09:53 23 Q. Okay. Are these the only three devices that you  
24 retrieved?

09:53 25 A. I downloaded two of the devices -- the two types of

1 devices, not the third one.

09:53 2 Q. Okay. Because it was a duplicate of the other one?

09:53 3 MS. HEINZ: Objection. Law enforcement privilege.

09:53 4 MR. LENGYEL-LEAHU: I believe he testified  
5 yesterday there was two devices in one vehicle and one  
6 device in the other vehicle.

09:53 7 THE COURT: I think he did, too. Overruled.

09:53 8 *(To the witness:)* You can answer that question.

09:53 9 THE WITNESS: They're -- the third device is not a  
10 device that is collected by, um, regular agents.

09:53 11 THE COURT: And from that point forward, if  
12 there's a privilege asserted, I'm going to sustain it.

09:53 13 MR. LENGYEL-LEAHU: Okay.

09:53 14 BY MR. LENGYEL-LEAHU:

09:53 15 Q. What period of time was captured on the devices that  
16 you listened to?

09:54 17 A. I would need to go back and look at the record to  
18 refresh my memory.

09:54 19 Q. Go ahead.

09:54 20 A. What I focused on was two days in particular:  
21 5/15/2015 and 5/16/2015.

09:54 22 Q. That wasn't my question. My question was what period  
23 of time was involved in the devices that you personally  
24 listened to?

09:55 25 A. I can't remember the full period of time, sir.

09:55 1 Q. Did you make a report?

09:55 2 A. I did not make a report, no.

09:55 3 Q. Did you take any notes?

09:55 4 A. I didn't -- I didn't take any notes, sir.

09:55 5 Q. Is that standard FBI practice, to be working on an  
6 investigation and not take notes of your work and what you  
7 have accomplished?

09:55 8 A. I, um -- you know, I was -- my task was to take a look  
9 at the transcripts of the recordings and also to review the  
10 recordings to see if the transcripts were accurate.

09:55 11 Q. That wasn't my question, sir.

09:55 12 Is it standard FBI practice not to take notes of the  
13 work that you perform when doing an investigation?

09:55 14 A. It would depend on the work, sir.

09:55 15 Q. Okay. These devices, do they capture all of the  
16 conversation in a car?

09:56 17 MS. HEINZ: Objection. Law enforcement privilege.

09:56 18 THE COURT: Sustained.

09:56 19 BY MR. LENGYEL-LEAHU:

09:56 20 Q. Which cars were involved in the bugging?

09:56 21 A. There were three cars, sir.

09:56 22 Q. Which three cars?

09:56 23 A. There was a Toyota Camry and two Toyota Corollas.

09:56 24 Q. Do you have an understanding as to the owner of the  
25 Camry?

09:57 1 MS. HEINZ: Objection. Lack of foundation.

09:57 2 THE COURT: Well, can you two stipulate to that?

3 I mean, is this the turning point of the lawsuit?

09:57 4 Why don't you two have a little conference back

5 here. *(Indicating.)* It might save a lot of time if there's

6 any issue concerning the ownership of the Corolla.

09:57 7 *(Counsel confer.)*

09:57 8 THE COURT: *(To the jury:)* Now, ladies and

9 gentlemen, maybe they can't stipulate. But if we can find

10 out the -- through a stipulation, it'll save a lot of time.

09:58 11 And, Counsel, the time period may be in dispute.

12 There may be changes of ownership. I'm just not sure,

13 but...

09:58 14 MR. LENGYEL-LEAHU: I think we've come to an

15 arrangement, Your Honor.

09:58 16 THE COURT: Okay. What's the arrangement between

17 the two of --

09:58 18 **STIPULATION**

09:58 19 MR. LENGYEL-LEAHU: The Camry was the Badawi

20 vehicle.

09:58 21 THE COURT: All right. Is that stipulated to?

09:58 22 MS. HEINZ: Yes, Your Honor.

09:58 23 THE COURT: All right.

09:58 24 THE WITNESS: Yes.

09:58 25 THE COURT: So the Toyota Camry is a Badawi



1 vehicle.

09:58 2 MR. LENGYEL-LEAHU: And the two Corollas were the  
3 Elhuzayel vehicles.

09:58 4 MS. HEINZ: Excuse me, Your Honor. Could I just  
5 consult with Counsel?

09:58 6 THE COURT: Yeah. Why don't you two talk one more  
7 time.

09:58 8 *(Counsel confer.)*

09:58 9 MR. LENGYEL-LEAHU: Correction.

09:58 10 The two Corollas were also owned by the Badawi  
11 family.

09:59 12 THE WITNESS: Yes.

09:59 13 BY MR. LENGYEL-LEAHU:

09:59 14 Q. In one of the conversations -- I believe it was  
15 829.2 -- there was a reference that has been translated as  
16 "*Jesus, the son of Mary.*" Do you remember that reference?

09:59 17 A. Yes.

09:59 18 Q. Do you understand what that reference is to -- what  
19 person that's to?

09:59 20 MS. HEINZ: Objection. Lack of foundation.

09:59 21 THE COURT: Sustained.

09:59 22 BY MR. LENGYEL-LEAHU:

09:59 23 Q. The discussions surrounding the statement "*Jesus, son*  
24 *of Mary,*" were prophecies of the end of times; is that  
25 right?

09:59 1 MS. HEINZ: Objection. Testifying.

09:59 2 THE COURT: Sustained.

09:59 3 MR. LENGYEL-LEAHU: Nothing further.

10:00 4 THE COURT: Cross-examination, Ms. Corrigan?

10:00 5 MS. CORRIGAN: If I might have a moment,  
6 Your Honor?

10:00 7 *(Defense and government counsel confer.)*

10:00 8 MS. CORRIGAN: Your Honor, this is the issue that  
9 I brought up earlier. And I think we're just going to  
10 stipulate. I won't need to ask a question.

10:00 11 **STIPULATION**

10:00 12 MS. CORRIGAN: But as to Exhibit 803.2, which is  
13 one of the recordings that was played, there's a stipulation  
14 that my client, Muhanad Badawi, was not a participate in  
15 that conversation.

10:00 16 THE COURT: Is that stipulated to by the  
17 government?

10:00 18 MS. HEINZ: Just to be clear: He did not  
19 participate in the conversation, but he was in the vehicle.

10:01 20 MS. CORRIGAN: Yes. And that's the further part  
21 of the stipulation.

10:01 22 THE COURT: So he was not a participant in the  
23 verbal conversation, but he was present in the vehicle; is  
24 that correct?

10:01 25 MS. CORRIGAN: Correct.

10:01 1 And the corrected transcript will be placed within  
2 the exhibits.

10:01 3 And I have nothing further.

10:01 4 THE COURT: All right.

10:01 5 *(To the jury:)* So a stipulation is a binding  
6 agreement; in other words, that's a conclusive piece of  
7 evidence that you're to consider.

10:01 8 Then, Counsel, are there questions on redirect?

10:01 9 MS. HEINZ: No, Your Honor.

10:01 10 THE COURT: Sir, you may step down. We're going  
11 to ask you to remain available, though. The lawsuit will  
12 conclude as early as this Thursday, and as late as Friday.

10:01 13 Thank you very much, sir.

10:01 14 THE WITNESS: Thank you, sir.

10:01 15 *(Witness steps down.)*

10:01 16 THE COURT: Counsel, if you'd like to call your  
17 next witness, please.

10:01 18 I'm sorry. Not the "lawsuit." I'm sorry. The  
19 evidence in the matter. *(Verbatim.)*

10:01 20 MS. ELIOT: Your Honor, the government calls  
21 Special Agent David Gates.

10:02 22 THE COURT: Thank you.

10:02 23 Thank you, sir. If you'd be kind enough to step  
24 between the double doors, Agent Gates. And would you raise  
25 your right hand, please.

10:02 1           **DAVID GATES, CALLED BY THE GOVERNMENT, SWORN**

10:02 2           THE WITNESS: Yes.

10:02 3           THE COURT: Thank you.

10:02 4           If you would walk along this black railing. The

10:02 5 entrance to the jury (*sic*) box is to my left. It's closest

10:02 6 to the wall.

10:02 7           THE WITNESS: Yes, sir.

