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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

DOCKET NO. 1:19-mj-24

vs.

MUSE ABDIKADIR MUSE,
MOHAMED SALAT HAJI, and
MOHAMUD ABDIKADIR MUSE,

Defendants.

TRANSCRIPT OF DETENTION HEARINGS (DAY 1)
BEFORE MAGISTRATE JUDGE PHILLIP J. GREEN
GRAND RAPIDS, MICHIGAN
January 25, 2019

Court Reporter: Glenda Trexler
Official Court Reporter
United States District Court
685 Federal Building
110 Michigan Street, N.W.
Grand Rapids, Michigan 49503

Proceedings reported by stenotype, transcript produced by
computer-aided transcription.

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1 Grand Rapids, Michigan

2 January 25, 2019

3 2:01 p.m.

4 P R O C E E D I N G S

5 *THE COURT:* Good afternoon. Please be seated. We are
6 here in the matter of the United States versus
7 Muse Abdikadir Muse, Mohamed Salat Haji, and
8 Mohamud Abdikadir Muse, case number 19-mj-24. This is the date
9 and time set for a hearing on the government's motion for
10 detention.

11 Could I have appearance of counsel, please.

12 *MR. WEST:* Good afternoon, Your Honor, Clay West and
13 Chris O'Connor for the United States. Also at counsel table is
14 Special Agent Paul Dunham with the FBI.

15 *THE COURT:* All right. Good afternoon to all three of
16 you.

17 *MS. CHARTIER:* Good afternoon, Your Honor,
18 Mary Chartier on behalf of Mohamed Haji who is seated to my
19 right. I would ask the Court if Mr. Haji may be uncuffed in
20 case he would like to take some notes during the proceeding.

21 *THE COURT:* No.

22 *MS. CHARTIER:* Thank you, Your Honor.

23 *THE COURT:* You're welcome.

24 *MS. TUREK:* Good afternoon, Your Honor, Sharon Turek
25 on behalf of Mr. Muse Muse.

1 *THE COURT:* All right. Good afternoon, Ms. Turek.
2 And am I mispronouncing his name? Is it Muse?
3 Muse Muse?

4 *DEFENDANT MUSE MUSE:* Yeah.

5 *THE COURT:* All right. I apologize. Thank you.

6 *MR. ZAMBON:* And good afternoon, Your Honor,
7 Richard Zambon appearing on behalf of the defendant
8 Mohamud Muse, and I would also make the same request to uncuff
9 Mr. Muse.

10 *THE COURT:* It is respectfully denied. I defer to the
11 Marshal Service. They have a policy on this matter, and I'm
12 not going to deviate from that policy. I don't think there's
13 sufficient basis for purposes of this hearing. For a trial,
14 then it will be a different matter.

15 *(Ms. Turek's cell phone went off)*

16 *MS. TUREK:* I'm sorry, Your Honor.

17 *THE COURT:* Oh. Normally we confiscate those phones,
18 Ms. Turek, but I've had my phone go off in here, so I'm going
19 to cut you some slack.

20 *MS. TUREK:* I'm turning it off, Your Honor.

21 *THE COURT:* All right. Mr. West, I received along
22 with defense counsel an email yesterday from you indicating
23 that the government intends to object to any question that
24 would elicit classified information.

25 I want to address that at the outset because your

1 email suggested that the agent would determine when classified
2 information was being elicited and choose when not to answer.
3 We don't normally handle things that way in terms of an
4 objection. I'm not trying to prevent the government from
5 objecting, nor do I want to interfere with national security,
6 but I think we have to have some bases for the Court to
7 ascertain whether it's being properly asserted. So I'm a
8 little uncomfortable with proceeding if the intention is simply
9 that the agent would choose as he determined what to provide
10 and what not to provide.

11 Is there a way that we can proceed that would allow
12 the government to preserve as privileged classified information
13 but also give the Court and defense counsel some opportunity to
14 determine whether it's being appropriately asserted?

15 *MR. WEST:* Absolutely, Your Honor. And I'll note at
16 the outset the government certainly does not intend to use that
17 assertion to cut off a cross or even a vigorous
18 cross-examination of any matters put out in direct examination.

19 I'm happy to sit down with the Court and cocounsel and
20 discuss the issue if it even arises. It may not arise. But
21 it's a scenario where the government counsel will certainly
22 object where it's obvious. There are some scenarios where it
23 may not be initially obvious to government counsel.

24 *THE COURT:* Okay.

25 *MR. WEST:* And that was the impetus of the

1 communication that was presented.

2 *THE COURT:* Well, we would normally discuss it here on
3 the record to the extent that's possible. Well, we'll just --
4 we'll have to see how it goes. I guess I was a little
5 surprised by that because I've reviewed the search warrant
6 applications and the Criminal Complaint. I'm assuming there
7 was no classified information in those documents.

8 *MR. WEST:* That is correct, Your Honor, and certainly
9 the government is prepared both in direct and cross-examination
10 to go through those materials at length and in depth.

11 *THE COURT:* All right. Very well. The other question
12 I have for you, is the government relying upon the statutory
13 rebuttable presumption?

14 *MR. WEST:* It is, Your Honor.

15 *THE COURT:* All right. So we need to do a prelim.

16 *MR. WEST:* Just a moment, Your Honor.

17 Your Honor, on that note I would just respectfully
18 represent that the government's position is that the finding of
19 probable cause in the Complaint upon signing of the Complaint
20 is sufficient in terms of the rebuttable presumption itself.

21 *THE COURT:* I disagree.

22 *MR. WEST:* Okay.

23 *THE COURT:* If the government wants to rely upon the
24 statutory rebuttable presumption, I interpret the statute as
25 requiring me to make a finding here in court following a

1 preliminary hearing that there is probable cause. So I don't
2 know that it's going to matter at the end of the day. I
3 suspect that the testimony that's coming in is going to be
4 fairly extensive. But I just wanted to clarify that.

5 *MR. WEST:* Understood, Your Honor. And may I consult
6 again before we --

7 *THE COURT:* Yes. Please do.

8 *MR. WEST:* Your Honor, the government's position is in
9 the event that a full preliminary examination is necessary, the
10 government would drop the rebuttable presumption in that
11 scenario.

12 *THE COURT:* I'm sorry, I didn't hear what you said.

13 *MR. WEST:* The government would drop its request for
14 the rebuttable presumption in that scenario and defer the full
15 preliminary exam to a later date as initially noted by the
16 Court's scheduling order.

17 *THE COURT:* Okay.

18 *MS. CHARTIER:* Your Honor, if I just may. Do we have
19 a date for that preliminary hearing? I didn't see one in the
20 minutes.

21 *THE COURT:* We don't yet. Certainly it has to be
22 within 14 days of their initial appearance. We can certainly
23 discuss that at some point if counsel wishes.

24 *MS. CHARTIER:* Thank you, Your Honor.

25 *MR. ZAMBON:* Your Honor, so the government's email

1 that they sent regarding classified information is not going to
2 be heard? Or they are withdrawing that it sounds like --

3 *THE COURT:* No.

4 *MR. ZAMBON:* -- because we're only going to be in the
5 detention hearing now?

6 *THE COURT:* Well, no. Here is what I understand,
7 Mr. Zambon. And Mr. West can correct me if I'm wrong. There
8 were two separate issues. One, the issue of the potential of
9 classified information being responsive to a question raised
10 here today. The way we're going to handle that is on a
11 case-by-case basis. Questions will be asked, and if there's an
12 objection or if the agent believes that a full answer would
13 require the disclosure of classified information, we'll address
14 it on a case-by-case basis.

15 The second issue is whether the government enjoys a
16 statutory rebuttable presumption. And under Title 18,
17 United States Code § 3142(e)(3)(C), the government would enjoy
18 such a presumption upon a judicial finding of probable cause.
19 Now, the government's position, as I understand it, is my
20 signing of the Criminal Complaint was a finding of probable
21 cause. And the government is right, at least to some extent.
22 My interpretation of that statutory provision requires a
23 preliminary hearing and a finding after the opportunity for
24 cross-examination at a preliminary hearing. And I -- my
25 interpretation is based upon case law that does provide that --

1 because the government has argued in other cases, not
2 necessarily in this district, that the government can obtain
3 the statutory presumption by introducing evidence of uncharged
4 offenses that establish probable cause of an offense that is
5 not charged but would otherwise have a rebuttable presumption.
6 The Court said no, that's not sufficient. So my interpretation
7 is, right or wrong, is that it has to be a charged offense,
8 there has to be a preliminary hearing or an indictment to
9 trigger the rebuttable presumption. So the government has
10 elected not to rely upon the statutory rebuttable presumption.

11 *MR. ZAMBON:* Thank you, Your Honor. And I appreciate
12 that and I understand that. My concern is -- and maybe this is
13 premature, that we won't even reach this -- but if the
14 government is going to claim some classified -- some objection
15 to our questioning based on classified information, there is a
16 procedure to be followed that is set out in the Classified
17 Information Procedures Act, and I don't know how we're going to
18 do that on a case-by-case basis.

19 *THE COURT:* Well, CIPA -- CIPA, I think, is intended
20 more for trial. It may be that in this case CIPA will have to
21 be employed. I don't know that we need to address the
22 provisions of CIPA for purposes of a detention hearing.

23 But what is at issue, Mr. Zambon, and will be very
24 much on the front of my mind, is due process. Now, what we
25 can't have is a situation where the government declines to

DIRECT EXAMINATION OF PAUL DUNHAM

10

1 provide evidence the extent of which would deny your client
2 due process. I don't know whether that will happen or not.
3 I've reviewed several search warrant applications and the
4 Criminal Complaint, none of which had classified information.
5 So, frankly, I was a little surprised when I saw the email
6 about classified information. I'm not sure how or why
7 classified information would come into play here. But we'll
8 have to see. And if the government asserts classified
9 information, you know, if it declines to provide that
10 information, then I'll just have to look at the totality of the
11 situation to determine whether your client's due process rights
12 have been protected.

13 MR. ZAMBON: Thank you, Your Honor. I appreciate
14 that.

15 THE COURT: All right. Are we ready to begin?

16 MR. O'CONNOR: Yes, Your Honor.

17 THE COURT: All right. Go ahead.

18 MR. O'CONNOR: Your Honor, the government calls
19 FBI Special Agent Paul Dunham.

20 PAUL DUNHAM

21 *(The oath was administered)*

22 MR. O'CONNOR: May I proceed, Your Honor?

23 THE COURT: Yes.
24
25

DIRECT EXAMINATION OF PAUL DUNHAM

1 DIRECT EXAMINATION

2 BY MR. O'CONNOR:

3 Q. Good afternoon, sir.

4 A. Good afternoon.

5 Q. Will you please introduce yourself to the Court.

6 A. My name is Paul Dunham, D-U-N-H-A-M. I'm a special agent
7 with the FBI assigned to the FBI's office in East Lansing,
8 Michigan.

9 Q. How long have you been employed with the FBI?

10 A. A little over 14 years.

11 Q. And in what position?

12 A. For about nine and a half years I was a forensic accountant
13 and for just shy of five years a special agent.

14 Q. As an analyst and now a special agent with the FBI, have
15 you received training and experience with investigation -- with
16 investigations of counterterrorism matters?

17 A. I have.

18 Q. And through your training and experience are you generally
19 familiar with certain Arabic words and phrases as they relate
20 to extremist and terrorism offenses?

21 A. I am.

22 Q. Have you personally been involved in the investigation of
23 Muse Muse, Mohamud Muse, and Mohamed Haji in this case?

24 A. I have.

25 Q. Have you also learned information from other FBI agents and

DIRECT EXAMINATION OF PAUL DUNHAM

1 personnel that were involved in this investigation?

2 A. Yes, I have.

3 Q. All right. Agent Dunham, I would like you to please turn
4 to Exhibit 1 in the book in front of you.

5 *MR. O'CONNOR:* A copy has been provided to all counsel
6 and the Court, Your Honor.

7 *THE COURT:* Okay. Thank you, Mr. O'Connor.

8 Q. *(BY MR. O'CONNOR)* Agent Dunham, is this a
9 Criminal Complaint and Affidavit charging the defendants in
10 this case with Title 18, U.S. Code § 2339B, conspiring to
11 provide material support or resources to a designated foreign
12 terrorist organization, namely ISIS?

13 A. Yes, it is.

14 Q. Now, looking at the Affidavit that follows the
15 Criminal Complaint page, did you assist with the drafting of
16 the allegations that appear in the Affidavit supporting the
17 charge against the defendants here today?

18 A. Yes, I did.

19 Q. To the best of your knowledge and belief, was this
20 Affidavit in Exhibit 1 true and correct in all material
21 respects on July 21st, 2019, when it was sworn by another FBI
22 agent in the investigation?

23 A. Yes, it was, with the exception of one part. There was an
24 edit or correction in paragraph 42. So it starts with "On or
25 about January 8th and 9th of 2019," and in the next slot after

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13

1 the comma is the lowercase word "Muse," and that should reflect
2 two capital letters "MM" intending to represent Muse Muse.

3 Q. I see. So that's a typographical error. It should be "MM"
4 not Muse --

5 A. That's correct.

6 Q. -- in the first sentence?

7 Okay. Other than that correction was this Affidavit true
8 and correct in all material respects on January 21st, 2019?

9 A. Yes, it was.

10 Q. And does it remain true and correct in all material
11 respects today to the best of your knowledge and belief?

12 A. Yes, it does.

13 *MR. O'CONNOR:* Your Honor, the government moves
14 Exhibit 1 into evidence.

15 *THE COURT:* Any objection, Ms. Chartier?

16 *MS. CHARTIER:* No, Your Honor.

17 *THE COURT:* Okay. Ms. Turek?

18 *MS. TUREK:* No, Your Honor.

19 *THE COURT:* Mr. Zambon?

20 *MR. ZAMBON:* None, Your Honor.

21 *THE COURT:* It is received.

22 Q. *(BY MR. O'CONNOR)* Agent Dunham, we're going to ask you a
23 lot of questions here today about events that occurred prior to
24 January 21st, 2019, but I want to start on that date.

25 Were you actively involved in the investigation on that

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1 date?

2 A. Yes, I was.

3 Q. And for some context to the exhibits that we'll go through
4 in a moment, on that date did the defendants Muse Muse,
5 Mohamud Muse, and Mohamed Haji all travel together by vehicle
6 from Lansing, Michigan, to the Gerald R. Ford International
7 Airport?

8 A. Yes, they did.

9 Q. And did all three individuals enter the airport that day?

10 A. They did.

11 Q. Was anyone in that group of three individuals intending to
12 fly out of the airport?

13 A. Yes.

14 Q. And who was that?

15 A. Muse Muse.

16 Q. What was his ultimate destination that day?

17 A. Mogadishu, Somalia.

18 Q. And did Muse Muse obtain his boarding pass from the ticket
19 counter of the airline who was flying out of the Grand Rapids
20 airport?

21 A. Yes, he did.

22 Q. After obtaining that boarding pass did he proceed to the
23 TSA security checkpoint and attempt to enter the sterile area
24 of the Grand Rapids airport?

25 A. Yes, he did.

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1 Q. At that point was Muse Muse arrested by FBI agents?

2 A. He was.

3 Q. With respect to the other two individuals, Mohamud Muse and
4 Mohamed Haji, did they remain in the airport as Defendant
5 Muse Muse attempted to enter the secure sterile area of the
6 airport?

7 A. Yes, they did.

8 Q. And what happened to those two individuals?

9 A. They were both arrested near the TSA area by FBI agents and
10 officers.

11 Q. After the three defendants were arrested at the airport,
12 were they transported to the FBI's office here in Grand Rapids?

13 A. Yes, they were.

14 Q. And did the FBI seek to interview each defendant?

15 A. Yes, we did.

16 Q. Were you personally involved in any of those interviews?

17 A. I was.

18 Q. Which interview were you involved in?

19 A. The interview of Mohamed Haji.

20 Q. Let me ask you about the first defendant, Muse Muse. Did
21 you receive information from other agents concerning that
22 interview?

23 A. I did.

24 Q. Prior to his interview by FBI agents in the office, was he
25 read his Miranda rights?

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1 A. He was.

2 Q. And did he agree to speak to FBI agents at that time?

3 A. He did.

4 Q. Was he confronted with Facebook communications that he made
5 to codefendants and others including a person he believed was
6 an ISIS Somali fighter about his desire to travel to Somalia to
7 join ISIS?

8 A. Yes.

9 Q. Generally speaking, Agent Dunham, did Muse Muse give an
10 indication as to the statements that he made that he was
11 confronted with?

12 A. Um, in general he described the fact that he had been
13 communicating with an ISIS fighter that he believed was in
14 Somalia and that he was intending to travel to Somalia to join
15 ISIS there.

16 Q. At any point during the interview did Muse Muse give an
17 impression that the statements that he made prior to his arrest
18 were not genuine?

19 A. No, he did not.

20 Q. Did he reaffirm his beliefs as expressed in those
21 communications?

22 A. He did.

23 *THE COURT:* Mr. O'Connor, I'm sorry to interrupt. For
24 my benefit, in the Criminal Complaint continuation there are
25 three undercover employees, UCE-1, UCE-2, and UCE-3. Is the

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1 employee who pretended to be the Somali fighter UCE-2?

2 *MR. O'CONNOR:* That's correct.

3 *THE COURT:* All right. Thank you.

4 *THE WITNESS:* Yeah, Undercover Employee 2.

5 *THE COURT:* I'm sorry. Yes. Go ahead, please.

6 *MR. O'CONNOR:* Thank you, Your Honor.

7 Q. (BY MR. O'CONNOR) Agent Dunham, did Muse Muse agree to
8 sign a handwritten statement at some point during his interview
9 with the FBI that day?

10 A. Yes, he did.

11 Q. I turn your attention to Government Exhibit 2 in the book
12 in front of you, please.

13 A. I'm there.

14 Q. What is this?

15 A. This is a handwritten statement that was made by
16 Special Agent Southard, and it reflects Muse Muse's statement
17 on that day, and as laid out on page 2 it says from Muse Muse's
18 perspective "I have asked Special Agent Southard of the FBI to
19 help me write this statement because I do not write well with a
20 pen."

21 *MR. O'CONNOR:* The government moves Exhibit 2 into
22 evidence.

23 *THE COURT:* Ms. Turek?

24 *MS. TUREK:* No objection, Your Honor.

25 *THE COURT:* Ms. Chartier?

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1 *MS. CHARTIER:* No objection, Your Honor.

2 *THE COURT:* Mr. Zambon.

3 *MR. ZAMBON:* Your Honor, if I may just -- Agent, can
4 you tell me who wrote this?

5 *THE WITNESS:* This was Special Agent Southard.

6 *MR. ZAMBON:* And it's in his handwriting?

7 *THE WITNESS:* It is.

8 *MR. ZAMBON:* Was the interview taped?

9 *THE WITNESS:* It was video and audio recorded.

10 *MR. ZAMBON:* And so there is an audio and video of
11 this statement being written out?

12 *THE WITNESS:* It should be reflected in there. I have
13 not seen it. But, yes, it should be reflected on there.

14 *MR. ZAMBON:* And you can say that the -- that this
15 exhibit is a true and accurate representation of what was on
16 the audio and video?

17 *THE WITNESS:* It is.

18 *MR. ZAMBON:* Thank you, Your Honor. I have no
19 objection.

20 *THE COURT:* All right. Exhibit 2 is received.

21 *Q. (BY MR. O'CONNOR)* Agent Dunham, let's take a closer look
22 at the contents within Government Exhibit 2. First of all, did
23 the defendant Muse Muse sign this handwritten statement on
24 January 21st, '19, 2019?

25 *A.* Yes, he did.

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1 Q. That appears on page 2?

2 A. That's correct.

3 Q. The contents of the handwritten statement, in the first
4 paragraph does this document indicate that Muse Muse has
5 indicated he lives in Lansing, Michigan, but was born in a
6 Somali refugee camp in Kenya?

7 A. That's correct.

8 Q. All right. I'll direct your attention to the second
9 paragraph of Exhibit 2. Did Muse Muse indicate in this
10 statement when he began researching ISIS or what is otherwise
11 referred to as dawla, D-A-W-L-A?

12 A. Yes. He advised that when he was in high school he began
13 that exercise.

14 Q. And did he indicate that at some point he began talking to
15 an ISIS recruiter, someone he believed to be an ISIS recruiter?

16 A. Yes.

17 Q. All right. I would like you to read into the record the
18 sentence that follows, begins on the fourth line of paragraph 2
19 starting with "I."

20 A. "I wanted to join ISIS in Somalia so I wouldn't have to do
21 an attack in the United States."

22 Q. Does this handwritten statement also acknowledge that
23 Muse Muse understood that ISIS was a terrorist organization
24 according to the U.S. government?

25 A. Yes, it does.

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1 Q. And did he indicate his belief that ISIS does not kill,
2 injure, maim, or kidnap innocent people?

3 A. Yes, he did.

4 Q. And I'd like you to read the final paragraph on page 1 of
5 Exhibit 2 into the record, please.

6 A. "I was arrested today at the airport. I was going to join
7 ISIS or live in Somalia."

8 Q. Turning now to Defendant Haji. Did he agree to be
9 interviewed by the FBI on Monday?

10 A. Yes, he did.

11 Q. Was he read his Miranda rights?

12 A. He was.

13 Q. And did he agree -- at that point did he speak with FBI
14 agents?

15 A. He did.

16 Q. Did Mr. Haji confirm that he was the person communicating
17 with the others using a Facebook account by the name of
18 Ebrahim Mohamed Salat?

19 A. Yes, he did.

20 Q. Referenced in the Affidavit as FB Account Haji?

21 A. He did.

22 Q. What's a kunya name?

23 A. A kunya name is an ISIS adaptation of an Arabic word for
24 your ISIS fighter name. So you're not using your true name,
25 you're using an ISIS fighter name that you select.

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1 *THE COURT:* Can you tell me that term again? I didn't
2 quite catch it.

3 *MR. O'CONNOR:* Kunya, Your Honor. It's spelled
4 K-U-N-Y-A.

5 *THE COURT:* All right. Thank you.

6 *Q. (BY MR. O'CONNOR)* In this case, Agent, did any of the
7 defendants create a kunya alias and create Facebook accounts
8 using those kunya names?

9 *A.* All three defendants selected an ISIS kunya name and had
10 corresponding Facebook accounts.

11 *Q.* Do you recall off the top of your head the names of the
12 kunya fighter names they had assigned to themselves?

13 *A.* I do.

14 *Q.* What are those? What are they?

15 *A.* For Muse Muse it was Ali al-Muhajir. For Mohamed Haji it
16 was Salamujahid al-Muhajir, and for Mohamud Muse it was
17 Abu Usama al-Muhajir.

18 *Q.* And are those the aliases that appear on the cover page of
19 the Criminal Complaint as a/k/a's next to the defendants'
20 true names?

21 *A.* They are.

22 *Q.* And did Mr. Haji confirm with you that he was using a
23 kunya-named Facebook account during portions of this agreement
24 to assist with the travel of Muse Muse?

25 *A.* He did.

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1 Q. Generally speaking, Agent, did Mr. Haji adopt the
2 communications in those Facebook accounts when he was
3 confronted with them during his interview?

4 A. Yes.

5 Q. Did he also admit to the actions that he is alleged to have
6 taken that's documented in those Facebook communications?

7 A. Yes, he did.

8 Q. Did he tell you anything else concerning his statements and
9 actions?

10 A. No. He basically described that the statements were all
11 his and that the parties that he was sending stuff back and
12 forth to were who he thought they were. That he didn't tell
13 the parties he was working with any differently. However, he
14 did say that in his heart he didn't mean to do any of this.

15 Q. Did you ask -- did you ask Mr. Haji if he had ever
16 communicated to anybody that sentiment?

17 A. Yes, I did, and, no, he did not.

18 Q. So he did not tell Muse Muse that?

19 A. Not the latter part, that he didn't mean it and that he
20 didn't intend to do what he was doing.

21 Q. He didn't tell that to Mohamud Muse?

22 A. He did not.

23 Q. Were FBI agents able to interview Mohamud Muse on Monday?

24 A. They were not.

25 Q. All right. Let's turn to some examples. There are

1 numerous summaries of Facebook communications that appear in
2 the Affidavit. I would like to review some of those as well as
3 look at some actual exhibits of communications.

4 We'll start with the Complaint Affidavit on paragraph 12 on
5 page 3. If you could turn to that, please.

6 Did the FBI obtain Facebook communications in this
7 investigation?

8 A. Yes, we did.

9 Q. And generally speaking, how did you do that?

10 A. We used federal criminal search warrants.

11 Q. Once you obtained those Facebook communications through the
12 search warrants, did you and others review them?

13 A. Yes, we did.

14 Q. And the summaries of the Facebook communications in this
15 Affidavit, is that based on a review of those Facebook
16 communications obtained through the search warrants?

17 A. Yes, they are.

18 Q. I would point your attention to paragraph 12. In your
19 review of Facebook communications, is it true that
20 Defendant Haji and Defendant Mohamud Muse discussed ISIS videos
21 and did they make comments about ISIS videos that they had been
22 watching?

23 A. Yes, they did.

24 Q. And generally speaking, what did they say about that?

25 A. So as reflected in the Criminal Complaint on or about

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24

1 January 19th Mohamed Haji and Mohamud Muse were talking about
2 ISIS videos. Haji wrote that he liked how ISIS burned people,
3 end quote.

4 *MR. ZAMBON:* Your Honor, I object to this. This is
5 far outside the date of the Complaint. Where he's talking
6 about September of 2017. And the Complaint is specific between
7 certain dates, October of 2018 and January of 2019. I don't
8 see the relevancy to this.

9 *THE COURT:* I get your point, Mr. Zambon, but this is
10 a detention hearing. I assume the government is introducing it
11 because the government believes it's evidence that goes to
12 their state of mind as to whether they may be dangerous.

13 *MR. O'CONNOR:* That's correct, Your Honor.

14 *THE COURT:* Is that right, Mr. O'Connor?

15 *MR. O'CONNOR:* That's correct, Your Honor.

16 *THE COURT:* And, of course, I take all evidence into
17 consideration and give it the weight it's due, Mr. Zambon.

18 *MR. ZAMBON:* Thank you, Your Honor.

19 *THE COURT:* Go ahead, Mr. O'Connor.

20 Q. (BY MR. O'CONNOR) Were you finished?

21 A. No. So in that vein Mohamed Haji wrote to Mohamud Muse
22 that he liked how ISIS burned people and "I love it, man."

23 Q. Was there also a reference to watching somebody put fuel on
24 somebody, watching somebody burning?

25 A. There was. The next day on January 20th, 2017,

1 Mohamed Haji wrote to Mohamud Muse "Ha" -- quote -- "Ha, ha, he
2 put that guy who was threaten, he put fuel on that dude while
3 he -- while his burning. That was funny, dude."

4 Q. Do you have an understanding of approximately when the FBI
5 inserted undercover FBI employees to start communicating with
6 the defendants? Was this before or after January of 2017?

7 A. After January of 2017.

8 Q. So these comments that we see here, this is prior to any
9 involvement by the FBI communicating with the defendants?

10 A. That's correct.

11 Q. I would like you to turn to Exhibit 3 in your exhibit book,
12 please. What is Exhibit 3?

13 A. Exhibit 3 is a record produced by Facebook pursuant to a
14 criminal search warrant on Mohamud A. Muse of the account,
15 Facebook account Mohamud A. Muse.

16 Q. Whose communications are depicted in Government Exhibit 3?

17 A. These are communications between Mohamud Muse and
18 Mohamed Haji.

19 Q. Now, if we look at the author lines of these
20 communications, it refers to a Mohamud A. Muse and an
21 Ebrahim Mohamed Salat. Is that, the Salat name, the alias
22 Facebook account that Mr. Haji admitted to using?

23 A. Yes, it is.

24 Q. And what's significant about the conversation that appears
25 in Exhibit 3?

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1 A. So this was in June of 2017, and it's an apparent
2 conversation between Mohamud Muse and Mohamed Haji. It starts
3 with "Yeah, what's up with dawla?" Which is what Mohamed Haji
4 said. And as the conversation continues on --

5 Q. Let me stop you right there. Again, what is dawla?

6 A. So dawla is the Arabic name for ISIS. So much like
7 professions and industries have jargon, dawla in the world of
8 terrorism means ISIS.

9 Q. Okay. Please continue.

10 *THE COURT:* Is the government going to introduce this?

11 *MR. O'CONNOR:* Yes, Your Honor.

12 *THE COURT:* All right. Any objection, Ms. Turek?

13 *MS. TUREK:* No, Your Honor.

14 *THE COURT:* Ms. Chartier?

15 *MS. CHARTIER:* Is this -- I do have a question. Is
16 this the complete communication between Mr. Muse and Mr. Haji?

17 *THE WITNESS:* No, it is not.

18 *MS. CHARTIER:* Then I do have an objection with just
19 the portion. We don't have the context of the full
20 conversation.

21 *THE COURT:* All right. The objection is overruled.
22 I'll take it into consideration.

23 Mr. Zambon, any objection?

24 *MR. ZAMBON:* I would just join Ms. Chartier's
25 objection, Your Honor.

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1 *THE COURT:* The objection is joined. It is also
2 overruled. It is received.

3 Go ahead, Mr. O'Connor.

4 *MR. O'CONNOR:* Thank you.

5 *Q. (BY MR. O'CONNOR)* Agent Dunham, can you continue to
6 describe the communications that are highlighted on Government
7 Exhibit 3.

8 *A.* Yes. So again Mohamed Haji was asking "What's up with
9 dawla?" Mohamud Muse replied, "I know anything new, bro, but
10 Imma speak other mujahid soon." So "mujahid" is an Arabic word
11 for one who engages in jihad. "Jihad" is an Arabic word for
12 basically fighting against the enemies of Islam.