10:02 8           THE COURT: If you would be seated, sir.

10:02 9           THE WITNESS: Thank you.

10:02 10          THE COURT: After you're comfortably seated, would

10:02 11 you face the jury. Would you state your full name and spell

10:02 12 your last, please.

10:02 13          THE WITNESS: My name is David Gates, G-A-T-E-S.

10:02 14          THE COURT: Thank you.

10:02 15          Direct examination by the government.

10:02 16          MS. ELIOT: Thank you, Your Honor.

10:02 17                           **DIRECT EXAMINATION**

10:02 18 BY MS. ELIOT:

10:02 19 Q. Good morning. What do you do for a living?

10:02 20 A. I'm an FBI Special Agent.

10:02 21 Q. How long have you been a Special Agent with the FBI?

10:02 22 A. A little bit over 13 years.

10:03 23 Q. Where are you currently assigned?

10:03 24 A. I'm assigned to the FBI's office at LAX or Los Angeles

10:03 25 International Airport.

10:03 1 Q. How long have you been assigned at LAX?

10:03 2 A. Almost twelve years. Most of my career.

10:03 3 Q. Where were you on May 21st, 2015, at approximately 4:25  
4 in the afternoon?

10:03 5 A. I was at LAX, working.

10:03 6 Q. Were you involved in the arrest of one of the  
7 defendants in this case?

10:03 8 A. Yes.

10:03 9 Q. Can you describe the person who was arrested at LAX on  
10 that date?

10:03 11 A. His name was Mr. Elhuzayel. Um, young male.

10:03 12 Q. And where -- did you make contact with him that day?

10:03 13 A. I did.

10:03 14 Q. And where did you make contact with him at LAX?

10:03 15 A. At the Tom Bradley International Terminal, directly  
16 behind TSA screening -- or the Transportation Security  
17 Administration -- screening point at the Tom Bradley  
18 terminal.

10:03 19 MS. ELIOT: If we could display on the screen  
20 Government's Exhibit 1005 in evidence.

10:04 21 THE COURT: 1005. Thank you.

10:04 22 MS. ELIOT: Special Agent Gates, we're now showing  
23 you a video clip on the screen before you. If you could  
24 watch that and we'll discuss it in a moment.

10:04 25 *(Video recording played.)*

10:04 1 MS. ELIOT: If we could pause the video for a  
2 moment, please.

10:04 3 BY MS. ELIOT:

10:04 4 Q. Do you recognize the persons depicted on the screen?

10:04 5 A. Yes.

10:04 6 Q. And who do you recognize?

10:04 7 A. I recognize me.

10:04 8 Q. Where are you standing? On the left or the right?

10:04 9 A. I'm on the left, in the suit, with no tie.

10:04 10 Q. And who is the person that you're standing beside?

10:04 11 A. That's Mr. Elhuzayel.

10:04 12 Q. And this is near the TSA checkpoint?

10:04 13 A. It's -- yes, this is directly where people finish their  
14 screening process, so it's right there.

10:04 15 Q. And what did you do when Defendant Elhuzayel approached  
16 the checkpoint where you were?

10:05 17 A. Well, you mean, when I approached him?

10:05 18 Q. Yes.

10:05 19 A. I talked to him briefly. In my left hand is his  
20 boarding pass, and I believe it's his passport also.

10:05 21 MS. ELIOT: If we could now place before the  
22 witness what has been marked as Government's Exhibit 604.

10:05 23 THE COURT: Has this exhibit been received?

10:05 24 MS. ELIOT: No, Your Honor.

10:05 25 THE COURT: Okay. Thank you.

10:05 1           *(Exhibit provided to the witness.)*

10:05 2 BY MS. ELIOT:

10:05 3 Q. Do you recognize this exhibit?

10:05 4 A. Yes. It's a boarding pass.

10:05 5 Q. Is it the boarding pass that you have in your hand on

6 the screen?

10:05 7 A. Yes.

10:05 8           MS. ELIOT: Your Honor, at this time the

9 government moves to admit Exhibit 604 into evidence.

10:05 10           THE COURT: Any objection?

10:05 11 Mr. Lengyel-Leahu?

10:05 12           MR. LENGYEL-LEAHU: No. Thank you, Your Honor.

10:05 13           THE COURT: Ms. Corrigan?

10:05 14           MS. CORRIGAN: No, Your Honor. Thank you.

10:05 15           THE COURT: Received.

10:05 16           *(Exhibit No. 604 received in evidence.)*

10:05 17           MS. ELIOT: Thank you, Your Honor.

10:05 18 BY MS. ELIOT:

10:05 19 Q. What is the name of the passenger on the boarding pass?

10:05 20 A. Nader Elhuzayel.

10:05 21 Q. And what is the airline and flight number?

10:06 22 A. It's Turkish Airlines Flight 10.

10:06 23 Q. And what is the initial destination listed on the

24 boarding pass?

10:06 25 A. It's Istanbul.

10:06 1 MS. ELIOT: I have no further questions,  
2 Your Honor.

10:06 3 THE COURT: Cross-examination, Mr. Lengyel-Leahu.

10:06 4 MR. LENGYEL-LEAHU: Thank you, Your Honor.

10:06 5 **CROSS-EXAMINATION**

10:06 6 BY MR. LENGYEL-LEAHU:

10:06 7 Q. Where's the final destination?

10:06 8 A. On the boarding pass it says, "Istanbul."

10:06 9 Q. Just says "Istanbul" on the boarding pass?

10:06 10 A. That's correct.

10:06 11 Q. Flight 10 goes on to Tel Aviv?

10:06 12 A. No.

10:06 13 MR. LENGYEL-LEAHU: Thank you.

10:06 14 THE COURT: Cross-examination, Ms. Corrigan.

10:06 15 MS. CORRIGAN: No, Your Honor.

10:06 16 THE COURT: Redirect by the government?

10:06 17 MS. ELIOT: Nothing, Your Honor. Thank you.

10:06 18 THE COURT: All right.

10:06 19 Thank you, sir. We're going to ask you to remain  
20 on call. I doubt that you'll be called back to court, but  
21 it's in an effort to save additional subpoenas.

10:06 22 THE WITNESS: Yes, sir.

10:06 23 THE COURT: Thank you, sir.

10:06 24 Counsel, call your next witness, please.

10:06 25 THE WITNESS: Sir, do I leave this here.



1       *(Indicating.)*

10:06   2               THE COURT: Please just leave that on the ledge.

10:06   3               *(Witness steps down.)*

10:07   4               MS. HEINZ: The government calls Jason Ghetian.

10:07   5               THE COURT: Thank you, sir. Would you be kind  
6 enough to raise your right hand, please.

10:07   7               **JASON GHETIAN, CALLED BY THE GOVERNMENT, SWORN**

10:07   8               THE WITNESS: I do.

10:07   9               THE COURT: Thank you, sir. Would you be kind  
10 enough to walk along the side of the jury railing. There's  
11 a black curtain, and the entrance to the witness box is  
12 closest to the wall.

10:07   13              And after you're comfortably seated, would you  
14 state your name for the jury, please, and spell your last.

10:07   15              THE WITNESS: My name is Jason Timothy Ghetian,  
16 G-H-E-T-I-A-N.

10:07   17              THE COURT: Thank you.

10:07   18              And this would be direct examination by Ms. Heinz  
19 on behalf of the government.

10:07   20              **DIRECT EXAMINATION**

10:07   21              BY MS. HEINZ:

10:07   22              Q. Special Agent Ghetian, where are you employed?

10:07   23              A. With the FBI.

10:07   24              Q. And how long have you been employed with the FBI?

10:07   25              A. About 12 and a half years.

10:07 1 Q. And what is your position?

10:08 2 A. I'm a Special Agent.

10:08 3 Q. What is your current assignment?

10:08 4 A. I investigate counterterrorism cases in Orange County.

10:08 5 Q. Okay. And you're based in Orange County?

10:08 6 A. I am.

10:08 7 Q. All right. On May 21st, 2015, did you inventory what  
8 was on Defendant Elhuzayel's person at the time of his  
9 arrest?

10:08 10 A. I did.

10:08 11 Q. Okay. And would you look around the courtroom and see  
12 if you see that person, Mr. Elhuzayel, the person who you  
13 inventoried his personal possessions -- would you look  
14 around the courtroom and see if you see him?