13 So Mohamed Haji then replies, "I pray Allah gives
14 mujahideen," that's the plural of "mujahid," so a group of
15 fighters, "the victory. And we are next to step on the battle
16 filed." I think he intended to mean "field." So "We are next
17 to step on the battlefield."

18 *Q.* If I could turn your attention back to Exhibit 1, the
19 Complaint Affidavit at paragraph 10. Going in chronological
20 order.

21 Did you find communications between Mohamud Muse and an FBI
22 undercover employee in about June 21st of 2017 where
23 Mohamud Muse made statements to that employee about what his
24 plans were?

25 *A.* Yes.

1 Q. Tell us about that.

2 A. So Mohamud Muse was talking to someone that he thought was
3 an ISIS recruiter in the Iraq and Syria area --

4 *(Recess taken from 2:34 p.m. to 2:45 p.m.)*

5 *(There was a malfunction with the audio recording equipment*
6 *and the proceedings were stopped and the problem was corrected*
7 *and the proceedings continued as follows:*

8 THE COURT: Please be seated. I suppose this may have
9 been a metaphor for what we've been going through here in the
10 last few weeks.

11 All right. Go ahead, Mr. O'Connor.

12 MR. O'CONNOR: Thank you, Your Honor.

13 Q. *(BY MR. O'CONNOR)* Agent, we were talking about
14 Government's Exhibit 1, paragraph 10, on page 2, and I believe
15 the question I asked you was did Mohamud Muse indicate to an
16 online undercover employee with the FBI what his plans were?

17 A. Yes, he did.

18 Q. And what were those plans?

19 A. He said that he wanted to join ISIS in Syria. That he was
20 saving his money to make his way there. That he had a valid
21 U.S. passport for travel. That he wanted firearms training.
22 He wanted explosives training. And that he planned to die with
23 a gun in his hand fighting for the Islamic State.

24 Q. I'd like you to flip to Government Exhibit 4, please. What
25 is Exhibit 4?

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1 A. Exhibit 4 is a record from Facebook that was produced
2 pursuant to a criminal search warrant for Muse Muse's Facebook
3 account.

4 *MR. O'CONNOR:* The government moves Exhibit 4 into
5 evidence.

6 *THE COURT:* Ms. Turek?

7 *MS. TUREK:* Your Honor, I do have one question.

8 *THE COURT:* Go ahead.

9 *MS. TUREK:* Do we have any idea when -- the date on
10 top of the photo, what does that relate to? Or not the date,
11 but is there a date relating to this photo?

12 *THE WITNESS:* There is. So if you go to -- the way
13 Facebook produces records, the records are produced most recent
14 to oldest, and as you're looking at the pages, unfortunately,
15 you have to start at the bottom and work your way up. So if
16 you flip to page -- at the top it's labeled "432." There's a
17 highlighted section for November 1st, 2017. The type and URL
18 information in the bottom right is the digital description of
19 that photo. And then this is the photo that was attached in
20 the communication.

21 *MS. TUREK:* No objection, Your Honor.

22 *THE COURT:* So this photo was sent on November 1st of
23 2017?

24 *THE WITNESS:* That's correct.

25 *THE COURT:* All right. Thank you.

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1 Ms. Chartier?

2 MS. CHARTIER: Your Honor, I just would like to state
3 a standing objection to items coming in without the full
4 record. I believe they are being admitted without context. I
5 thought it might be easier for me to just make that objection
6 for all of the documents coming in and then you can probably
7 overrule me just once.

8 THE COURT: Well, I appreciate that, Ms. Chartier, as
9 always. There is the possibility that that objection might be
10 sustained depending upon the circumstance. You know, the Rules
11 of Evidence are not as strictly applied in the detention
12 hearing. At trial it would be a different situation. So it is
13 still my discretion as to what to allow and what not to allow.
14 So, again, I would suggest you go ahead and make your objection
15 because it might be sustained.

16 MS. CHARTIER: Great. I'm happy to do that.

17 THE COURT: I wouldn't hold my breath, but, you know,
18 you can catch me on a -- to be reasonable every once in a
19 while.

20 MS. CHARTIER: Thank you, Your Honor.

21 THE COURT: Mr. Zambon.

22 MR. ZAMBON: I have no objection, Your Honor.

23 THE COURT: All right. It's received.

24 Q. (BY MR. O'CONNOR) So for the record, Agent Dunham, when
25 was this picture sent by Muse Muse?

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1 A. November 1st, 2017.

2 Q. And who did he send it to?

3 A. This picture was sent from Muse Muse to Mohamed Haji.

4 Q. And was there a conversation associated with the sending of
5 this picture?

6 A. Yes, there was.

7 Q. And before we go to that conversation, can you describe for
8 the record what the picture depicts on the first page of
9 Government Exhibit 4.

10 A. Yes. So this appears to be a picture of the Home Depot
11 truck attack in Tribeca, New York, on Halloween, which was
12 October 31st of 2017. So this was a scenario where an
13 individual drove a vehicle down a pathway and struck and killed
14 a number of individuals.

15 Q. And on the bottom of that picture does it say "At least
16 eight people dead"?

17 A. It does.

18 Q. And that occurred -- that event occurred the day before
19 this picture was sent by Muse Muse to Mohamed Haji?

20 A. It did.

21 Q. And were there conversations associated with the sending of
22 this picture?

23 A. There were.

24 Q. Explain those to us.

25 A. So in response to the picture, Mohamed Haji wrote "Real

1 civil war," to which Muse Muse replied "If this do not wake up
2 the people, nothing will." And Mohamed Haji replied, "Yeah,
3 I'm ready. Inshallah." "Inshallah" is an Arabic term that's
4 very common and basically means God willing. It's a normal
5 customary-type thing that's said in the spoken word and
6 written.

7 After saying "Yeah, I'm ready. Inshallah," Mohamed Haji
8 says "This is a call for hijra."

9 Q. And what is hijra?

10 A. In the -- so "hijra" again is an Arabic word. In the
11 context of extremism, hijra is basically the ISIS-used word to
12 define a foreign fighter's travel from their country of origin,
13 so let's say they live in the United States, in order to travel
14 to terrorist-held lands abroad to join as a fighter for that
15 particular group.

16 Mohamed Haji goes on to say "We can't live here. I'm
17 trying to plan for hijra now." To which Muse Muse replies,
18 "You have spoken the truth. Just wait on the opportunity. It
19 will present itself if we are truthful. But no right. It's
20 going to require some type of sacrifice."

21 Q. Turning to Government's Exhibit 5, please. What is this
22 record?

23 A. This is a record produced by Facebook pursuant to a
24 criminal search warrant for Muse Muse's Facebook account.

25 Q. And the conversations that appear on Government Exhibit 5,

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1 when did those occur?

2 A. This was in February of 2018.

3 *MR. O'CONNOR:* The government moves Exhibit 5 into
4 evidence.

5 *THE COURT:* Ms. Turek.

6 *MS. TUREK:* No objection, Your Honor.

7 *THE COURT:* Ms. Chartier.

8 *MS. CHARTIER:* Objection, not the complete record.

9 *THE COURT:* All right. Mr. Zambon.

10 *MR. ZAMBON:* I'm with Ms. Chartier.

11 *THE COURT:* All right. The objections are overruled.
12 It is received.

13 Q. (BY MR. O'CONNOR) Agent Dunham, what did you find of
14 significance in Government Exhibit 5?

15 A. So here Muse Muse is communicating with Mohamed Haji, and
16 Muse Muse says "Little by little, bro, and soon we'll be in
17 dawla." Again, "dawla" being ISIS. And after a series of just
18 one-word exchanges back and forth, Mohamed Haji says "Out of
19 here. Hijra."

20 Q. And that's on page 2 of the exhibit, the "out of here" and
21 "hijra"?

22 A. It is.

23 Q. Exhibit 6, please. What is Government Exhibit 6?

24 A. So Government Exhibit 6 again is records produced by
25 Facebook pursuant to a criminal search warrant for Muse Muse's

1 Facebook account.

2 Q. And this portion of Muse -- I'm sorry, whose account is
3 this?

4 A. This was a Facebook search warrant for Muse Muse's
5 Facebook account.

6 Q. And this section of the conversations of the account, what
7 is the time period that's covered here?

8 A. March of 2018.

9 MR. O'CONNOR: The government moves Exhibit 6 into
10 evidence.

11 THE COURT: Ms. Turek?

12 MS. TUREK: No objection, Your Honor.

13 THE COURT: Ms. Chartier?

14 MS. CHARTIER: Lack of complete record objection.

15 Thank you.

16 THE COURT: Mr. Zambon?

17 MR. ZAMBON: Your Honor, I don't see the relevancy of
18 this at all.

19 THE COURT: I think that will be established in a
20 moment.

21 It is received over objection.

22 Q. (BY MR. O'CONNOR) Agent Dunham, what is the photograph
23 that appeared in the Facebook records that you obtained from
24 this part of the account?

25 A. So this is a picture of what appears to be a slaughtered

1 goat that was sent by Mohamed Haji on March 28th of 2018 to
2 Muse Muse.

3 Q. And did you find any conversations around the same time
4 period that this photograph was sent?

5 A. Yes. There was a slight delay from the time period when
6 Mohamed Haji sent it and when Muse Muse received it. Once
7 Muse Muse received it they started an exchange conversation to
8 which Mohamed Haji said, "Yeah, next time I want to catch
9 kuffar and do my jihad training on them. That will be in
10 dawla." So "kuffar" is the Arabic word for nonbeliever.

11 Q. Government Exhibit 7, please. What is this document?

12 A. This is a record produced by Facebook pursuant to a search
13 warrant for Mohamed Haji's Facebook account.

14 Q. And what is the time period covered for the communications
15 that appear in Exhibit 7?

16 A. I'm sorry, it wasn't -- it wasn't Mohamed Haji's
17 Facebook account, it was Mohamed -- I'm sorry -- Muse Muse's
18 Facebook account. And the time period is April of 2018.

19 *MR. O'CONNOR:* Okay. The government moves Exhibit 7
20 into evidence.

21 *THE COURT:* Ms. Turek?

22 *MS. TUREK:* May I have a moment, Your Honor?

23 *THE COURT:* You may.

24 *MS. TUREK:* No objection, Your Honor.

25 *THE COURT:* Ms. Chartier?

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1 MS. CHARTIER: I object on the basis of not having the
2 complete record.

3 THE COURT: Okay. Mr. Zambon?

4 MR. ZAMBON: Same objection, Your Honor.

5 THE COURT: All right. The objections are overruled.
6 It is received.

7 Q. (BY MR. O'CONNOR) Agent, what did you find of
8 significance to your investigation in Government Exhibit 7?

9 A. So, again, this is a Facebook message exchange between
10 Muse Muse and Mohamed Haji where Muse Muse writes "Dawla has a
11 new video." He describes it a little bit as being humiliating
12 for certain types of people. "It will heal -- it will heal
13 much in your watching it, bro. The Islamic State is
14 dawlat al baqiyah." "Baqiyah" is an Arabic word that means
15 enduring or everlasting, and it's somewhat of a slogan tag that
16 ISIS has adopted that they can never be defeated.

17 So in response to that Mohamed Haji says "I'm at work right
18 now. I'll enjoy it later."

19 And then later in the next day, April 29th, 2018,
20 Mohamed Haji replies, "I saw them dawla videos and are very
21 hot. We need more of those. Very aggressive and makes you
22 want to be with them in getting victory." Which Muse Muse
23 replies, "You're absolutely right. Seeing those heads getting
24 cut off heals the heart and makes me want to be with them more.
25 May Allah make a steadfast upon this until we are in the ranks

1 of the khalifa and until we die." "Khalifa" is the Arabic word
2 for caliphate which is also associated with ISIS.

3 Q. And I believe you may have misspoke, so I want to make sure
4 the record is clear.

5 A. Sure.

6 Q. In that conversation, the communication from Mr. Haji where
7 he says "We need more of those. Very aggressive and makes you
8 want to be in them in getting victory."

9 A. Yes, you're correct. If I didn't say that, that's correct.

10 Q. Government Exhibit 8, please. What is this document?

11 A. This is a record produced by Facebook pursuant to a search
12 warrant for Muse Muse's Facebook account.

13 Q. And what time period is covered by this excerpt from the
14 Facebook messages?

15 A. May of 2018.

16 *MR. O'CONNOR:* The government moves Exhibit 8 into
17 evidence.

18 *THE COURT:* Ms. Turek.

19 *MS. TUREK:* May I have a moment to read it,
20 Your Honor?

21 *THE COURT:* You certainly may.

22 *MS. TUREK:* No objection, Your Honor.

23 *THE COURT:* All right. Ms. Chartier.

24 *MS. CHARTIER:* Objection. Lack of complete record.

25 And I don't see the relevance in reading through this.

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1 *THE COURT:* Help me understand that.

2 *MS. CHARTIER:* Sure. So this just -- I'm reading just
3 one highlighted portion, and it's just two gentlemen
4 communicating without any reference at all to what the
5 allegations are here or what their potential state of mind
6 might have been.

7 *THE COURT:* Well, that would go to the weight of the
8 evidence certainly, and you're free to cross-examine the agent,
9 as I know you will.

10 *MS. CHARTIER:* I will. Thank you.

11 *THE COURT:* All right. Thank you.

12 Mr. Zambon.

13 *MR. ZAMBON:* Same objection, Your Honor.

14 *THE COURT:* All right. The objections are overruled.
15 It is received.

16 *Q. (BY MR. O'CONNOR)* Agent Dunham, directing your attention
17 to the top of Government Exhibit 8, will you please explain for
18 us the relevancy of that highlighted portion of the
19 communication.

20 *A.* Yes. So this was a Facebook written exchange between
21 Muse Muse and Mohamed Haji where Mohamed Haji wrote "And today
22 it was just a little look of Allah to show you what I went
23 through for four years now. It's clear with them. I don't
24 have nothing else but my own family, man, and you as a real
25 brother. May Allah keep us on this. As for me, I want that

1 shahid inshallah by Allah." "Shahid" is the Arabic word for
2 martyr.

3 Q. Government Exhibit 9. What is this document?

4 A. This is a Facebook record that was produced pursuant to a
5 criminal search warrant for Mohamed Haji's Facebook account.

6 Q. And what period of time is covered by this excerpt from the
7 Facebook messages?

8 A. July of 2018.

9 MR. O'CONNOR: The government moves Exhibit 9 into
10 evidence.

11 THE COURT: Ms. Turek.

12 MS. TUREK: Objection, Your Honor. I don't see the
13 relevance in this photo.

14 THE COURT: All right. Help me understand that,
15 Mr. O'Connor.

16 MR. O'CONNOR: The agent can explain the relevance, I
17 believe, Your Honor.

18 THE COURT: All right. Ms. Chartier.

19 MS. CHARTIER: Same objection. Lack of a complete
20 record, Your Honor.

21 THE COURT: Okay.

22 MR. ZAMBON: Same here, Your Honor.

23 THE COURT: Okay. The objections as to lack of
24 complete record are overruled. Ms. Turek's relevancy objection
25 is being held in abeyance. I'll give the agent an opportunity

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1 to explain the relevance.

2 Go ahead, Mr. O'Connor.

3 MR. O'CONNOR: Thank you, Your Honor.

4 Q. (BY MR. O'CONNOR) Agent Dunham, what is the relevance of
5 your pulling out this photograph that appears on page 1 of
6 Exhibit 9?

7 A. So, again, this was a Facebook message. This was sent from
8 Muse Muse to Mohamed Haji, and as the picture describes it says
9 "The martyrdom of Abu Bakr al-Baghdadi's son in an anti-Syrian
10 operation against the Syrian Army in eastern Homs in Syria."

11 In response to this picture, Mohamed Haji said, "Kuffar. I
12 want to kill one inshallah one day." He goes on to say "My
13 days are coming. I want a lot of this kuffar dead."

14 Muse Muse replies, "Same here, akhi." "Akhi" is the Arabic
15 word for brother. Muse Muse goes on to say "May Allah make a
16 way for us." Mohamed Haji replies, "We can't love this PPL,"
17 possibly standing for people. "Is haram, nasty haram."
18 "Haram" is the Arabic word for forbidden.

19 Mohamed Haji goes on to say "We can't have love for
20 kuffar." Again "kuffar" being nonbelievers.

21 Mohamed Haji goes on to say "I wish Allah could bless me
22 with a thousand kids for dawla." Again, ISIS. "Wallahi,"
23 which means I swear to Allah, "I will want them in there
24 inshallah wallahi. When it comes to the truth, I will never
25 deny it that that's the only state we have." Meaning or likely

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1 meaning the Islamic State.

2 *THE COURT:* All right. The relevance has been
3 established. It is received unconditionally.

4 *Q. (BY MR. O'CONNOR)* Government Exhibit 10, please. What is
5 this document?

6 *A.* This is a record produced by Facebook pursuant to a
7 criminal search warrant for Mohamed Haji's Facebook account.

8 *Q.* And what are the time periods covered in this excerpt from
9 Facebook?

10 *A.* August of 2018.

11 *MR. O'CONNOR:* And the government moves Exhibit 10
12 into evidence.

13 *THE COURT:* Okay. Ms. Turek.

14 *MS. TUREK:* No objection, Your Honor.

15 *THE COURT:* Ms. Chartier.

16 *MS. CHARTIER:* Lack of complete record.

17 *THE COURT:* Got it. Mr. Zambon.

18 *MR. ZAMBON:* Same, Your Honor.

19 *THE COURT:* Okay. The objections are overruled. It's
20 received.

21 *Q. (BY MR. O'CONNOR)* There was communications on August 17th
22 of 2018 between Muse Muse and Mohamed Haji?

23 *A.* That's correct.

24 *Q.* And what is the most significant communication that appears
25 in this record?

1 A. Where Muse Muse sends a written exchange to Mohamed Haji
2 and Muse Muse says "Hijra" -- again this is the idea of a
3 foreign fighter traveling from their country of origin to a
4 terrorist outland and joining the fight -- "Hijra is the only
5 think" likely meaning "thing," "Hijra is the only think that
6 can save us unless we do an istishhad operation on these
7 kuffar."

8 "Istishhad" is the Arabic word for martyrdom. And "kuffar"
9 is the word for nonbelievers. So if I read it differently,
10 Hijra is the only thing that can save us unless we do a
11 martyrdom operation on these nonbelievers.

12 Q. Turn to Government Exhibit 11, please. What is this
13 document?

14 A. This is a record produced by Facebook pursuant to a search
15 warrant for Muse Muse's Facebook account.

16 Q. And what is the date of the communications that appear in
17 Government Exhibit 11?

18 A. August 31st, 2018.

19 *MR. O'CONNOR:* The government moves Government
20 Exhibit 11 into evidence.

21 *THE COURT:* Ms. Turek?

22 *MS. TUREK:* No objection, Your Honor.

23 *THE COURT:* Okay. Ms. Chartier?

24 *MS. CHARTIER:* Objection, lack of a complete record.

25 *THE COURT:* Okay. Mr. Zambon.

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1 MR. ZAMBON: I join.

2 THE COURT: Okay. The objection is overruled. It is
3 received.

4 Q. (BY MR. O'CONNOR) Agent Dunham, what was significant in
5 Government Exhibit 11?

6 A. So this is an exchange between Muse Muse and Mohamed Haji,
7 and it surrounds a time period that we believe that Muse Muse
8 obtained his driver's license. And so Mohamed Haji says
9 "Mash'Allah," which is the Arabic phrase or word for basically
10 like it was God's will. It was an important event. To which
11 Muse Muse replies, "Yes, I'm a driver now." To which
12 Mohamed Haji says "That's good. So you can drive the
13 stashahadi car, right?" "Stashahadi" is the Arabic word for
14 martyr. Martyrdom. To which Muse Muse replies, "Yes."
15 Mohamed Haji then says "On this kuffar I'm ready to meet
16 Allah." Muse Muse replies, "Bro, I've been thinking about
17 getting a rifle and something." He goes on to say "I'm
18 starting to entertain these thoughts." Mohamed Haji says
19 "Easy, inshallah, let's just go to dawla together and do our
20 things there. Here is just only us. So the bigger the
21 better."

22 The conversation continues where Muse Muse says "Bro, all
23 I'm seeing is going to Somalia right now. And I want to tell
24 you more, but I was listening to an ex-Pentagon guy say how the
25 kuffar have an extremist list, so be careful on Facebook, dawla

1 Bro. The more Islamic you are, the more likely they are
2 watching you."

3 Mohamed Haji replies, "Yes, they are. They are tightening
4 the web up, sheikh faisal." Mohamed Haji goes on to say "They
5 read all of our stuff." Mohamed Haji goes on to say "They even
6 track us." Muse Muse replies, "I'm not surprised. I would be
7 pissed if I tried to Somalia and they put me on the no-fly
8 list." Muse Muse then says "Then it would be jihad on their
9 land." And again "jihad" is the Arabic word for basically
10 fighting against the enemies of Islam.

11 Mohamed Haji replies, "Inshallah. Slowly, move slowly,
12 brother. Do open yourself up to the kuffar to know your
13 plans." Again "kuffar" is nonbelievers. Mohamed Haji then
14 corrects himself and says "I mean don't open yourself up for
15 al-kuffar to know."

16 Muse Muse replies, "They will never know, inshallah."
17 Mohamed Haji then says "They will just know a car passed by for
18 an istishhad operation." Again, "istishhad" being the Arabic
19 word for martyrdom.

20 Mohamed Haji goes on to say "That's how I want to do them
21 soon. If there was one in here." Mohamed Haji then says "They
22 will know the Jundallah don't play." "Jundallah" is the Arabic
23 word for soldiers of Allah.

24 Mohamed Haji closes with "I just want to dispatch them to
25 the hellfire."

1 Q. Do you have an understanding of what the hellfire is?

2 A. I have a very general understanding. In Islam there are a
3 number of layers to hell itself, and hellfire is one of those
4 layers.

5 Q. Government Exhibit 12, please. What is this record?

6 A. This is a record produced by Facebook pursuant to a search
7 warrant for Muse Muse's Facebook account.

8 Q. And what time period is covered from this excerpt from the
9 Facebook records?

10 A. November of 2018.

11 *MR. O'CONNOR:* The government moves Exhibit 12 into
12 evidence.

13 *THE COURT:* Ms. Turek?

14 *MS. TUREK:* No objection, Your Honor.

15 *THE COURT:* Okay. Ms. Chartier.

16 *MS. CHARTIER:* Objection, lack of a complete record.

17 *THE COURT:* Okay. Mr. Zambon.

18 *MR. ZAMBON:* I join in, Your Honor.

19 *THE COURT:* The objection is overruled. It's
20 received.

21 Q. *(BY MR. O'CONNOR)* Agent Dunham, what did you find
22 concerning in these Facebook conversations?

23 A. So now we're into the time period where Muse Muse is
24 communicating with FBI Undercover Employee 3 who was presented
25 as an ISIS fighter in Somalia. And so Muse Muse says to the

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1 ISIS fighter, "I'm ready to leave this land, but I'm going to
2 make another account so the munafiqun," which is basically a
3 plural for hypocrites in Arabic, "may connect anything to me.
4 My name on the new account will be Ali al-Muhajir."

5 *THE COURT:* Did you say -- I'm sorry. Did you say
6 Undercover Employee 3?

7 *THE WITNESS:* Yes. I'm sorry. 2.

8 *THE COURT:* Okay.

9 *THE WITNESS:* You're correct, Your Honor, 2.

10 *THE COURT:* Because 3 is someone who was portraying
11 themselves as living here.

12 *THE WITNESS:* That's correct. You're correct. Thank
13 you. Undercover Employee 2. Yeah, that's correct.

14 *THE COURT:* Thank you.

15 *MR. O'CONNOR:* Thank you for that clarification,
16 Your Honor.

17 *Q. (BY MR. O'CONNOR)* This reference to the new account,
18 Ali al-Muhajir, is that the kunya ISIS fighter name that you
19 talked about earlier that Muse Muse assigned to himself?

20 *A.* Yes, it is. We just need to continue on 12 here if we're
21 going to finish it.

22 *Q.* Yes, please. Go ahead.

23 *A.* So Muse Muse goes on to say "I'm just learning from others.
24 I've come this far. I'm not letting the kuffar," again
25 nonbelievers, "stop me now. I never go to jail. It's either

1 hijra or shahadah." Again "hijra" is to travel and join ISIS,
2 "shahadah" is the Arabic word for death of a martyr. So it's
3 either hijra or shahadah, death of a martyr.

4 Q. Government Exhibit 13. What is this record?

5 A. This is an exchange between -- I'm sorry, this is a record
6 from Facebook that was produced pursuant to a criminal search
7 warrant.

8 Q. And what time period is covered by the conversations in
9 Exhibit 13?

10 A. November 2018.

11 *MR. O'CONNOR:* The government moves Exhibit 13 into
12 evidence.

13 *THE COURT:* All right. Ms. Turek?

14 *MS. TUREK:* No objection.

15 *THE COURT:* Ms. Chartier?

16 *MS. CHARTIER:* Objection, lack of a complete record.

17 *THE COURT:* All right. Mr. Zambon?

18 *MR. ZAMBON:* I join in.

19 *THE COURT:* The objection is overruled. It is
20 received.

21 Q. (BY MR. O'CONNOR) Agent Dunham, did you find any relevant
22 communications in here concerning the defendants' plans?

23 A. So again this is an exchange between Muse Muse and
24 Mohamed Haji where Muse Muse says "The kuffar don't know this
25 war will not end until we invade their land."

1 Mohamed Haji then goes on to say "We make sure and I make
2 sure my kids have this portion on killing kuffar for fun. Take
3 them to the blazing fire."

4 Q. Government Exhibit 14. What is this record?

5 A. This is a record produced by Facebook pursuant to a
6 criminal search warrant.

7 Q. And whose records are depicted in Government Exhibit 14?

8 A. So this is going to be the Facebook account of
9 Mohamed Haji. The name of the Facebook profile was
10 Salamujahid al-Muhajir.

11 Q. And was that a Facebook account that Mr. Haji opened after
12 he assigned himself a kunya fighter name?

13 A. So that's the name that he selected. According to Mr. Haji
14 in his interview, he advised that Muse Muse created the account
15 for him and then handed over the information that was necessary
16 to log in and use it. So Mohamed Haji told us that he wrote
17 these communications.

18 Q. What did you find relevant in Government Exhibit 14? And
19 describe for the Court who the communications are with.

20 A. So this is Mohamed Haji using his ISIS kunya
21 Facebook account, and he's communicating with FBI employee --
22 Undercover Employee Number 2 who was presented as an ISIS
23 fighter in Somalia. And so Mohamed Haji writes -- wrote, "I'm
24 trying best, and I know it's not a place of us Muslims, but
25 there's too much spy and too much persecution of Muslims. But

1 inshallah," again God willing, "hijra is the only way to go.
2 Is the only way out."

3 Mohamed Haji then goes on to write, "And I have family,
4 akhi. I'm going to give them warnings. Then I'll make my
5 hijra inshallah."

6 Q. Government Exhibit 15.

7 A. I don't know if we established a time period for that, but
8 that was November 25th of 2018.

9 MR. O'CONNOR: And I'm not sure if I moved that into
10 evidence, Your Honor. If not, I do at this time.

11 THE COURT: I thought you did.

12 MR. O'CONNOR: I thought I did too.

13 THE COURT: The objections are recognized, overruled,
14 if they haven't already been. It is received, if it wasn't
15 already.

16 MR. O'CONNOR: All right.

17 Q. (BY MR. O'CONNOR) Turning now to Government Exhibit 15.
18 What do we see here?

19 A. This is a record produced by Facebook pursuant to a
20 criminal search warrant.

21 Q. And whose records are we looking at?

22 A. So this is the Facebook account of the ISIS kunya name
23 Abu Usama, which was the name selected by Mohamud Muse.

24 Q. And who is Mohamud Muse communicating with in this
25 Facebook, the Messenger excerpt?

1 A. Mohamud Muse is communicating with FBI Undercover Employee
2 Number 2 who again was presented as an ISIS fighter and
3 recruiter in Somalia.

4 Q. And what are the dates of these communications?

5 A. This is December 12th of 2018.

6 Q. What did you find of significance in this section of the
7 Facebook communications?

8 A. So in this scenario the ISIS fighter persona was talking to
9 Mohamud Muse about who his group of -- the Arabic word is
10 "ikhwa," and it's adopted by ISIS to refer to kind of like your
11 local fighting brothers. And so Mohamud Muse replies, "I only
12 know two people here in Michigan who support dawla with me."
13 Again, dawla being ISIS. Mohamud Muse goes on to say, "Akhi,"
14 it's brother, "Ali al-Muhajir and my cousin." Mohamud Muse
15 then says "I think he already gave bay'a to you."

16 We should probably stop and address bay'a real quick.
17 "Bay'a" is the Arabic word for making a pledge of allegiance or
18 an oath. And so in this case by this point in time Muse Muse,
19 Mohamed Haji, and Mohamud Muse had all made bay'a, they had all
20 pledged their allegiance to ISIS in a video and audio recording
21 that was sent to the ISIS fighter persona.

22 So again, Mohamud Muse is saying "I think he already gave
23 bay'a to you." And then he further clarifies, "His name is
24 Mohamed."

25 Q. And who is the individual that transmitted the bay'a

1 videos, the pledges of allegiance to ISIS, to this person that
2 they believed was involved in the fight with ISIS?

3 A. So they were all transferred by Muse Muse, the latter two,
4 on his ISIS kunya Facebook account in the name of
5 Ali al-Muhajir.

6 And in this -- this particular Facebook exchange continues.
7 After clarifying his name is Mohamed, there's some additional
8 clarification.

9 Q. Okay. And what is that?

10 A. Mohamud Muse goes on to say "As far as I know, it's only us
11 three, akhi". And then he says to the fighter, "Brother, I
12 just want Islam to win. I want to kill kuffar."