10:08 15 A. I do.

10:08 16 Q. Okay. Would you point out where he's sitting?

10:08 17 A. He's sitting at the defense counsel's table.  
18 *(Indicating.)*

10:08 19 Q. Would you describe what he's wearing?

10:08 20 A. Wearing a dark suit with -- appears to be a maroon tie.

10:08 21 MS. HEINZ: Your Honor, may the record reflect  
22 that the witness has identified Defendant Elhuzayel?

10:09 23 THE COURT: The record will reflect that the  
24 witness has identified the defendant, Mr. Elhuzayel.  
25

10:09 1 BY MS. HEINZ:

10:09 2 Q. When you inventoried the items that were on  
3 Mr. Elhuzayel's person on May 21st, 2015, would you please  
4 tell us what they were?

10:09 5 A. Yes. He had \$1,016 in U.S. currency. He had a brand  
6 new iPhone 6. He had a wallet filled with a bunch of credit  
7 cards. He had a U.S. Passport.

10:09 8 MS. HEINZ: All right. Would you please place  
9 before the witness what has been marked as Government's  
10 Exhibits 610, 605, 623, and 624.

10:10 11 *(Exhibits provided to the witness.)*

10:10 12 BY MS. HEINZ:

10:10 13 Q. Would you please look at what's been marked as  
14 Government's Exhibit 610.

10:10 15 What is Government's Exhibit 610?

10:10 16 A. It's an iPhone 6.

10:10 17 Q. Would you please look at what has been marked as  
18 Government's Exhibit 605.

10:10 19 What is Government's Exhibit 605?

10:10 20 A. It's a U.S. Passport.

10:10 21 Q. What is the name on the U.S. Passport?

10:10 22 A. May I open it?

10:10 23 Q. Yes.

10:11 24 A. It's the passport from Nader Salem Elhuzayel.

10:11 25 Q. Please look at what's been marked as Government's

1 Exhibit 623.

10:11 2 What is Government's Exhibit 623?

10:11 3 A. It's a photograph of the U.S. currency found in the  
4 possession of Nader Elhuzayel on May 21st, 2015.

10:11 5 Q. Please look at what's been marked as Government's  
6 Exhibit 624.

10:11 7 What is Government's Exhibit 624?

10:11 8 A. It is a photograph of the credit cards and other  
9 items -- driver's license -- found in the wallet of Nader  
10 Elhuzayel on May 21st, 2015.

10:11 11 MS. HEINZ: Your Honor, the government moves into  
12 evidences Government's Exhibit 610, 605, 623 and 624.

10:12 13 THE COURT: Any objection?

10:12 14 MR. LENGYEL-LEAHU: No, Your Honor.

10:12 15 THE COURT: Ms. Corrigan?

10:12 16 MS. CORRIGAN: No, Your Honor.

10:12 17 THE COURT: 610 is received.

10:12 18 *(Exhibit No. 610 received in evidence.)*

10:12 19 THE COURT: 605 is received.

10:12 20 *(Exhibit No. 605 received in evidence.)*

10:12 21 THE COURT: 623 is received.

10:12 22 *(Exhibit No. 623 received in evidence.)*

10:12 23 THE COURT: 624 is received.

10:12 24 *(Exhibit No. 624 received in evidence.)*

25

10:12 1 MS. HEINZ: Would you please display Government's  
2 Exhibit 623.

10:13 3 *(Photograph displayed.)*

10:13 4 BY MS. HEINZ:

10:13 5 Q. Okay. Directing your attention to what is being  
6 displayed right now, which is Government's Exhibit 623 --

10:14 7 I'm sorry, is there a problem?

10:14 8 A. Yes. That's Exhibit 624.

10:14 9 Q. Excuse me. So looking at Government's Exhibit 624.

10 Okay? Approximately how many credit cards did  
11 Defendant Elhuzayel have at the time of his arrest?

10:14 12 A. It's hard to tell what's a credit or debit card, but  
13 approximately nine.

10:14 14 Q. Now I'm going to show you what's been marked as  
15 Government's Exhibit 623.

10:14 16 *(Photograph displayed.)*

10:14 17 BY MS. HEINZ:

10:14 18 Q. So is Government's Exhibit -- what is Government's  
19 Exhibit 623, once again?

10:15 20 A. It is the U.S. currency found in the possession of  
21 Nader Elhuzayel on May 21st, 2015, in the amount of \$1,016.

10:15 22 Q. On May 21st, 2015, did you interview  
23 Defendant Elhuzayel?

10:15 24 A. I did.

10:15 25 Q. And when you interviewed Defendant Elhuzayel on

1 May 21st, 2015, where were you?

10:15 2 A. I was at the Los Angeles International Airport.

10:15 3 Q. Did you interview him by yourself?

10:15 4 A. No, I did not.

10:15 5 Q. At the time of the interview, had Defendant Elhuzayel  
6 been arrested?

10:15 7 A. He had. Well, I placed him under arrest.

10:15 8 Q. Did you advise him of his *Miranda* rights?

10:15 9 A. I did.

10:15 10 Q. After you advised him of his *Miranda* rights, did he  
11 agree to talk to you?

10:16 12 A. He did.

10:16 13 Q. Please look at what's been marked as Government's  
14 Exhibits 1016 and 1016-A.

10:16 15 *(Exhibits provided to the witness.)*

10:16 16 BY MS. HEINZ:

10:16 17 Q. What is Government's Exhibit 1016?

10:16 18 A. Government's Exhibit 1016 is a selection *(verbatim)* of  
19 the interview that was conducted by myself and Special Agent  
20 Scott Wales on May 21st, 2016 *(sic)*.

10:16 21 Q. Is it a recording?

10:16 22 A. It is. It's an audio and video recording of that  
23 section.

10:16 24 Q. And what is Government's Exhibit 1016-A?

10:16 25 A. It is the transcript from that section of the

1 audio-video recording.

10:16 2 Q. And have you reviewed both of these?

10:16 3 A. I have.

10:16 4 Q. How do you know that?

10:17 5 A. Because I initialed the disc with -- dated "June 12,  
6 2016" and my initials after I reviewed it.

10:17 7 Q. Do Government's Exhibits 1016 and 1016-A accurately  
8 depict part of the interview of Defendant Elhuzayel on  
9 May 21st, 2015?

10:17 10 A. They do.

10:17 11 MS. HEINZ: Your Honor, move into evidence  
12 Government's Exhibits 1016 and 1016-A.

10:17 13 THE COURT: Any objection?

10:17 14 Mr. Lengyel-Leahu?

10:17 15 MR. LENGYEL-LEAHU: No objection, Your Honor.

10:17 16 MS. CORRIGAN: *(No response.)*

10:17 17 THE COURT: 1016, 1016-A are received.

10:17 18 *(Exhibit No. 1016 received in evidence.)*

10:17 19 *(Exhibit No. 1016-A received in evidence.)*

10:17 20 MS. HEINZ: Please play Government's Exhibit 1016.

10:17 21 *(Video recording played, not reported.)*

10:17 22 *(Transcript displayed.)*

10:18 23 BY MS. HEINZ:

10:18 24 Q. Special Agent Ghetian, the clip that we just watched,  
25 which is Government's Exhibit 1016, approximately how far

1 into the interview was -- were those statements made?

10:19 2 A. It was toward the beginning of the interview.

10:19 3 Q. Okay. Could you please look at what's been marked as  
4 Government's Exhibit 1020 and 1020-A.

10:19 5 *(Exhibits provided to the witness.)*

10:19 6 BY MS. HEINZ:

10:19 7 Q. What is Government's Exhibit 1020?

10:19 8 A. Government's Exhibit 1020 is a CD containing a  
9 selection from -- containing the audio-video of the  
10 May 21st, 2015, interview of Nader Elhuzayel.

10:19 11 Q. Have you reviewed Government's Exhibit 1020?

10:19 12 A. I have.

10:19 13 Q. How do you know that?

10:19 14 A. I initialed it and dated it "June 12th, 2016."

10:19 15 Q. Okay. And what is Government's Exhibit 1020-A?

10:20 16 A. It is the transcript from that selection.

10:20 17 Q. And have you also reviewed that?