13 Q. And, again, those were the words of Mohamud Muse?

14 A. That's correct, Mohamud Muse in his Facebook kunya account
15 Abu Usama.

16 Q. If we could please turn back to Government Exhibit 1 and
17 paragraph 30 of the Affidavit which is on page 7, please. 7
18 and 8.

19 There's been some talk here about an individual referred to
20 as FBI UCE-3. Was that a persona that was communicated to the
21 defendants during the course of the investigation?

22 A. It was.

23 Q. And in general what was that persona?

24 A. So that was a persona that struck up a Facebook friendship
25 with Mohamed Haji, and that relationship evolved to where

1 Mohamed Haji was essentially recruiting that persona, this new
2 friend, to join ISIS. And then eventually Mohamed Haji shared
3 that information with Muse Muse and the two worked together to
4 recruit who turned out to be Undercover Employee 3 for ISIS.

5 Q. And so this was Defendant Haji who believed he was
6 recruiting an individual in Chicago, Illinois, who had
7 converted to Islam?

8 A. That's correct.

9 Q. And did you review communications on Facebook between
10 Mohamed Haji and this undercover FBI employee?

11 A. I did.

12 Q. And tell us the significance of a conversation that
13 occurred on December 14th, 2018, between Mr. Haji and the
14 person he was trying to recruit to join ISIS.

15 MR. ZAMBON: Your Honor, I'm getting a little confused
16 by this. Are we still referring to Exhibit 15, then?

17 THE COURT: No, I believe we've moved to paragraph 30
18 of the Criminal Complaint.

19 MR. ZAMBON: And we're done with that, so this is --

20 THE COURT: As far as I know we're finished with it.
21 We'll see. But we're now talking about something different as
22 I understand it.

23 Is that correct, Mr. O'Connor?

24 MR. O'CONNOR: That's correct, Your Honor.

25 MR. ZAMBON: That's why -- I thought so also. Thank

1 you.

2 *THE WITNESS:* Okay to proceed?

3 *THE COURT:* Yes.

4 *THE WITNESS:* So this was an event in Benton Harbor,
5 Michigan, where Mohamed Haji and Muse Muse met the undercover
6 employee, this person that they thought they were recruiting.
7 They basically spoke to him, coached him through the recording
8 of a video where they basically word-for-word walked him
9 through making his ISIS bay'a, his pledge of allegiance, as it
10 was recorded in a vehicle in the parking lot of a shopping
11 area.

12 And then during the course of their conversation
13 Muse Muse stated if he was unable to make hijra, he would take
14 a car and run down kuffar, again nonbelievers, like what
15 happened in France. And then Haji and Muse Muse both echoed if
16 they were unable to make hijra, that Allah commanded them that
17 martyrdom is the only option. So we basically have this theme
18 of hijra or death of a martyr.

19 Q. Turning to the next page in Exhibit 1, paragraph 31. Did
20 Mohamud Muse communicate with an FBI undercover employee
21 indicating what his travel plans were?

22 A. Yes, Mohamud Muse did.

23 Q. And what did Mohamud Muse tell FBI UCE-2 who he believed to
24 be an individual in Somalia?

25 A. He wrote that his wife was pregnant and due to give birth

1 in March and that he would -- he basically wrote that he would
2 travel to Somalia to join ISIS soon after the birth of the
3 child.

4 Q. Turning to Government Exhibit 16, please. What is
5 Exhibit 16?

6 A. 16 is a record produced by Facebook pursuant to a criminal
7 search warrant.

8 Q. And whose Facebook record was obtained through that warrant
9 that we're looking at here in this exhibit?

10 A. So this is Mohamed Haji, his Facebook account and his ISIS
11 kunya name of Salamujahid al-Muhajir.

12 Q. And what are the dates or what is the date of the
13 communications that appear in this Facebook excerpt?

14 A. December 20th, 2018.

15 Q. Did you find anything relevant in this conversation
16 concerning their plans?

17 A. Yes.

18 Q. Mr. Haji's plans, excuse me.

19 A. Yes, I did.

20 Q. And tell us -- go through that with us.

21 A. So Mohamed Haji is talking to the ISIS fighter that he
22 believes to be in Somalia, and Mohamed Haji tells him "I need a
23 training, akhi. Every skills of using a weapon." There's a
24 little bit of an exchange about what type of weapon, rifle or
25 gun, to which Mohamed Haji replies, "Rifle." And then

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1 Mohamed Haji goes on to clarify, "Yes, I understand, but all I
2 say, all I have used a pistol, not an AKA." Again, possibly
3 reference to an AKA, some type of assault rifle.

4 *MR. O'CONNOR:* The government moves Exhibit 16 into
5 evidence.

6 *THE COURT:* Okay. Ms. Turek.

7 *MS. TUREK:* No objection.

8 *THE COURT:* Ms. Chartier?

9 *MS. CHARTIER:* Objection, lack of the complete record.

10 *THE COURT:* Okay. Mr. Zambon.

11 *MR. ZAMBON:* Same objection.

12 *THE COURT:* The objection is overruled. It's
13 received.

14 *Q. (BY MR. O'CONNOR)* During the course of this investigation
15 did each defendant here, Defendant Muse Muse, Mr. Haji, and
16 Mohamud Muse, pick up money that was wired to them that they
17 believed was money sent by the ISIS organization to assist
18 Muse Muse with his travel?

19 *A.* Yes, they did.

20 *Q.* And did that occur in early January of 2019?

21 *A.* It did.

22 *Q.* Let's turn to Exhibit 17. What is this record?

23 *A.* So this is a record that was printed by the FBI undercover
24 employees. So basically they make periodic reports of the work
25 that they are doing and then they attach as a PDF basically a

1 screen shot of the exchange they had with whoever the
2 individual is that they are assigned to investigate.

3 Q. So this is not actually a record from Facebook, but this
4 record is a summary of conversations that occurred between
5 these individuals through Facebook?

6 A. Yeah, I wouldn't say it's a summary. It's literally just a
7 screen shot, the screen capture of the exchange between the FBI
8 undercover employee and the individual being investigated.

9 Q. Okay. And who would be the individual that prepared, that
10 compiled this information and provided it to you? Would that
11 be --

12 A. The FBI undercover employee.

13 Q. All right. And there are two names listed on Government
14 Exhibit 17. Who are those two names?

15 A. Yep. So again with the same theme of the others that we
16 looked at. This is the same ISIS fighter persona, you know,
17 purported to be in Somalia exchanging a written conversation
18 with Mohamed Haji in his Salamujahid al-Muhajir
19 Facebook account.

20 Q. And, again, that Facebook account created by him was his --
21 in the name of his ISIS kunya name?

22 A. Again, although I'm -- Mohamed Haji told us that Muse Muse
23 created it but that he adopted it and used it in all the
24 communications he wrote.

25 Q. And the communications that appear in Government

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1 Exhibit 17, when did they occur?

2 A. These were in early January, January 7th of 2019.

3 *MR. O'CONNOR:* The government moves Exhibit 17 into
4 evidence.

5 *THE COURT:* I have a question before anyone else does.
6 Special Agent Dunham, help me understand it. So first of all,
7 which of the undercover cooperating employees did this? Was
8 this --

9 *THE WITNESS:* UCE-2. So the same ISIS fighter persona
10 in Somalia.

11 *THE COURT:* All right. And are you saying that
12 this -- that UCE-2 captured a screen shot and that's what's
13 reflected here?

14 *THE WITNESS:* That's correct. So they have --

15 *THE COURT:* What was this screen shot taken from?

16 *THE WITNESS:* From the assigned computer or machine
17 that they have to engage in these undercover activities.

18 *THE COURT:* Okay. And these were text messages or
19 emails?

20 *THE WITNESS:* This is actually Facebook. So this is a
21 written exchange on Facebook.

22 *MR. O'CONNOR:* Maybe I can clarify, Your Honor.

23 Q. (BY MR. O'CONNOR) When the FBI undercover is
24 communicating with someone through Facebook, does their
25 computer have the ability to record the realtime conversations

1 that are occurring between the FBI undercover and the
2 individual who is using the Facebook messaging system?

3 A. Yes, they can literally memorialize the written exchange
4 between the undercover employee and the party that they are
5 conversing with.

6 Q. And is that what's reflected in Government Exhibit 17?

7 A. That's what this is, correct.

8 Q. I think there was some reference to screen shot. That's
9 not literally correct; is that right? This is not a -- someone
10 didn't take a picture of the screen. This is a log of the
11 conversation that's occurring?

12 A. It's basically like a tool, yes, that will pull that piece
13 of it over and capture it and put it into a PDF format.

14 Q. Okay.

15 *THE COURT:* I strongly suspect I'm the only person in
16 this room who has never used Facebook, so I have no idea what
17 you guys are talking about.

18 Ms. Turek.

19 *MS. TUREK:* I would object. This is not the Facebook
20 record.

21 *THE WITNESS:* This is not a record produced by
22 Facebook, that's correct.

23 *MS. TUREK:* I would object, Your Honor.

24 *THE COURT:* Ms. Chartier?

25 *MS. CHARTIER:* I join Ms. Turek's objection. Not only

1 is this not a complete record, but this is not what Facebook
2 looks like at all. And there are tools that will allow you to
3 print the screen or memorialize it as it looks like. So --
4 this not only do we again not have a complete document, but
5 this doesn't even remotely look like what Facebook would look
6 like. So I have concerns about the accuracy of what we're
7 receiving.

8 *THE COURT:* Mr. Zambon.

9 *MR. ZAMBON:* I agree with Ms. Chartier, Your Honor.
10 And I disagree with the Court because I don't have Facebook
11 either. I've never used it.

12 *THE COURT:* Okay. Well, this is about the sixteenth
13 time today I've been wrong about something, Mr. Zambon.

14 All right. The Rules of Evidence don't apply here,
15 and this is hearsay, and again the Rules of Evidence don't
16 apply. I think this is a bridge too far for me. I'm going to
17 exclude this.

18 The agent can testify to information he's received
19 from UCE-1, 2, or 3, but I'm not going to receive this
20 document. I don't have enough understanding of the reliability
21 of it.

22 Go ahead, Mr. O'Connor.

23 *MR. O'CONNOR:* Thank you, Your Honor.

24 *Q. (BY MR. O'CONNOR)* Did you receive information,
25 Special Agent Dunham, from the FBI undercover employees that on

1 January 7th of 2019 Defendant Haji had communicated to the
2 undercover that -- I'm sorry -- that Mohamud Muse communicated
3 to the undercover that Haji was his brother-in-law and that
4 they had talked and agreed to leave with each other?

5 A. Yes, I did.

6 Q. And did FBI Undercover 2 also communicate to you that on
7 about January 9th, 2019, Mohamud Muse told that undercover
8 employee that he, Mohamud Muse, might have to leave his wife
9 behind because she's scared and keeps flip flopping on him and
10 doesn't -- and that he didn't have time for that and Allah will
11 give him better?

12 A. Yes, that's what was communicated by Mohamud Muse to
13 Undercover Employee 2.

14 Q. And that was January 9 of 2019?

15 A. That's correct.

16 Q. Or thereabouts. Turning to -- back to Government
17 Exhibit 1, please, at paragraph 45. On page 10.

18 Did Defendant Muse Muse and Defendant Haji agree to meet
19 with FBI UCE-3, that individual they believed to be in Chicago
20 that they were trying to recruit to join ISIS with them?

21 A. Yes, they did.

22 Q. And where did they meet?

23 A. They met at a WalMart store in Lansing.

24 Q. And what was the purpose of that meeting?

25 A. They were basically talking about and preparing for the

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1 upcoming travel of Muse Muse with Undercover Employee 3, and
2 they were going to acquire any items that they might need for
3 that travel.

4 Q. And during that trip did any of the individuals make a
5 purchase that day?

6 A. So Muse Muse selected a pair of black combat-style boots
7 which Undercover Employee 3, the co-traveler, he thought he had
8 purchased for him at a retail price of approximately \$20.

9 Q. During this shopping trip at WalMart in Lansing on
10 January 15th of this year did Muse Muse and Mr. Haji talk to
11 the UCE-3 about their plans if they weren't able to leave and
12 join ISIS?

13 A. Yes, they did.

14 Q. What did they tell the undercover FBI individual?

15 A. They basically told him if they were going to fail in their
16 attempt to join ISIS, they would conduct an attack or a
17 martyrdom operation. During this exchange Muse Muse made
18 reference to a terrorism attack in Paris.

19 *MR. O'CONNOR:* All right. And for good housekeeping,
20 Your Honor, in case I have omitted anything, I believe I have
21 admitted or moved to admit all of the exhibits 1 through 16. I
22 understand the Court is not allowing 17, 18, and 19. To the
23 extent I missed any of those, I would move all of them into
24 evidence at this time.

25 *THE COURT:* I only ruled on 17, not 18 or 19. But

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1 Exhibits 1 through 16 have been admitted.

2 *MR. O'CONNOR:* May I have a moment, Your Honor?

3 *THE COURT:* You may.

4 *MR. O'CONNOR:* Thank you.

5 *THE COURT:* Ms. Turek?

6 *MS. TUREK:* Yes, Your Honor.

7 *THE COURT:* Oh, you're getting ready. We're giving
8 Mr. O'Connor a minute to see if he's finished.

9 *MR. O'CONNOR:* Thank you, Your Honor. No further
10 questions.

11 *THE COURT:* All right. Thank you.

12 Ms. Turek, you may cross.

13 *CROSS-EXAMINATION*

14 *BY MS. TUREK:*

15 Q. Good afternoon, Agent Dunham.

16 A. Good afternoon.

17 Q. My name is Sharon Turek, and I represent Muse Muse. And in
18 the Complaint my client is referred to as MM?

19 A. That's correct.

20 Q. Okay. And my client is -- do you know how old my client
21 is?

22 A. He's 20 years old.

23 Q. Okay. And he just turned 20, correct?

24 A. He did.

25 Q. Just last week, I believe?

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1 A. January 14th of this year, I believe.

2 Q. And his brother Mohamud Muse is 23?

3 A. That's correct.

4 Q. And his -- my client's brother-in-law Mohamed Haji is 26?

5 A. That's correct.

6 Q. Now, in the Complaint in paragraph 9 you indicate -- it's
7 indicated that sometime in April of 2016 that an account in the
8 name of -- Facebook account in the name of Mohamud Muse, my
9 client's brother, came to the attention of the FBI in April of
10 2016, correct?

11 A. That's correct.

12 Q. Okay. How did it come to the attention of the FBI?

13 A. Basically the FBI was conducting analysis regarding
14 Facebook accounts that had pro-ISIS, pro-martyrdom, pro-Jihad,
15 pro-violence type activity, and the Facebook account
16 Mohamud A. Muse came about.

17 Q. Do you know how long that account had been in existence
18 before April of 2016?

19 A. As we sit here right now I don't, but I know it goes back
20 prior to, you know, the beginning of 2016. So it had been up
21 for a number of months at that point.

22 Q. Okay. And that's referred to as FB Account Muse Number 1?

23 A. That's correct.

24 Q. And then in paragraph 10 of the Complaint, around
25 June 21st, 2017, an undercover FBI employee, UCE-1,

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1 communicates with Facebook account Muse Number 1?

2 A. Correct.

3 Q. Now, UCE-1, is that an FBI agent?

4 A. So it's an FBI professional support employee who has
5 specialized training to do this type of work.

6 Q. Have you met UCE-1?

7 A. Yes, I have.

8 Q. What -- are they salaried by the FBI, UCEs?

9 A. They are direct employees of the FBI, yes.

10 Q. Well, they receive a salary, but are they on the payroll of
11 the FBI so that they receive a check every two weeks or every
12 week?

13 A. That's correct. So they are duly appointed employees of
14 the federal government, specifically the FBI.

15 Q. And in paragraph 10 it indicates that UCE posed as an ISIS
16 recruiter, correct?

17 A. Correct.

18 Q. What is meant by posing?

19 A. It's not who they were in real life and they are in an
20 undercover capacity. So they are presenting as something that
21 they personally are not.

22 Q. In that they were presenting as someone who was recruiting
23 people to join ISIS, correct?

24 A. Correct.

25 Q. And did he -- did UCE-1 at that point tell Mohamud Muse

1 that he was a recruiter?

2 A. He told him that he was a fighter in Syria.

3 Q. Okay. So he didn't tell him that he was recruiting him?

4 A. There's a verbal exchange between them where he explains
5 the process of how you join ISIS and then asks him a series of
6 questions to bring that about.

7 Q. Do you know the type of training that a UCE employee of the
8 FBI receives?

9 A. I don't know the specific training other than they go
10 through a specialized program.

11 Q. And then in July 2017, just one month after the FBI gets
12 involved, the Facebook account, FB Account Muse Number 1 is
13 suspended, correct?

14 A. That's correct.

15 Q. So the Facebook account was in existence at least 14 months
16 without being shut down by Facebook, correct? Before the FBI
17 got involved.

18 A. That's correct.

19 Q. And then once the FBI gets involved, Facebook makes a
20 determination to suspend the account, correct?

21 A. That I don't know. I don't know why Facebook suspended the
22 account.

23 Q. Well, the fact is that you know they did suspend the
24 account?

25 A. I do because Facebook produced a record that they said they

1 suspended the account.

2 Q. And all during the time before the FBI got involved
3 Facebook did not see a need to suspend the account, correct?

4 A. I can't speak to that. I don't know what Facebook does to
5 make determinations about suspension.

6 Q. Well, I'm not asking you that. I'm asking -- I'm asking
7 you to confirm that they did not suspend the account during
8 that time before the FBI.

9 A. The account was active prior to them suspending it, that's
10 correct.

11 Q. Thank you. Now in paragraph 11 of the Complaint
12 Facebook Account Muse Number 2 came to the attention of the
13 FBI, correct?

14 A. That's correct.

15 Q. Do you know the exact date when that Facebook Account
16 Number 2 was created?

17 A. I don't off the top of my head. I think that's why it's on
18 or about early August of 2017.

19 Q. And that was an account belonging to Mohamud Muse?

20 A. Correct.

21 Q. Between the time that Facebook Account Muse Number 1 was
22 shut down and the creation of a Facebook Account Muse Number 2
23 did the FBI UCEs have any contact with Mohamud Muse?

24 A. They did not.

25 Q. Do you know how that account became -- came to the

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1 attention of the FBI?

2 A. The original account was suspended, and so information
3 similar to what Mohamud Muse had posted on his first account
4 was essentially queried and similar basically posts to what
5 existed on his Mohamud A. Muse Facebook account appeared on the
6 Facebook account Abu Usama with a U.

7 Q. Now, in paragraph number 12 of the Complaint you cite --
8 it's cited that the analysis of Facebook Account Number 1
9 identified communications between my client's brother and my
10 client's brother-in-law, correct?

11 A. Yes.

12 Q. But not my client?

13 A. Not in that paragraph, no.

14 Q. Okay. And the Facebook Account Muse Number 2 was suspended
15 in October of 2017, correct?

16 A. Yes, that's correct.

17 Q. A search warrant authorized, was issued for
18 Facebook Account Muse Number 2 around February of 2018; is that
19 correct?

20 A. Yes.

21 Q. And did you obtain records pursuant to that search warrant?

22 A. Yes, we did.

23 Q. Now, the exhibits that were introduced today, those were
24 only a portion of the communications in those Facebook
25 accounts, correct?

1 A. Communications in total or communications between certain
2 parties?

3 Q. Communications in total.

4 A. What we presented today, yes, were portions, correct.

5 Q. Okay. And would it also be true that they are portions of
6 communications between the three defendants here and anyone
7 from the FBI or just a portion of those communications?

8 A. Correct.

9 Q. So there are many more communications between my client and
10 the two codefendants and FBI employees?

11 A. Correct.

12 Q. Now, in paragraph 14 it mentions an FB Account MM. Who was
13 that -- who -- that account MM, who did that refer to?

14 A. Muse Muse.

15 Q. And do you know when this was created?

16 A. Do I know when the Facebook account was created?

17 Q. Yes.

18 A. Not off the top of my head, but I -- not off the top of my
19 head, but I know it goes back a number of years. Well before
20 2018.

21 Q. And am I correct that -- well, when did this account come
22 to the attention of the FBI?

23 A. So it came to the attention of the FBI when we were going
24 through the analysis of the prior Facebook records that were
25 obtained.

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1 Q. Okay. And when -- do you know when that was?

2 A. It would have been when -- the records from the search
3 warrant that was executed in February of 2018.

4 Q. Okay. And your testimony is that it had been existing for
5 a number of years prior?

6 A. Correct.

7 Q. Okay. And had that account ever come to the attention of
8 the FBI before that?

9 A. So I guess I'll have to qualify with it's a big FBI, but to
10 my knowledge, no.

11 Q. To your knowledge was it ever suspended?

12 A. No.

13 Q. Do you know if FBI UCE-1 ever communicated with my client
14 Muse Muse?

15 A. FBI UCE-1 did not communicate with your client.

16 Q. Now, in the same paragraph number 14 a screen capture is
17 sent on October 31st, 2017. What screen -- would that be
18 Exhibit Number -- let me find it here -- Number 4?

19 A. That's correct.

20 Q. He sent a screen -- a photo of, but he did not make any
21 explicit threats, correct?

22 A. No, he transmitted the picture and then the ensuing
23 conversation, ensuing written exchange happened.

24 Q. But he didn't make any explicit threats, correct?

25 A. No.

1 Q. Okay. Thank you.

2 Now, in the Complaint paragraph 15 there's more
3 communications between my client and Haji, and again my client
4 does not make any threats, correct?

5 A. I guess can you define "threat" for me?

6 Q. Well --

7 A. So Mohamed Haji makes a number of statements about wanting
8 to kill kuffar and Muse Muse replies, "Same here, akhi." Same
9 here, brother.

10 Q. But my client didn't -- in his words he didn't make any
11 statements that he was going to harm anyone?

12 A. Again, I don't know how to interpret that. Mohamed Haji
13 made a statement and Muse Muse echoed it.

14 Q. Well, Mr. Haji made a number of statements, and my client
15 made a very brief response, "Same here, brother." Pretty
16 brief, glib response, isn't it?

17 A. Again, I don't know how to interpret, you know, what he
18 meant. The statements were made, and he said, "Same here,
19 akhi."

20 Q. In the Complaint in paragraph 17 UCE Number 2 joins the
21 investigation, correct?

22 A. Yes.

23 Q. And at this point UCE-2 -- was UCE-2 aware of UCE-1?

24 A. Yes.

25 Q. Who was supervising -- at this point was this an

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1 investigation would you say, an FBI investigation?

2 A. This investigation was opened by me in December of 2016.

3 Q. Okay. So who was supervising the investigation then?

4 A. So when you say supervising, can you define that for me?

5 Q. Well, you have UCE-1.

6 A. Uh-huh.

7 Q. UCE-2.

8 A. Uh-huh.

9 Q. Did you have any agents or any other FBI employees working
10 on this at the time?

11 A. Yes, I have an entire investigative team.

12 Q. Okay.

13 A. A number of people.

14 Q. Okay. And were you supervising?

15 A. I'm not a supervisor, so I'm a line-level special agent.

16 *MR. O'CONNOR:* Your Honor, at this point -- excuse
17 me -- at this point I'm going to object on relevance. I don't
18 see how the supervision of agents goes to the issues today
19 which is risk of nonappearance or the danger to the community
20 by these defendants.

21 *THE COURT:* I'm not sure either, but I'm going to give
22 Ms. Turek a little -- little room.

23 *MS. TUREK:* Thank you, Your Honor.

24 Q. *(BY MS. TUREK)* So who was supervising this investigation
25 then?

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1 A. Again I'm asking you to clarify. What do you mean by
2 supervising?

3 Q. Well, who was making decisions -- let me ask it this way:
4 Was UCE-1 reporting to anyone?

5 A. Yes, UCE-1 was reporting to a number of people.

6 Q. Okay. Who was he reporting to?

7 A. I guess I don't -- I would have to describe the
8 organizational structure of the FBI --

9 *THE COURT:* Special Agent Dunham, you were the agent
10 that opened the investigation, correct?

11 *THE WITNESS:* So I'm considered internally as the lead
12 case agent.

13 *THE COURT:* All right. But you have somebody who
14 supervises you?

15 *THE WITNESS:* Yes, and my team is -- so I'm in the FBI
16 Lansing office, so I have a direct supervisor in Lansing. The
17 other people participating in this investigation were spread
18 throughout the state. So they have separate supervisors too.
19 But we're not in silos, right? We're communicating with one
20 another.

21 *THE COURT:* Did you oversee the work of UCE-1, 2, or
22 3?

23 *THE WITNESS:* I feel like "oversee" is a charged word
24 in the sense of like --

25 *THE COURT:* Did they have to consult with you before

1 they took action? Did they have any authority to act on their
2 own?

3 *THE WITNESS:* Um, it's a partial exercise. So some
4 things they had empowerment to do. Other things they have to
5 reach out to the investigative team to share information and
6 talk about next steps.

7 Q. (BY MS. TUREK) So would it be fair to say UCE-1, 2, and
8 3, that they answer to an agent as opposed to some other
9 employee?

10 A. Again, when you say answer to, I just don't know what that
11 means.

12 Q. Report to.

13 A. Report in terms of sharing information or report in terms
14 of . . .

15 Q. Asking how -- well, let me ask it this way: With the UCEs
16 that we're talking about here, 1, 2, and 3, were they told how
17 to -- what to do as their part in the investigation?

18 A. And that's what I mean by it being a collaborative effort.
19 So you have people that are bringing subject matter expertise,
20 cultural expertise, language expertise. So I would say it was
21 basically an exercise by committee, right? We're looking at
22 the individual we're investigating, we're understanding who
23 that person is, and then talking about what the investigative
24 strategy is going to be. I guess what I'm trying to tell you
25 is there's not an independent person that says yes or no and

1 it's final. Most of what we do in this area is a collaborative
2 exercise.

3 Q. Well --

4 THE COURT: I think we've taken this as far as we're
5 going to go.

6 MS. TUREK: I think so. One more question,
7 Your Honor?

8 THE COURT: All right. Go ahead.

9 Q. (BY MS. TUREK) Did UCE-1 report to anyone?

10 A. And, again, I don't want you to feel like I'm being cute.
11 Like I don't understand when you say "report." Like written
12 reports are submitted and there's a supervisor that would
13 approve those. Information is communicated to the
14 investigative team to understand what's happening in order to
15 plan the, you know, subsequent investigative steps. So when
16 you say "report," I just feel like it has a number of, you
17 know, interpretations.

18 Q. Well, what I mean by "report" in this instance is who would
19 they go to for advice on how to proceed in the investigation?

20 A. Again, we would literally have a meeting amongst the
21 investigative team. They would share whatever it is they were
22 talking to the individual being investigated about, share
23 whatever exchange they were having, you know, online in this
24 case, and then talk about what the next steps are.

25 Q. Were you part of these meetings?

1 A. Most of them, yes.

2 Q. Now, in paragraph 17 it indicates that MM then wrote -- MM
3 being my client, correct?

4 A. Correct.

5 Q. "I plan in doing hijra to Somalia and joining those who are
6 establishing the Sharia of Allah."

7 Now, hijrah, the meaning of hijrah -- your meaning of
8 hijrah is what?

9 A. So -- just so we keep the nomenclature consistent, so it's
10 hijra.

11 Q. Hijra?

12 A. Yep. And in the context of extremism, so "hijra" is an
13 Arabic word. But like I was describing earlier, much like
14 professions and industries that have jargon and words that have
15 ascribed meaning, "hijra" in the context of extremism is
16 basically the word that's used to describe a foreign fighter's
17 journey from their country of origin to a place controlled by a
18 terrorist organization in order to join and fight with that
19 group. So ISIS has adopted the term "hijra" to describe people
20 it's recruiting and basically the path that they take to join.

21 Q. But there's another meaning of hijra, correct?

22 A. There would be a lay Arabic, yes.

23 Q. And are you aware of that?

24 A. I am not.

25 Q. Were you aware that -- weren't you aware that it meant the

1 flight of Muhammad from Mecca to Medina?

2 A. That is the Arabic word "hijra" and one interpretation of
3 it, yes.

4 Q. Okay. So you were aware of that interpretation of hijra?

5 A. I've heard it described differently but similar, yes.

6 Q. Okay. So my client wasn't making any sort of threat there?

7 A. Again, I guess you'd have to define "threat."

8 Q. Well, I suppose it depends on whose definition you adopt.

9 But it could mean that he was referring to the flight of
10 Muhammad?

11 A. It could mean, but in the context it doesn't make any sense
12 in October of 2018.

13 Q. Well, he had -- well, let me ask about my client. My
14 client -- he's 20 years old. During the course of this
15 investigation have you checked him for any criminal history?

16 A. Yes, I have.

17 Q. And he has none, correct?

18 A. He does not.

19 Q. Okay. Were you aware that he graduated from high school?

20 A. I was.

21 Q. Were you aware that he attended Lansing Community College
22 for a bit?

23 A. It was my understanding that he was taking classes.

24 Q. And that he was also at various times employed?

25 A. Correct.

1 Q. I would also note that it's only after FBI UCE-2 is
2 corresponding with my client Muse Muse that this trip came up,
3 correct?

4 A. Trip in what sense?

5 Q. Or this plan to join ISIS came up. It was only when he was
6 corresponding with an FBI agent -- with an FBI employee?

7 A. No, that's -- no, I would not agree with that.

8 Q. Well, had -- where had he indicated that before he came
9 into contact with UCE Number 2?

10 A. So in his prior communications with Mohamed Haji and to
11 some degree with Mohamud Muse he expressed views for pro-ISIS,
12 pro-violence, pro-martyrdom, pro-Jihad. Specifically in the
13 context of dawla, ISIS.

14 Q. But it was only after having contact with FBI UCE-2 that it
15 went further and that there was talk of taking a pledge to join
16 ISIS, correct?