10:20 18 A. I have.

10:20 19 Q. Do Government's Exhibits 1020 and 1020-A accurately  
20 depict part of the interview of Defendant Elhuzayel on  
21 May 21st, 2015?

10:20 22 A. They do.

10:20 23 MS. HEINZ: Your Honor, move into evidence  
24 Government's Exhibits 1020 and 1020-A.

10:20 25 THE COURT: All right. Thank you.



10:20 1 And, Counsel, any objection?

10:20 2 Mr. Lengyel-Leahu.

10:20 3 MR. LENGYEL-LEAHU: No, Your Honor.

10:20 4 THE COURT: None from Mr. Lengyel-Leahu.

10:20 5 Ms. Corrigan?

10:20 6 MS. CORRIGAN: No, Your Honor.

10:20 7 THE COURT: 1020 and 1020-A are received.

10:20 8 *(Exhibit Nos. 1020 and 1020-A received in*

9 *evidence.)*

10:20 10 THE COURT: You may play those, Counsel.

10:20 11 *(Video recording played, not reported.)*

10:20 12 *(Transcript displayed.)*

10:22 13 BY MS. HEINZ:

10:22 14 Q. Special Agent Ghetian, did Defendant Elhuzayel talk to

15 you about his plan to marry Enas during the interview?

10:22 16 A. He did.

10:22 17 Q. What did he say about that?

10:22 18 A. He -- at first, in the beginning of the interview, he

19 said that was his plan; but then, after he apologized for

20 lying, he then told us the real story, which was he felt it

21 was too complicated of a plan to go to Palestine, marry

22 Enas, and then go to the Islamic State.

10:22 23 She -- according to him, she had had her passport taken

24 away, she was under surveillance, he would have to meet her

25 family, and he just thought it'd be too complicated. So he

1 decided just to go to the Islamic State during his layover  
2 from Istanbul.

10:23 3 Q. And did he say anything about his expectations of  
4 getting married when he reached the Islamic State?

10:23 5 A. He did.

10:23 6 Q. What did he say?

10:23 7 A. His expectation is that he would get four wives once  
8 arriving in the Islamic State.

10:23 9 MS. HEINZ: Nothing further.

10:23 10 THE COURT: Cross-examination.

10:23 11 Mr. Lengyel-Leahu?

10:23 12 MR. LENGYEL-LEAHU: Thank you, Your Honor.

10:23 13 **CROSS-EXAMINATION**

10:23 14 BY MR. LENGYEL-LEAHU:

10:23 15 Q. Good morning.

10:23 16 A. Good morning, sir.

10:24 17 Q. He didn't change the story about getting married until  
18 after you and your partner brought up the notion that his  
19 family would be involved; is that correct?

10:24 20 A. That is accurate.

10:24 21 Q. In fact, I don't remember if it was you or Agent Wales  
22 that mentioned that his mother and his brother, Husam, could  
23 be investigated and arrested for kiting checks.

10:24 24 A. We made no mention of them being arrested. What we  
25 talked about is, if he didn't want to tell the truth, that

1 puts the FBI in a position where we have to investigate  
2 further. So if he can't tell us what happened, we have to  
3 interview more people.

10:25 4 So, in a sense, I gave 'em our investigative strategy,  
5 which is, *"We will have to talk to more people, like your  
6 family, like your fiancée."*

10:25 7 Q. And at that time he was personally under arrest?

10:25 8 A. Yes, sir.

10:25 9 Q. So when you mentioned to him that you were gonna have  
10 to talk to his family, you didn't say that you weren't going  
11 to arrest him, did you?

10:25 12 A. No. I did not tell him I was not going to arrest him.

10:25 13 Q. Okay. And you specifically used the expression "kiting  
14 checks" and "stolen checks" to him.

10:25 15 A. I did, sir.

10:25 16 Q. Okay. And you didn't leave it at that. You also  
17 brought in his sisters and his father; correct?

10:25 18 A. Yes, I did, but in the context of interviewing them.  
19 So I explained to him, when people engage of violations of  
20 federal law, oftentimes, they don't think about how that's  
21 gonna affect their family; that family is gonna have to be  
22 interviewed --

10:26 23 MR. LENGYEL-LEAHU: Your Honor, move to strike.  
24 There's no question pending on this.

10:26 25 THE COURT: Overruled.

10:26 1 (To the witness:) Finish your question, sir.

10:26 2 THE WITNESS: That when they engage in these  
3 criminal activities, oftentimes the investigation does drag  
4 in their family. The family have (sic) to be questioned.  
5 It puts them in a bad position where they don't wanna say  
6 anything to hurt their family or friends, but it's against  
7 the law to lie to us, and --

10:26 8 THE COURT: Thank you.

10:26 9 Counsel, your next question.

10:26 10 MR. LENGYEL-LEAHU: Thank you, Your Honor.

10:26 11 BY MR. LENGYEL-LEAHU:

10:26 12 Q. And you were the one, I believe, that told him that, if  
13 he didn't cooperate, you're next phone call was to Israeli  
14 intelligence?

10:26 15 A. Sir, maybe not my next phone call, but I would say I'd  
16 be forced to have to contact them to interview Enas Khattab  
17 about her relationship with Nader Elhuzayel.

10:27 18 Q. Because you said you weren't gonna go over there  
19 yourself. You were gonna call them.

10:27 20 A. Oftentimes in the FBI --

10:27 21 Q. Is that true, sir?

10:27 22 A. Say it again?

10:27 23 Q. Yes or no? Yes or no?

10:27 24 THE COURT: Now, just a moment.  
10:27 25 Repeat the question.

10:27 1 BY MR. LENGYEL-LEAHU:

10:27 2 Q. You told him that if he didn't cooperate, your next  
3 call was to Israeli intelligence. Yes or no?

10:27 4 A. I don't believe it was my next call, sir.

10:27 5 Q. No. I said the words you told him -- the words you  
6 told my client is that if he didn't cooperate, your next  
7 call was to Israeli intelligence.

10:27 8 A. Sir, if I had that part of the transcript maybe -- what  
9 I'm saying is I'm not sure if I said "My next call," or I  
10 would contact Israeli intelligence. But, yes, I did say I  
11 would contact --

10:27 12 Q. Your intent was that they would pick her up to question  
13 her; is that right?

10:27 14 A. Sir, I wouldn't say "to pick her up," but to interview  
15 her.

10:27 16 Q. Okay. And you knew she was previously arrested?

10:27 17 A. I did, sir.

10:27 18 Q. Okay. So she's a real person; right?

10:28 19 A. Yes, sir, she is.

10:28 20 Q. She really does live over there?

10:28 21 A. At that time my information was that she did.

10:28 22 Q. Okay. Were you part of the team that was investigating  
23 my client during the spring and early summer of 2015?

10:28 24 A. Yes, sir, I was.

10:28 25 Q. So you're aware of the evidence in this case?

10:28 1 A. Some of it, sir.

10:28 2 Q. You're aware of the communications between my client  
3 and this Enas person over there in Palestine?

10:28 4 A. Yes, sir. Most of them.

10:28 5 Q. So you're aware of the fact that they did have a plan  
6 to get married?

10:28 7 A. Yes, sir. They did.

10:28 8 Q. Okay. You were the one that questioned him regarding  
9 his contacts in the Middle East; correct?

10:28 10 A. Yes, sir, I was.

10:28 11 Q. And you were the one that told him that, *"It's a war  
12 zone, and you can't just walk into the middle of a war  
13 zone"*; correct?

10:29 14 A. That sounds right, sir.

10:29 15 Q. In fact, you said, *"I can't, you can't, nobody can  
16 without a contact."*

10:29 17 Who is his contact? Those -- your words; right?

10:29 18 A. Yes, sir.

10:29 19 Q. And he didn't have an actual contact, did he? In fact,  
20 we just heard the part of the transcript where he says, *"I  
21 was going to get there and get a Surespot and find  
22 somebody."*

10:29 23 A. Sir, I believe he said, *"Lots of people."* He had lots  
24 of people, lots of contacts.

10:29 25 Q. Because anybody that would respond to him is a

1 potential contact.

10:29 2 THE COURT: A question. Is that a question?

10:29 3 MR. LENGYEL-LEAHU: Yes. That should have a  
4 question mark at the end of it.

10:29 5 THE COURT: Ask it again.

10:29 6 BY MR. LENGYEL-LEAHU:

10:29 7 Q. Because he was expecting someone to respond to him;  
8 correct?

10:29 9 A. Was -- sir, are you asking was he expecting somebody'd  
10 respond to him if he reached out to some of these contacts  
11 on social media?

10:29 12 Q. Correct.

10:29 13 A. Yes.

10:30 14 Q. Okay. But he didn't have a name of anybody specific,  
15 did he?

10:30 16 A. No, sir. He did not provide a specific contact.

10:30 17 Q. And in all the communications that you reviewed, prior  
18 to his going to the airport, there is no nobody -- there is  
19 not one single communication from any person that said,  
20 *"Once you get here, hit me up. Contact me and I can help*  
21 *you."*

10:30 22 A. That is true, sir.

10:31 23 THE COURT: You want to just bring that up to the  
24 side of the witness box.

10:31 25 UNIDENTIFIED SPEAKER: Yes, sir.

10:31 1 THE COURT: Thank you very much.

10:32 2 If you wouldn't mind, just remain at that location.

10:32 3 All right.

10:32 4 Counsel, your question, please.

10:32 5 MR. LENGYEL-LEAHU: More of a demonstration,  
6 Your Honor.

10:32 7 THE COURT: A demonstration?

10:32 8 We're not going to have a demonstration, Counsel.

10:32 9 Thank you.

10:32 10 BY MR. LENGYEL-LEAHU:

10:32 11 Q. Were you present when the contents of his luggage was  
12 inventoried?

10:32 13 A. Yes, sir, I was.

10:32 14 Q. And all of this evidence was taken into the custody of  
15 the FBI?

10:32 16 A. Yes, sir, it was.

10:32 17 Q. And it's remained in the FBI custody all that -- all  
18 that period of time; right?

10:32 19 A. Sir, I'd have to look at the chain of custody. My  
20 belief, sir, is, yes, it has been in the custody of the FBI  
21 this entire time.

10:32 22 Q. Tagged, sealed, put in an evidence locker somewhere?

10:32 23 A. I think we had a room where we kept all of our  
24 evidence. But there's a point before trial where, I think,  
25 it came over to United States Attorney's Office. But



1 without the chain'a custody, I would not be able to testify  
2 to that 'cause I've not reviewed that.

10:33 3 Q. Okay. So nothing's been added to it or taken out of  
4 it?

10:33 5 A. Oh. No, sir. Well, wait.

10:33 6 Are you saying nothing's been taken out of -- well, when  
7 we do the inventory of the evidence, some of the digital  
8 devices get segregated 'cause they have to go over to our  
9 Orange County Regional Forensic Laboratory to be analyzed.  
10 So that's the case. But that's also annotated in the chain  
11 of custody log where that's split off into its own evidence  
12 item.

10:33 13 Q. Could you look in the luggage and see if it's in the  
14 same condition it was in last time you saw it?

10:33 15 THE WITNESS: Yes, sir. I looked at it last  
16 night. Do you want "me look" at it right now? (*Verbatim.*)

10:33 17 MR. LENGYEL-LEAHU: Yes, please.

10:33 18 THE COURT: You can step off the stand or you can  
19 have it handed to you, either one.

10:33 20 THE WITNESS: Um, as a point, which may help the  
21 Court, I -- I reviewed it right before I came in here, so --

10:34 22 THE COURT: Okay.

10:34 23 THE WITNESS: -- do you want me to look at it  
24 again?

10:34 25 MR. LENGYEL-LEAHU: Yes, please.

10:34 1 THE WITNESS: Okay.

10:34 2 *(Witness steps down next to witness stand.)*

10:34 3 THE COURT: So -- well, the first piece, so we  
4 know what you're looking at, is what?

10:34 5 THE WITNESS: This is the carry-on piece of  
6 luggage that he had on his person on May 21st.

10:34 7 THE COURT: And, Counsel, what exhibit number  
8 would that be?

10:34 9 MR. LENGYEL-LEAHU: *(No response.)*

10:34 10 THE COURT: Counsel?

10:34 11 MR. LENGYEL-LEAHU: I guess we haven't had an  
12 exhibit number for it yet, Your Honor. I guess the defense  
13 would like to mark it.

10:34 14 THE COURT: Marked as?

10:34 15 MS. HEINZ: It was admitted, Your Honor.

10:34 16 THE COURT: It was received early on, Counsel.  
17 It's one of the first items received.

10:34 18 MR. LENGYEL-LEAHU: I apologize.

10:34 19 THE COURT: So what exhibit number is it, Counsel?

10:34 20 MR. LENGYEL-LEAHU: I do not know.

10:34 21 UNIDENTIFIED SPEAKER: 606.

10:34 22 THE COURT: 606. Thank you.  
10:34 23 Counsel, 606.

10:34 24 MR. LENGYEL-LEAHU: Thank you.

10:34 25 THE COURT: Just so we have a record, he's looking

1 at 606.

10:34 2 And your question is?

10:34 3 BY MR. LENGYEL-LEAHU:

10:34 4 Q. Uh, could we see the contents of the luggage?

10:34 5 A. *(Displaying items:)* So, headphones.

10:35 6 So, this is the case from an iPhone 6.

10:35 7 Q. Now, the iPhone 6 was in the box, in the case; right?

8 Is that accurate?

10:35 9 A. No, sir. The iPhone 6 was on his person.

10:35 10 Q. Gotcha.

10:35 11 A. *(Displaying items:)* This is a case for an iPhone 6.

12 This was on the phone. So this is just the casing for it  
13 with the holder.

10:35 14 This is a myCharge. Looks like a thumb charger.

10:35 15 Pencil -- pencil sharpener.

10:36 16 Sir, would you like me to leave it out or put it  
17 back in once I show the jury?

10:36 18 Q. Let's pull it all out. Then we'll put it back in after  
19 we're finished.

10:36 20 A. *(Witness displays item.)*

10:36 21 THE COURT: What was that?

10:36 22 THE WITNESS: Sir, it appears to be like a --  
23 looks like a travel document, but it's in a foreign  
24 language. I can't read it.

10:36 25 THE COURT: Okay.

10:36 1 THE WITNESS: *(Displaying item:)* This appears to  
2 be an Israeli passport for Nader Elhuzayel.

10:36 3 MR. LENGYEL-LEAHU: Could I retrieve those items,  
4 Your Honor?

10:36 5 THE COURT: Well, certainly.

10:36 6 MR. LENGYEL-LEAHU: Thank you.

10:36 7 I'd like to publish 'em to the jury, if I could.

10:36 8 THE COURT: Well, you can put them on the ELMO, if  
9 you'd like to. They're not going to be passed to the jury,  
10 Counsel.

10:36 11 MR. LENGYEL-LEAHU: That -- that was my point,  
12 Your Honor. That's why I needed 'em -- for the ELMO.

10:36 13 THE COURT: Thank you.

10:37 14 And would you like him to continue going through  
15 the exhibit?

10:37 16 MR. LENGYEL-LEAHU: Yes, please, Your Honor.

10:37 17 *(Mr. Lengyel-Leahu displays various exhibits on*  
18 *ELMO, without speaking.)*

10:37 19 THE COURT: Would you like him to continue going  
20 through the exhibit?

10:37 21 MR. LENGYEL-LEAHU: Yes, please, Your Honor.

10:37 22 THE WITNESS: *(Displaying each item:)*

10:37 23 This is Size 14 shoes.

10:37 24 Size 15 shoes.

10:37 25 Size 14 shoes.

10:37 1 Size 15 sandals.

10:38 2 Okay. In my right hand appears to be some type of  
3 harness. In my left hand is a razor.

10:38 4 It's an extra large T-shirt.

10:38 5 It's a Calvin Klein handbag.

10:38 6 Three brushes.

10:38 7 A jar of honey.

10:38 8 LG G Pad instructions.

10:38 9 Attachment for the razor.

10:38 10 And a notebook which has what appears to be Arabic  
11 writing. Looks like someone's practicing Arabic writing.

10:39 12 MR. LENGYEL-LEAHU: Could I retrieve that  
13 document, Your Honor?