17 A. That's when the pledge came about, yes.

18 Q. Okay. Only after the FBI became involved, right?

19 A. Are you saying the pledge was made after there was contact
20 between the FBI Undercover Employee 2 and Muse Muse?

21 Q. Well, did FBI UCE Number 2, did he instruct my client or
22 any of the other codefendants on the fact that they had to take
23 a pledge?

24 A. Muse Muse was making inquiries about how to join ISIS in
25 Somalia.

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1 Q. And FBI UCE-2 provided him with information --

2 A. Right.

3 Q. -- about that?

4 A. Correct.

5 Q. He provided him with an oath?

6 A. He explained the process to him, correct.

7 Q. He explained to my client what he would have to do,
8 correct?

9 A. Correct.

10 Q. He instructed my client on how to take the oath, correct?

11 A. He provided your client with the pledge of allegiance.

12 Q. Okay. Prior to that my client knew nothing about that,
13 correct?

14 A. I don't know.

15 Q. Well, we know that -- well, strike that.

16 The fact is that it was only after the FBI became involved
17 and began encouraging my client and directing him that he took
18 an oath, correct?

19 A. Again, I would take exception to the word "encouraging" and
20 other descriptors. He asked what he had to do to join and was
21 given an explanation of how the process works.

22 Q. And what was that -- what was the instruction? What would
23 he -- do you know what UCE-2 told my client what he had to do?

24 A. In general just explaining that you have to make a pledge
25 of allegiance to ISIS and you have to obtain something called

1 tazkiyah, which is basically like ISIS vetting. Like somebody
2 can't just show up if they want to. So there's certain
3 information they have to provide and they have to be vetted.
4 So basically the process was explained to Muse Muse by
5 Undercover Employee 2 of how that process works.

6 Q. And so all of that information came from the FBI?

7 A. Correct, UCE-2 shared that with Muse Muse.

8 Q. Now, at some point the FBI UCE Number 2 corresponded with
9 Muse Muse about a passport?

10 A. Correct.

11 Q. And so at this point too I would note that my client is a
12 teenager during the time that this is going on last fall,
13 right?

14 A. His age at the time was 19, that's correct.

15 Q. And it's the FBI that also tells my client, this
16 19-year-old, that his oath was -- or his oath video was
17 accepted by ISIS, correct?

18 A. That's correct.

19 Q. So all along the line the FBI is paving the way for my
20 client to get more involved in this activity, correct?

21 A. Help me better understand when you say "paving the way."

22 Q. They are providing guidance and instruction on how to take
23 an oath, correct?

24 A. Correct.

25 Q. And they have provided information about other requirements

1 that ISIS would have, correct?

2 A. So in the event of the passport, that wasn't raised by the
3 undercover employee. Muse Muse independently raised the issue
4 that he didn't have a valid passport and that he needed to seek
5 that.

6 Q. Okay. So the FBI was aware that he would need a passport,
7 correct?

8 A. Correct.

9 Q. Okay. Now, the passport application, it's noted in
10 paragraph 31, the application was received by
11 the State Department on December 17th, 2018. Was the FBI in
12 contact with the State Department about this?

13 A. So based on the nature of this investigation, a number of
14 government agencies were aware of the names of the three
15 defendants.

16 Q. And so was there any -- any effort by you, by the FBI, to
17 stop the State Department from issuing a passport?

18 A. There was no effort by me or the FBI to stop it, no.

19 Q. And would it be fair to say that the FBI wanted
20 the State Department to issue a passport?

21 A. I mean, that would be up to the Department of State, right?
22 They would have to decide if the criteria were applicable.
23 They only make inquiries of us if there's reasons not to.

24 Q. Well, had the FBI corresponded or provided
25 the State Department that my client was under investigation for

1 a terrorism crime?

2 A. Well, again, we're not saying that he was guilty of
3 anything. They were -- they were aware of the fact that the
4 FBI had an investigation, yes.

5 Q. Okay. So the State -- is it your understanding that the
6 State Department aware of such information would still issue a
7 passport without any further investigation?

8 A. Right. So the State Department had some type of flag or
9 hit when the passport application came in based on a matching
10 name.

11 Q. Okay. But they were aware of information that you provided
12 too, the FBI provided?

13 A. Right. They had a system that corresponded with our system
14 to flag that name.

15 Q. Okay.

16 A. When an application came in.

17 Q. But yet a passport was issued to my client two days later
18 on December 19th?

19 A. Correct.

20 Q. And it's your testimony that the FBI didn't want
21 the State Department to issue a passport to my client? The
22 fact is they wanted a passport issued.

23 *THE COURT:* Is it -- I don't know that what they
24 wanted matters. Are you asking did the FBI communicate with
25 the State Department to encourage the State Department to issue

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1 the passport?

2 *THE WITNESS:* So, again, without getting into --
3 because I don't know what the specific criteria are for the
4 Department of State to issue a passport. What ends up
5 happening is myself as the case agent gets contact from the
6 Department of State and they make a specific inquiry of me
7 which is are there any wants or warrants, in this case for
8 Muse Muse. And so I'm telling them that there are not any
9 wants or warrants.

10 Q. But you also told them that they -- there was an
11 investigation ongoing, correct?

12 A. I personally did not. I didn't speak to any of those
13 folks. It's entirely possible that, you know, at the larger
14 FBI function in Washington, D.C. that there were communications
15 between those parties, but I'm saying as like the case agent
16 what I'm inquired of from the Department of State personnel is
17 are there any wants or warrants, because I'm the person that's
18 responsible for the investigation.

19 Q. Okay. The fact is, though, that you did not -- knowing
20 that my client was under investigation, you did not contact
21 the State Department and say "Hey, don't issue this"?

22 A. No, no.

23 Q. Okay.

24 A. Again, there were communications between the Department of
25 State and FBI probably at our headquarters function.

1 Q. But you could have?

2 A. Could have stopped it?

3 Q. Yes. You could have told the -- you could have told
4 the State Department not to issue the passport?

5 A. Me personally or the FBI?

6 Q. You or anyone else on this team, investigative team.

7 A. Theoretically?

8 Q. Yeah. I think we're, you know, playing a little game here.
9 I mean --

10 *THE COURT:* Do you have the authority to contact
11 the State Department and advise them not to issue a passport?

12 *THE WITNESS:* I do not. That's what I'm trying to get
13 at here. Yes, there are communications between the FBI and the
14 Department of State, but like I in my individual special agent
15 capacity do not have the authority or ability to do that.

16 Q. *(BY MS. TUREK)* But you do -- okay.

17 Now, in paragraph number 24 it's indicated in the Complaint
18 that my client, as worded in the Complaint, broached the
19 subject of not having money to travel, correct?

20 A. This was -- yeah, in reiterating his desire to travel, yes,
21 he raised the money issue.

22 Q. He had no -- he didn't have the means to travel
23 internationally, correct?

24 A. That's what he communicated to the undercover employee,
25 yes. He did not have the rizq, which is an Arabic word for

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1 like sufficient sustenance. Basically like the finances.

2 Q. And everything that you've investigated regarding my
3 client, have you come across facts that would indicate that he
4 did not have any monetary means on his own to travel
5 internationally?

6 A. I guess I don't know how to answer that question when you
7 say he didn't have the monetary means. As you pointed out
8 earlier --

9 Q. Well, didn't have the money.

10 A. Well, as you pointed out earlier, he was gainfully
11 employed.

12 Q. Do you know where he was employed?

13 A. A couple different places.

14 Q. Do you know what his salary was?

15 A. I have an idea, yes.

16 Q. Okay. What was his salary?

17 A. Around minimum wage.

18 Q. Okay. And this plane ticket that he needed cost almost
19 \$1,800, correct?

20 A. Correct.

21 Q. And he was indicating that he didn't have the money to
22 travel, correct?

23 A. Correct.

24 Q. So the FBI knew that?

25 A. Again, based on his representations and things that were on

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1 record. So I reviewed his financial records and basically
2 whenever a payroll check hit, he withdrew it all in cash.

3 Q. And the FBI provided my client money, correct?

4 A. At his request, yes.

5 Q. But it was the FBI who provided the means, the money for my
6 client to buy a ticket?

7 A. And for factual accuracy, I'm saying that he asked for the
8 money, he specified the dollar amount, yes.

9 Q. Now, the meeting that took place with UCE-3, the meeting
10 took place between UCE-3, my client, and Mr. Haji?

11 A. Haji, correct.

12 Q. Haji. Was that recorded?

13 A. Yes, it was.

14 THE COURT: I'm sorry, Ms. Turek, I missed what --
15 what was recorded?

16 MS. TUREK: Was the conversation. The meeting that
17 they had.

18 THE COURT: Between?

19 MS. TUREK: Between my client, Mr. Haji, and UCE
20 Number 3.

21 THE COURT: I've gotcha. Thank you.

22 Q. (BY MS. TUREK) So there's a recording of that
23 conversation?

24 A. There is.

25 Q. Okay. Now, at some point the FBI became aware that a

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1 passport had in fact been issued to my client, correct?

2 A. That's correct.

3 Q. Okay. And that passport disappeared, correct?

4 A. I guess that's a way to characterize it, yes.

5 Q. Well, what happened to that passport?

6 A. Um, based on paperwork that Muse Muse submitted to the
7 Department of State or based upon interviews of parties that
8 know what happened to it?

9 Q. Well, the passport -- that passport, the first passport
10 that was issued December 19th, the family took custody, my
11 client's family took that passport, correct?

12 A. Yes, for certain reasons, yes.

13 Q. Okay. And the reasons were for concern for their son?

14 A. That's my understanding, yes.

15 Q. Their teenage son.

16 A. Yes.

17 Q. Now, when my client applied for a second passport, was the
18 FBI aware of that?

19 A. Again I received the same notification from the Department
20 of State saying that a passport had been requested, and it was
21 explained that -- on the paperwork Muse Muse represented that
22 the prior passport that he received -- basically the way this
23 process works is you get your old passport back and you get
24 your new one. So on the paperwork Muse Muse explained that he
25 inadvertently threw out the new passport thinking it was the

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1 old passport. So he was asking the Department of State for a
2 replacement of his recently issued new passport.

3 Q. So at the time that this occurred had you known what had
4 happened to the first passport?

5 A. So I think this is where we're going to tread into that
6 issue from before.

7 *THE COURT:* You're saying that to answer that question
8 would disclose classified information?

9 *THE WITNESS:* That's correct.

10 *THE COURT:* Can you give me a general idea of why this
11 implicates classified -- is this methods and means of obtaining
12 information?

13 *THE WITNESS:* That's correct.

14 *THE COURT:* And this is information as to -- tell me
15 the question again.

16 *MS. TUREK:* The question is whether the FBI knew that
17 the family had taken my client's first passport.

18 *THE COURT:* And Special Agent Dunham testified that
19 yes.

20 *THE WITNESS:* She's asking me about timing.

21 *MS. TUREK:* But whether they knew at the time that my
22 client was seeking a second passport.

23 *THE COURT:* Okay.

24 *THE WITNESS:* And what I'm saying is I had that
25 knowledge, but why and how I have that --

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1 THE COURT: But you can't disclose how you had that
2 knowledge?

3 THE WITNESS: Exactly.

4 THE COURT: All right.

5 MS. TUREK: That's okay, Your Honor.

6 Q. (BY MS. TUREK) I can ask this question: So you were
7 aware that the family had concerns, right?

8 A. Again, I'm right back in that same boat.

9 Q. But you were aware that --

10 THE COURT: Well, is answering the question about
11 whether you were aware, is that alone going to disclose
12 classified information?

13 THE WITNESS: Think of it this way: It's a timing
14 issue. I now know that for different reasons, but she's asking
15 me about the timing of that.

16 THE COURT: Okay. So will you be able to answer the
17 question if the timing is at the time this occurred?

18 THE WITNESS: That's the issue.

19 THE COURT: Okay.

20 THE WITNESS: That's the issue.

21 Q. (BY MS. TUREK) So you were aware that there was an issue
22 that the family had over this passport?

23 THE COURT: You know, at this point I'm not sure how
24 relevant it is. I mean, we know that he had a passport, the
25 family took the passport, the FBI was at some point aware of

1 that. I'm not sure that that's of paramount importance or
2 relevance to what we have to deal with today. But maybe you
3 can explain why that's important.

4 *MS. TUREK:* Well, the relevance, in my opinion,
5 Your Honor, is that the FBI is doing everything in my opinion
6 it can to encourage and get my client and make a pathway for
7 him to get in deeper and deeper.

8 *THE COURT:* Entrapment is not the issue here. That's
9 not an issue that I'm going to be addressing.

10 *MS. TUREK:* I understand that, Your Honor, but you are
11 going to be making a determination on bond.

12 *THE COURT:* Yes, and I get that. And certainly to the
13 extent your client has said or done something that suggests
14 that he may be a danger and it was at the encouragement of an
15 agent, then I'll take that into consideration. But I don't
16 see -- it seems to me the passport, this other passport that
17 disappeared, we're getting pretty far afield. The passport was
18 taken by the family, he reported to the State Department that
19 he lost it, they gave him a new passport.

20 *MS. TUREK:* Well, I think I've made the point. I
21 mean, the government knew --

22 *THE COURT:* You did. So let's move on.

23 *MS. TUREK:* Okay. Thank you.

24 Q. (BY *MS. TUREK*) Now I just have some questions based on
25 some of your earlier testimony. Now, you had indicated that

1 you helped draft the Complaint, the Affidavit attached to the
2 Complaint, correct?

3 A. That's correct.

4 Q. Okay. Who else was involved with drafting the Affidavit?

5 A. Well, I'm not their agent, and obviously the process that
6 we go through with the U.S. Attorney's Office and prosecutors
7 in general.

8 Q. Okay. Now, when you arrested my client a few days back, he
9 didn't have any weapons on him, correct?

10 A. No, he was through TSA security screening.

11 Q. Okay. Now, you also -- I'd ask you to -- refer you to
12 Exhibit -- Government Exhibit Number 2 which is the statement
13 that was written, written out by Special Agent Southard,
14 correct?

15 A. Southard, correct.

16 Q. Southern?

17 A. Southard.

18 Q. Southarn?

19 *THE COURT:* How do you spell that?

20 *THE WITNESS:* S-O-U-T-H-A-R-D.

21 *THE COURT:* Thank you.

22 *MS. TUREK:* Oh, Southard. Okay. I couldn't
23 understand the agent's handwriting, Your Honor. Thank you.

24 Q. (BY MS. TUREK) And in fact this is a statement that was
25 written by the agent, correct?

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1 A. That's my understanding, correct.

2 Q. Okay. Is there a recording of this interview?

3 A. There is.

4 Q. How long was the interview?

5 A. I'm just going to approximate. Around four hours.

6 Q. So this is what you got in four hours?

7 A. The two interviews. I was not part of that team. But yes.
8 The two interviewers, yes.

9 Q. Where did this interview take place?

10 A. At the Law Building across the street here in Grand Rapids.
11 So basically it was U.S. Attorney's Office space in the same
12 building that's shared with a number of other federal agencies.
13 FBI, DEA, that type of thing.