10:39 14 THE COURT: Sure.

10:39 15 MR. LENGYEL-LEAHU: And publish it to the jury on  
16 the ELMO?

10:39 17 THE COURT: You may.

10:39 18 *(Document displayed.)*

10:39 19 THE WITNESS: Sir, that completes this bag.  
20 So your question?

10:39 21 BY MR. LENGYEL-LEAHU:

10:39 22 Q. And that -- all the contents of that bag; is that  
23 correct?

10:39 24 A. No, sir. There's some -- that's what's in the bag  
25 right now. But there was some digital devices in there.

10:39 1 Q. Understood. If you could, I guess, put those back in  
2 the box for us now, please.

10:39 3 THE WITNESS: Okay, sir.

10:39 4 *(Complies.)*

10:39 5 MR. LENGYEL-LEAHU: *(Displays exhibits on the*  
6 *ELMO, without comment.)*

10:40 7 THE COURT: Counsel?

10:40 8 BY MR. LENGYEL-LEAHU:

10:40 9 Q. Could we look at the checked luggage, the large roller  
10 bag, please.

10:40 11 A. Sure, sir.

10:40 12 THE COURT: It might be easier to look at it down  
13 on the floor, Counsel.

10:40 14 MR. LENGYEL-LEAHU: If that's appropriate. Sure.

10:40 15 THE COURT: Do you want the contents taken out?

10:41 16 MR. LENGYEL-LEAHU: Yes, please, sir.

10:41 17 THE COURT: You know, the easiest thing to do  
18 might be just to use the center of the courtroom.

10:41 19 Would you gentlemen mind? Just lay it out.

10:41 20 And, Counsel, I'm going to remove that black  
21 curtain for a moment.

10:41 22 MS. CORRIGAN: That's fine.

10:41 23 THE COURT: And why don't we toss that off to the  
24 side.

10:41 25 In fact, I'm going to ask some of you gentlemen if

1 you'd just take that black curtain away completely, clear  
2 over to the side by the U.S. Attorney. Ah, even further.  
3 Let's take that way out outta the way so the entire jury can  
4 see.

10:41 5 (To the jury:) Now, folks, if you'd like to, you  
6 can stand up at any time. I think it would be quicker and  
7 easier if you saw whatever these contents are, instead of  
8 one by one. We'll put them on the floor.

10:41 9 (To Mr. Lengyel-Leahu:) And, if you'd like to help,  
10 you're more than welcome to.

10:41 11 (Witness takes exhibits into well to display.)

10:41 12 THE COURT: And big voice.

10:41 13 THE WITNESS: Okay, sir.

10:41 14 (Displaying items:) These are manuals, um, in  
15 Arabic writing. Based on the back, I -- it was my  
16 understanding at the time, this belonged -- or was written  
17 by his father.

10:42 18 THE COURT: Okay. Why don't you just leave those  
19 on the floor. Don't worry about the cleanliness. We'll  
20 take care of it.

10:42 21 THE WITNESS: Thank you, Your Honor.

10:42 22 (Displaying items:) This is another pair of shoes.  
23 They're in a bag. They seem to be covered with mold. This  
24 is a Size 15. This is reflective of how I saw it when I  
25 first inventoried it on June 3rd, but they're just covered

1 in mildew.

10:42 2 THE COURT: Covered in mildew?

10:42 3 THE WITNESS: Yes, Your Honor.

10:42 4 (*Displaying item:*) A towel.

10:42 5 MR. LENGYEL-LEAHU: Do you want gloves?

10:42 6 THE COURT: No, he doesn't need gloves. He's  
7 fine.

10:43 8 THE WITNESS: I'll wash my hands later.

10:43 9 (*Displaying items:*) Large jacket.

10:43 10 Another large jacket with a Goodwill sticker on  
11 it -- or still pinned or stapled to it. Uh, scratch that.  
12 It's just a tag. I shouldn't say Goodwill. It's just a  
13 tag.

10:43 14 Another jacket, 3X.

10:43 15 Another large jacket.

10:43 16 Another XL jacket -- so five jackets.

10:44 17 This is probably the best way to go so it's a suit  
18 W a matching jacket.

10:44 19 Another suit -- it's obviously a different size  
20 than that one -- with a matching bigger jacket.

10:44 21 So, two suits: Two pants, two jackets.

10:44 22 Pair of jean shorts, Size 38.

10:44 23 A very large pair'a shorts, which I have no idea  
24 what size this is, but they're -- this is a 3XL pair of  
25 shorts.



10:44 1 A size large pair of shorts.

10:45 2 MR. LENGYEL-LEAHU: Is that "UCLA"?

10:45 3 THE WITNESS: Yes, it is "UCLA."

10:45 4 (*Displaying items:*) Another pair of white shorts.

5 So that's four pairs of shorts.

10:45 6 So, I'm not an expert at this, but I believe this

7 to be Islamic garb.

10:45 8 MR. LENGYEL-LEAHU: You saw "Islamic" as if it's

9 just Islam. Arab's use those too; right?

10:45 10 THE WITNESS: Like I said, I'm not sure.

10:45 11 MR. LENGYEL-LEAHU: If you could just show us,

12 that might help. I meant as opposed to commentary.

10:46 13 THE COURT: Well, the record needs to reflect it's

14 something. It's a -- what, Counsel? What? Do you two want

15 to stipulate to a term?

10:46 16 MR. LENGYEL-LEAHU: It's a robe.

10:46 17 MS. HEINZ: Like a kaftan.

10:46 18 THE COURT: No. Counsel, you two have a private

19 conversation. Let's get some neutral word that's not

20 affronting to each of you. Then the jury can see what that

21 garb is. You can say "non-western" garb.

10:46 22 (*Counsel confer.*)

10:46 23 MR. LENGYEL-LEAHU: A kaftan.

10:46 24 THE COURT: A what?

10:46 25 MR. LENGYEL-LEAHU: A kaftan.

10:46 1 THE COURT: A what?

10:46 2 MR. LENGYEL-LEAHU: Kaftan.

3 THE COURT: I have no idea what that is.

4 MR. LENGYEL-LEAHU: That's what the government  
5 wants to call it so --

10:46 6 THE COURT: Is that acceptable, Counsel?

10:46 7 MS. HEINZ: Yes, it is, Your Honor.

10:46 8 THE COURT: All right. The two prior were  
9 kaftans. Okay.

10:46 10 THE WITNESS: *(Displaying item:)* I really have no  
11 idea what this is. It's sewn on both sides.

10:46 12 MR. LENGYEL-LEAHU: Blue, square piece of cloth,  
13 plaid pattern.

10:47 14 THE COURT: Okay.

10:47 15 THE WITNESS: *(Displaying items:)*  
16 Collared-shirt, Size Large.  
17 Another shirt, size extra large.  
18 Another collared shirt, size large.  
19 I don't see a size, but a button-up, long-sleeved  
20 shirt.

10:47 21 MR. LENGYEL-LEAHU: Dress shirt.

10:47 22 THE WITNESS: Yes, sir.  
23 So there was four collared shirts.  
24 *(Displaying items:)* Sweatpants.  
10:47 25 Second pair of sweatpants.

10:47 1 And a third pair of sweatpants.

10:48 2 Three pairs of underwear.

10:48 3 Sorry, I can't make out the size, but a T-shirt.

10:48 4 Looks a little dressier -- size large --

10:48 5 MR. LENGYEL-LEAHU: T-shirt.

10:48 6 THE WITNESS: Okay. (*Displaying items:*)

10:48 7 Size medium T-shirt.

10:48 8 Size large T-shirt.

10:48 9 Size large T-shirts.

10:49 10 I can't see the size, but -- T-shirt.

10:49 11 XL T-shirt.

10:49 12 Large T-shirt.

10:49 13 XL long-sleeved shirt.

10:49 14 And XL T-shirt.

10:49 15 This -- two pairs of new dress socks.

10:49 16 And this pair seems to be mismatched.

10:49 17 So that'd be two pairs and then two mismatched.

10:49 18 And then a white XL undershirt.

10:49 19 MR. LENGYEL-LEAHU: Thank you.

10:49 20 THE COURT: Leave those all on the floor. You

21 don't have to clean them up.

10:49 22 Counsel, your questions.

10:49 23 We'll get that during the recess. Okay?

10:50 24 MR. LENGYEL-LEAHU: Nothing further, Your Honor.

10:50 25 THE COURT: Ms. Corrigan, do you have questions on

1 cross-examination?

10:50 2 MS. CORRIGAN: No, Your Honor.

10:50 3 THE COURT: Counsel, do you have questions on  
4 redirect examination?

10:50 5 MS. HEINZ: I do, Your Honor.

10:50 6 *(Witness resumes the stand.)*

10:50 7 **REDIRECT EXAMINATION**

10:50 8 BY MS. HEINZ:

10:51 9 Q. Special Agent Ghetian, I'm going to refer you back to  
10 the post-arrest interview on May 21st, 2015.

10:51 11 During that interview did Defendant Elhuzayel talk about  
12 a person by the name of *Abu Hussein*?

10:51 13 MR. LENGYEL-LEAHU: Objection. Beyond the scope,  
14 Your Honor.

10:51 15 MS. HEINZ: No. This goes to his questions about  
16 whether or not Defendant Elhuzayel had contacts over --

10:51 17 THE COURT: I was just about to overrule the  
18 objection, Counsel.

10:51 19 MS. HEINZ: I'm sorry, Your Honor. I'm sorry.

10:51 20 THE COURT: Overruled.

10:51 21 MS. HEINZ: Thank you.

10:51 22 THE WITNESS: Would you mind rephrasing your  
23 question?

10:51 24 MS. HEINZ: I -- I would.

25

10:51 1 BY MS. HEINZ:

10:51 2 Q. Did you -- did Defendant Elhuzayel make statements  
3 about a person named Abu Hussein?

10:52 4 A. He did.

10:52 5 Q. And did he talk about how he had contact with Abu  
6 Hussein?

10:52 7 A. He did.

10:52 8 Q. What did he say about that?

10:52 9 A. He was in contact with *abuhussein3*, which is a Surespot  
10 account.

10:52 11 Q. And did he also make a statement about what he knew as  
12 far as an what organization Abu Hussein was affiliated with?

10:52 13 A. Yes, he did.

10:52 14 Q. What did he say about that?

10:52 15 A. He said he was a member of the Islamic State and  
16 currently residing in the Islamic State.

10:52 17 Q. And did he say anything about whether or not Abu  
18 Hussein knew that Defendant Elhuzayel was planning to  
19 travel?

10:52 20 A. Yes.

10:52 21 Q. What did he say about that?

10:52 22 A. Said he knew he wanted to go to the Islamic State.

10:52 23 Q. Did he say that Abu Hussein knew he was coming to the  
24 Islamic State?

10:53 25 A. He knew he wanted to travel.

10:53 1 Q. And did he also say that he had already been in contact  
2 with Abu Hussein?

10:53 3 MR. LENGYEL-LEAHU: Objection. Asked and  
4 answered.

10:53 5 THE COURT: Overruled.

10:53 6 *(To the witness:)* You can answer the question.

10:53 7 THE WITNESS: Yes, he had been in contact with Abu  
8 Hussein previously.

10:53 9 BY MS. HEINZ:

10:53 10 Q. Did he say what the subject matter of the contact was?

10:53 11 A. Yes.

10:53 12 Q. What was that?

10:53 13 A. He said *abuhussein3* was the same person who inspired  
14 Elton Simpson to conduct attacks at Garland, Texas, and that  
15 he was very extreme, and that he wanted Nader Elhuzayel to  
16 conduct attacks here in the United States, specifically on  
17 someone who made a film about the Prophet Muhammad and lived  
18 in the City of Riverside.

10:54 19 Q. And what did Defendant Hussain -- I'm sorry --  
20 Defendant Elhuzayel say about how he reacted to that request  
21 by Abu Hussein?

10:54 22 A. Yeah. He didn't want to do an attack here. He wants  
23 to travel to the Islamic State.

10:54 24 MS. HEINZ: Thank you.

10:54 25 No further questions.

10:54 1 THE COURT: Recross, Mr. Lengyel-Leahu, on behalf  
2 of Mr. Elhuzayel?

10:54 3 MR. LENGYEL-LEAHU: Thank you, Your Honor.

10:54 4 **RECROSS-EXAMINATION**

10:54 5 BY MR. LENGYEL-LEAHU:

10:54 6 Q. How many times did the name "Abu Hussein" come up in  
7 the conversation in the interview?

10:54 8 A. Sir, are you asking me an exact count of how many times  
9 we used the term "Abu Hussein"?

10:54 10 Q. You did review the interview, didn't you?

10:54 11 A. I did, sir.

10:54 12 Q. And you did review the transcript of the interview,  
13 didn't you?

10:54 14 A. I did, sir.

10:54 15 Q. You only talked about "Abu Hussein" one time during  
16 that entire three-and-a-half-hour interrogation; isn't that  
17 true?

10:55 18 A. Sir, I didn't count every time I used every term in the  
19 interview.

10:55 20 Q. Do you need time to refresh your recollection --

10:55 21 *(Court reporter requests clarification for the*  
22 *record.)*

10:55 23 BY MR. LENGYEL-LEAHU:

10:55 24 Q. Do you need time to review the transcription to  
25 determine how many times during that interrogation that you

1 brought up the name "Abu Hussein," and in context?

2 (Verbatim.)

10:55 3 A. Sir, if you're asking me to answer "question" how many  
4 times I used the term "Abu Hussein," I would need the  
5 transcripts to actually answer your question.

10:55 6 THE COURT: Counsel, do you mean how many times he  
7 says the word, or how many different portions of the  
8 interview? That's what's potentially confusing.

10:55 9 MR. LENGYEL-LEAHU: How many times they referred  
10 to the individual known as *abuhussein3*.

10:55 11 THE COURT: Okay.

10:55 12 (To the witness:) Can you answer that question?

10:55 13 THE WITNESS: Your Honor, I can't without the  
14 transcripts. I didn't -- when I reviewed the transcripts, I  
15 didn't count every time I used a term. So I fear that I  
16 would answer the question inaccurately.

10:56 17 BY MR. LENGYEL-LEAHU:

10:56 18 Q. Where in that transcript does he connect *abuhussein3* to  
19 Elton Simpson?

10:56 20 A. That would be, I mean -- answer like what page of the  
21 transcripts?

10:56 22 Q. Sure.

10:56 23 A. I don't know if that's an exhibit I could -- if that  
24 was provided to me, I could show you.

10:56 25 MR. LENGYEL-LEAHU: Volume II.



10:56 1 MS. CORRIGAN: What page?

10:56 2 MR. LENGYEL-LEAHU: Volume II, page 12.

10:56 3 *(Document provided to the witness.)*

10:56 4 MS. HEINZ: Your Honor, would it be permissible  
5 for the government to provide a page number?

10:56 6 THE COURT: Certainly.

10:56 7 MR. LENGYEL-LEAHU: 12.

10:56 8 THE COURT: Counsel, what page -- I'm sorry. I  
9 was looking down, taking notes. My apologies.

10:57 10 Did you have a page put in front of you?

10:57 11 THE WITNESS: Your Honor, I did.

10:57 12 THE COURT: We need a page number, Counsel.

10:57 13 MR. LENGYEL-LEAHU: I gave him the whole  
14 transcript of Volume II. It's page 12.

10:57 15 THE COURT: Page 12. Okay.

10:57 16 And what lines?

10:57 17 THE WITNESS: Actually, Your Honor, it starts on  
18 page 11, line 23.

10:57 19 THE COURT: Okay. Thank you.

10:57 20 Page 11, line 23.

10:57 21 And, Counsel, your question.

10:57 22 MR. LENGYEL-LEAHU: I think he's reviewing the  
23 transcript now, Your Honor.

10:58 24 BY MR. LENGYEL-LEAHU:

10:58 25 Q. If you can look up when you're done.

10:58 1 A. *(Complies.)*

10:58 2 Q. Just in relation to page 12 and -- and the subsequent  
3 pages there, there was a conversation about Abu Hussein  
4 during that part -- portion'a the conversation; is that  
5 correct?

10:58 6 A. Yes, sir.

10:58 7 Q. And that was in relation to people that Nader had  
8 contacted in the Islamic State; is that correct?

10:58 9 A. It was in relation to his Surespot account. People he  
10 was in communication with --

10:58 11 Q. Exactly.

10:58 12 A. -- on Surespot. *Abuhussein3*, which later we refer to  
13 "Abu Hussein," I think eight times, who was the individual  
14 who was in the Islamic State that he was talking to.

10:59 15 Q. And the nature of that conversation was that Abu  
16 Hussein had asked him to do something, something like a  
17 killing, but Nader said he wasn't gonna do that; is that  
18 correct?

10:59 19 A. That is correct.

10:59 20 Q. Okay. In the pages that you just reviewed, there is no  
21 mention of Elton Simpson, is there?

10:59 22 A. Yeah. Sir, there is. Page 14, line 11.

10:59 23 Q. And what does it say?

10:59 24 A. Well, so he references --

10:59 25 Q. What does it say?

10:59 1 A. Yeah. Sir, I'm trying to answer your question.

10:59 2 Q. Read it.

10:59 3 A. Starting what point, sir?

10:59 4 Q. The -- the point that you say is reference to Elton  
5 Simpson.

10:59 6 A. Okay. I was trying to.

10:59 7 Okay. *(Reading:)*

10:59 8 *"What did -- what did he want you to*  
9 *do?"*

10:59 10 That's me speaking.

10:59 11 *"I mean he wanted me to like -- he's the*  
12 *one that -- that actually, I think,*  
13 *inspired what's his name, Atawaakul, to*  
14 *actually --"*

11:00 15 *(Court reporter requests clarification for the*  
16 *record.)*

11:00 17 THE WITNESS: A-T-A, W-A-K-K-U-L *(sic)*.

11:00 18 The relevance of that is earlier in the interview  
19 we referred to Elton Simpson's Twitter account as  
20 @atawaakul. So when he's talking to @atawaakul, he's  
21 referring to Elton Simpson.

11:00 22 *"The what -- what guy? Atawaakul that*  
23 *one guy, yeah, Elton."*

11:00 24 Ask of him: *"Elton Simpson?"*

11:00 25 Me saying, *"Oh, Elton Simpson?"*

11:00 1 Elhuzayel responds: "Yeah."

11:00 2 Um, I ask him: "That guy?"

11:00 3 And he goes: "I think so; right."

11:00 4 I said -- and then I said, "Oh, yeah. Okay. Oh, I  
5 don't know. You tell me."

11:00 6 And then Elhuzayel says, "Yeah. He's the first one  
7 that actually posted on Twitter."

11:00 8 MR. LENGYEL-LEAHU: Thank you.

11:00 9 Nothing further, Your Honor.

11:00 10 THE COURT: And recross?

11:00 11 Ms. Corrigan, do you have any questions?

11:01 12 MS. CORRIGAN: Your Honor, may I just walk into  
13 the well and take one quick look at the suitcase?

11:01 14 THE COURT: You may.

11:01 15 In fact, any counsel may walk into the well, as  
16 long as these exhibits are on the floor, without asking.  
17 Thank you.

11:01 18 MS. CORRIGAN: And, just for the record, I'm not  
19 gonna move anything.

11:01 20 THE COURT: *(To the jury:)* Ladies and gentlemen,  
21 you're welcome to stand up, if you want, and see what  
22 counsel's doing and showing. *(Verbatim.)*

11:01 23 And the record should reflect that these items have  
24 been laid out on the floor of the courtroom in the well.  
25 It's just easier for counsel to refer to them and for the

1 jury to see the contents of the bag that was being referred  
2 to.

11:01 3 **CROSS-EXAMINATION**

11:01 4 BY MS. CORRIGAN:

11:01 5 Q. Agent Ghetian, have you looked at the tag that's on the  
6 suitcase that is Government's Exhibit --

11:01 7 Is it...?

11:01 8 THE COURT: It's 606, from memory.

11:02 9 MS. CORRIGAN: Thank you, Your Honor.

11:02 10 BY MS. CORRIGAN:

11:02 11 Q. -- 606?

11:02 12 A. Yes, ma'am, I did.

11:02 13 Q. And that tag indicates that the bag is booked all the  
14 way through to Tel Aviv; correct?

11:02 15 A. Oh, I'm sorry. I thought you meant the tag on one of  
16 the items of clothing.

11:02 17 So you're talking the tag --

11:02 18 Q. Yeah. The suitcase that's actually unpacked here,  
19 that's sitting in the well.

11:02 20 THE COURT: And, Counsel, it's actually 607.

11:02 21 MS. CORRIGAN: 607.

11:02 22 THE COURT: I apologize.

11:02 23 The first Exhibit was 606.

11:02 24 And can 606 be received, Counsel?

11:02 25 MS. HEINZ: It's already in evidence.

11:02 1 THE COURT: How about 607?

11:02 2 MS. CORRIGAN: It is, Your Honor.

11:02 3 THE COURT: My memory is it was.

11:02 4 MS. HEINZ: Yes.

11:02 5 MS. CORRIGAN: My record reflects that both items  
6 were already in evidence.

11:02 7 THE COURT: Okay. This is 607. That was my  
8 mistake. Thank you.

11:02 9 MS. CORRIGAN: Thank you.

11:02 10 THE WITNESS: Ma'am, I did not analyze that tag.  
11 But I'm aware it was checked all the way through to  
12 Tel Aviv.

11:02 13 BY MS. CORRIGAN:

11:02 14 Q. And so when you -- but, in looking at it, the tag does  
15 indicate that there's gonna be transit -- um, there's a  
16 transit tag from Istanbul to Tel Aviv on the -- I'll call it  
17 the luggage sticker that's on -- that's adhered to the  
18 suitcase; correct?

11:03 19 A. That -- would it be okay if I just went and looked at  
20 it --

11:03 21 Q. Absolutely.

11:03 22 A. -- real quick?

11:03 23 Q. Absolutely.

11:03 24 A. And, my apologies. Would you mind restating your  
25 question?

11:03 1 Q. Sure. And you just looked at the tag that's adhered to  
2 Exhibit 607, the large -- I'll call it the "roller  
3 suitcase" -- that you just unpacked; correct?

11:03 4 A. Yes, ma'am.

11:03 5 Q. Okay. And on that tag, it doesn't say Tel Aviv, but it  
6 does have some letters that would indicate that -- look like  
7 something that would refer to Tel Aviv; correct?

11:04 8 A. Yes.

11:04 9 Q. And what are those? What -- would you agree that that  
10 tag appears to indicate that the luggage would go from  
11 Istanbul to Tel Aviv? It's checked all the way through?

11:04 12 A. Yes. It says, May 21st, Istanbul; May 22nd what  
13 looks -- appears to be Tel Aviv.

11:04 14 MS. CORRIGAN: Thank you.

11:04 15 Nothing further.

11:04 16 THE COURT: Counsel, questions on redirect on  
17 behalf of the government?

11:04 18 MS. HEINZ: No, Your Honor. Nothing further.

11:04 19 THE COURT: *(To the witness:)* I seriously doubt  
20 that you'll be called back to court, but we're going to have  
21 you remain on call, as we are all the other agents, so there  
22 doesn't need to be any additional subpoenas.

11:04 23 THE WITNESS: Yes, Your Honor.

11:04 24 THE COURT: Thank you very much, sir. You may  
25 step down.

11:04 1 THE WITNESS: Thank you, Your Honor.

11:04 2 *(Witness steps down.)*

11:04 3 THE COURT: And, Counsel, your next witness,  
4 please.

11:04 5 MS. ELIOT: Your Honor, the government calls  
6 William Braniff.

11:04 7 THE COURT: Thank you.

11:05 8 *(Live reporter switch at 11:05 a.m.)*

11:05 9 *(Further proceedings reported by Deborah Parker*  
10 *in Volume II.)*

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CERTIFICATE

I hereby certify that pursuant to Section 753,  
Title 28, United States Code, the foregoing is a true and  
correct transcript of the stenographically reported  
proceedings held in the above-entitled matter and that the  
transcript page format is in conformance with the  
regulations of the Judicial Conference of the United States.

Date: March 28, 2017

/s/ Debbie Gale

DEBBIE GALE, U.S. COURT REPORTER  
CSR NO. 9472, RPR, CCRR