14 Q. Was it in the U.S. Attorney's Offices or was it on another
15 floor?

16 A. No, it was in the U.S. Attorney's Office basically like in
17 interview rooms.

18 Q. Okay. And how many other people were in that interview
19 room when you were interviewing my teenage client?

20 A. So, again, I didn't interview Muse Muse. Two FBI special
21 agents interviewed Muse Muse.

22 Q. Was anyone else in the room?

23 A. No, just those two.

24 Q. You were not present for that?

25 A. I was not.

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1 Q. And this was recorded?

2 A. It was.

3 Q. Okay. And referring to -- well, I'll strike that.

4 Now, of the FBI UCEs, was it just UCE-3 that had contact,
5 Facebook contact with my client?

6 A. Was it just UCE-3?

7 Q. Yes.

8 A. No, UCE-2 had extensive contact.

9 Q. Okay. Now -- okay. Now, UCE-3, was this individual posing
10 as someone who wanted to be recruited by ISIS?

11 A. So for a second we have to talk a little bit about the
12 story of that. That was an individual that became a Facebook
13 friend of Mohamed Haji and Mohamed Haji essentially came to a
14 point where he said, "I'd like to meet you in person and
15 introduce you to someone else," which was Muse Muse.

16 Q. But was the reason that UCE-3 -- was UCE-3 pretending to be
17 someone who wanted to be recruited?

18 A. No. UCE-3 was communicating with Mohamed Haji to
19 understand who he is and what his intentions were.

20 Q. But at some point did UCE-3 indicate that he wanted to be
21 recruited by ISIS?

22 A. Mohamed Haji and UCE-3 talked about ISIS and then
23 Mohamed Haji proposed a meeting, a physical in-person meet.

24 Q. Okay. Now, all of these conversations between my client
25 and the UCEs were taking place over a fairly long period of

1 time, correct?

2 A. Yes.

3 Q. Several months?

4 A. Yes, correct.

5 Q. Now, Government Exhibit Number 7, which has been
6 introduced, at some point -- was it Muse Muse who indicated
7 that he was at work?

8 A. No, it's Mohamed Haji. So basically Muse Muse sent him a
9 video, an ISIS video, and Mohamed Haji was saying "Hey, I'm at
10 work right now. I don't have time to look at it."

11 Q. And so there was no sort of urgency there?

12 A. I mean, it transpires over the course of a day.

13 Q. Now, up until Government Exhibit 11 before August of 2018
14 my client didn't have his license, correct?

15 A. That's my general understanding, right, that he didn't have
16 a State of Michigan operator's license.

17 *MS. TUREK:* Okay. Your Honor, I have no further
18 questions.

19 *THE COURT:* All right. Thank you, Ms. Turek.

20 Who's next?

21 *MS. CHARTIER:* I am.

22 *THE COURT:* All right. Ms. Chartier.

23 *MS. CHARTIER:* Thanks. I have a lot of questions.

24 *THE COURT:* I'm sorry?

25 *MS. CHARTIER:* I said I have a lot of questions.

1 understand?

2 A. Right. Again, certain words in the context of the types of
3 investigations I'm assigned to, right.

4 Q. How many words would that be?

5 A. I think it would be difficult to estimate, but maybe 50 to
6 a hundred.

7 Q. And is that based on what someone has told you those words
8 mean?

9 A. So it's based on experience working with either our
10 language specialists or working this program.

11 Q. So when Ms. Turek was asking you, for example, about
12 "hijra," that is someone telling you what that means in the
13 context of what you believe to be extremism, correct?

14 A. Correct. Or there's publications that ISIS makes like
15 Dabiq. And in Dabiq they make reference to hijra. It's
16 literally spelled out in English characters across the face of
17 that publication and essentially explaining what it is for the
18 people that follow ISIS propaganda.

19 Q. You know "hijra" is a fairly common Arabic word, correct?

20 A. It is.

21 Q. That means journey or pilgrimage. Not just about Muhammad,
22 but it's just a fairly common word.

23 A. Again, context matters.

24 Q. You indicated that Mr. Muse's interview was approximately
25 four hours long and it was video and audio recorded?

CROSS-EXAMINATION OF PAUL DUNHAM

1 A. Correct.

2 Q. And that has been preserved, correct?

3 A. It has.

4 Q. Mr. Haji's interview, how long was that?

5 A. Approximately three hours.

6 Q. Was that audio and video recorded?

7 A. It was.

8 Q. That has been preserved?

9 A. It has.

10 Q. Who was in that interview?

11 A. I was with another special agent from the FBI office in
12 Grand Rapids.

13 Q. Was Mr. Haji read his Miranda rights?

14 A. He was.

15 Q. Did he make a written statement?

16 A. No, he did not.

17 Q. As it relates to Mr. Muse's statement, the slightly over
18 one-page statement that he gives, Exhibit 2, did he dictate
19 those words and then someone wrote them down?

20 A. Again, I have not seen the video, so I don't know how it
21 transpired.

22 Q. So you don't know if these are his words or someone else
23 stating those in the interrogation, correct?

24 A. I don't know.

25 Q. UCE-1, 2 and 3, are they all FBI full-time employees?

CROSS-EXAMINATION OF PAUL DUNHAM

1 A. Yes.

2 Q. UCE-1 posed as an ISIS recruiter?

3 A. Correct.

4 Q. UCE-2 posed as an ISIS fighter?

5 A. Correct.

6 Q. And UCE-3 posed as an individual who converted to Muslim?

7 A. To Islam, correct.

8 Q. To Islam. Excuse me, to Islam.

9 Now, you had stated that essentially this is a team effort,
10 everyone collaborates in terms of what to do and what the next
11 task would be. Correct?

12 A. Correct.

13 Q. When we go back to April 2016 when you state that
14 Mr. Muse's Facebook page came to the attention of the FBI, you
15 said that you were doing some analysis and that's how the
16 Facebook page came to your attention. What analysis were you
17 doing?

18 A. So it was not me personally. This would have been in our
19 FBI Miami office, and so the Miami office was conducting their
20 work and came across this Facebook account. It had material
21 that they were concerned about. So a grand jury subpoena was
22 issued out of Miami to understand the ISP logins for that
23 Facebook account. And those ISP logins resolved to Omaha,
24 Nebraska. So the matter was transferred from FBI Miami to FBI
25 Omaha. FBI Omaha conducted their work, and as they started to

1 narrow down where they thought those ISP logins were, they
2 identified Mohamud Muse. And in doing their investigative work
3 they learned that in the fall of 2016 that Mohamud Muse had
4 moved to Michigan. And so the matter was brought to my
5 attention here in Michigan.

6 Q. So from April 2016 to June 21st, 2017, is someone
7 monitoring Mr. Muse's Facebook account?

8 A. Yes.

9 Q. And on June 21st, 2017, the FBI -- and that would be an
10 undercover agent or undercover employee -- poses as an ISIS
11 recruiter, and that's 14 months later approximately of when the
12 Facebook page comes to the FBI's attention?

13 A. Yes. So, again, FBI Miami started its work. They didn't
14 know who the account belonged to or even where it was. So by
15 the time it gets to the summer of 2016 we learn of who possibly
16 could be the user of that account. And as that gets narrowed
17 down, it's determined that Mohamud Muse is likely living in
18 Michigan, so we started our investigative work here in
19 Michigan.

20 From the roughly January time period -- well, a little
21 later than that -- probably in the March time period until June
22 Mohamud Muse is conversing with another person. Again, this
23 Complaint doesn't include everyone that's in here. Another
24 individual that Mohamud Muse learns is planning to travel and
25 join ISIS.

1 Q. An FBI individual or another individual?

2 A. No, an FBI individual.

3 Q. So just so I'm clear, Mr. Muse during the period of
4 April 2016 to June 21st, 2017, is communicating with another
5 FBI individual?

6 A. From roughly March of 2017 to June of 2017.

7 Q. And was that a member of your team who reached out to
8 Mr. Muse?

9 A. Yes, it was.

10 Q. How did that occur? So does someone just send him an IM or
11 post on his public page?

12 A. Right, they become Facebook friends.

13 Q. So just so I'm clear, this is all a public page, correct?
14 Anyone can go on Mr. Muse's page and read what he's writing?

15 A. If he has settings for that, yes.

16 Q. Well, that's how someone would friend him, correct?

17 A. Correct.

18 Q. And then they would read what he wrote?

19 A. Sure.

20 Q. So this is a fourth undercover FBI employee who is
21 communicating with Mr. Muse?

22 A. Correct.

23 Q. And then ultimately a recruiter comes into the picture, an
24 alleged recruiter, in June of 2017?

25 A. Yes.

1 Q. So when you received your search warrant materials from
2 Facebook, do they predate April 2016?

3 A. Yes, they go back to the origins of the Facebook accounts.

4 Q. All the Facebook accounts?

5 A. Correct.

6 Q. Before the FBI gets involved do any of these three
7 gentlemen reach out to an ISIS recruiter?

8 A. Not to my knowledge, no.

9 Q. A real ISIS recruiter.

10 A. Not to my knowledge, no.

11 Q. So it's just when the FBI gets involved as an ISIS
12 recruiter that there's an exchange about joining ISIS, correct?

13 A. Right. Again, when we see the pro-ISIS, pro-Jihad,
14 pro-martyrdom, pro-violence, then that's part of our mandate to
15 understand what that's about.

16 Q. But that's not illegal, correct? People can have those
17 viewpoints, correct?

18 A. Correct.

19 Q. And they can post them on Facebook, correct?

20 A. They can.

21 Q. Does the FBI target anyone who has those views, or do you
22 have criteria as to who you will target?

23 A. Again, because this started in another place, by the time
24 it got to me a lot of information had been gathered. A lot of
25 things that were pro-ISIS, pro-Jihad, pro-violence,

1 pro-martyrdom. So those are criteria for us.

2 Q. So anyone with those four criteria who is posting those
3 things on Facebook, the FBI would target those individuals?

4 A. I'm not talking about -- all I'm saying, in this case that
5 was the material that was there, yes.

6 Q. But what I'm asking is the broader standard. So do you
7 understand my question?

8 MR. O'CONNOR: Objection, relevance.

9 MS. CHARTIER: It's extremely relevant. For the
10 detention hearing this Court is going to have to look at what
11 the allegations are in terms of violence, and one of the
12 factors in the presentence report is the extreme nature of what
13 this crime allegedly entailed. How these gentlemen are
14 targeted and what their activities are before the FBI gets
15 involved is extremely relevant. We just heard the agent say
16 they are not -- you can have pro-ISIS views. That's not a
17 crime. They never reach out to ISIS. They never seek to take
18 any step to join until the FBI puts an ISIS recruiter at their
19 doorstep and then begins initiating this process.

20 THE WITNESS: But, again, like I said, there's
21 pro-violence and pro-martyrdom.

22 THE COURT: Special Agent, I have something that has
23 to be said first. It is absolutely relevant to the issue of
24 detention to the extent any agent of the government has
25 encouraged any of the defendants to make a statement indicating

1 violence or to engage in violence, but you're going beyond that
2 into what the FBI's policy is, how they start these cases.
3 That's too far. The objection is sustained.

4 *MS. CHARTIER:* I'll narrow down.

5 Q. (BY *MS. CHARTIER*) So the FBI has a recruiter, an alleged
6 ISIS recruiter who comes in on June 21st, 2017, correct?

7 A. Correct.

8 Q. How long had that individual been working at the FBI?

9 A. I don't know.

10 Q. What about any of the undercover employees, how long had
11 they been working at the FBI?

12 A. A number of years, but I couldn't tell you when their, you
13 know, service periods began.

14 Q. How did that first communication in June 21st or on
15 June 21st of 2017 occur? So was it a public post or an IM, an
16 instant message?

17 *MS. CHARTIER:* That's private, Your Honor, between two
18 individuals.

19 *THE COURT:* Thank you.

20 *MS. CHARTIER:* I am a Facebook expert. I'm on all the
21 time.

22 *THE COURT:* I know IM because we have that here at
23 court. So that part I understand.

24 *MS. CHARTIER:* Great. You're one step away from
25 Facebook.

1 Q. (BY MS. CHARTIER) So was it a public post or was it a
2 private IM?

3 A. It was basically a friendship request that Mohamud Muse
4 accepted, and over roughly a three-month period Mohamud Muse
5 got to know the first undercover FBI employee. Again, not to
6 be confused with UCE-1. And as those two got to know each
7 other in early June of 2017, Mohamud Muse said something to the
8 effect of "Now that I've gotten to know you, I need to know how
9 you feel about dawla. I need to know how you feel about ISIS."
10 And that person who happened to be an undercover FBI person he
11 was conversing with said something to the effect of "If ISIS
12 hadn't done what they did in Iraq, the whole place would have
13 been overrun by Shia." And you have to understand a fair bit
14 about the relationships between Sunni muslims and Shia muslims
15 to know why that was important.

16 Q. I do, so . . .

17 A. Okay. So in this initial undercover employee explaining
18 that to Mohamud Muse, he attached to that right away. And that
19 undercover employee explained that they were making
20 preparations to travel, and they stopped and Mohamud Muse said,
21 "I'm interested. How does that work?" And so this person
22 said, "Well, I have somebody who is helping me get over there."
23 Stopped. And Mohamud Muse said, "I would like to know who that
24 person is." And the undercover employee said, "I have someone
25 that I'm working with." And Mohamud Muse said, "Can you please

1 send me the Facebook profile of that person?" So this initial
2 undercover employee provided that basically linkage and
3 Mohamud Muse friended UCE-1.

4 Q. Are all those communications preserved?

5 A. They are.

6 Q. In their original format? Not in the format that we were
7 discussing here with 17, 18, 19. Are they preserved in their
8 original format?

9 A. Correct. And the records that Facebook produced pursuant
10 to search warrants, yes.

11 Q. Did anyone ever speak to this individual over the
12 telephone?

13 A. So let's make sure we're delineating our focus to -- do we
14 want to say pre UCE-1?

15 Q. Pre UCE-1, yes.

16 A. No.

17 Q. Was there ever a face-to-face communication?

18 A. There was not.

19 Q. There was only the exchanges via Facebook?

20 A. What I just described, yes.

21 Q. No text messages, anything like that? Emails?

22 A. Text message, you're saying like telephone-based?

23 Q. Yes.

24 A. No.

25 Q. Who mentioned Syria in those conversations?

1 A. So when the pre UCE-1 -- we're coming up with our own
2 nomenclature here, I guess -- in pre UCE-1 Mohamud Muse asked
3 where they were going to, and so that person explained they
4 were going to Iraq.

5 Q. Now, when we look at the Complaint, it goes from June 2017
6 in paragraph 10 to August 2017 in paragraph 11. Are there
7 communications going back and forth during that time, so July
8 until we get to August?

9 A. Written communications, yes.

10 Q. Via Facebook?

11 A. Correct.

12 Q. Did the FBI ever notify Facebook to suspend the accounts?

13 A. We did not.

14 Q. I'd like to take you to some of the exhibits that you
15 discussed, and I'd like to take you to Exhibit 4. If we go to
16 page 431 -- who decided to highlight certain aspects of this
17 exhibit? Was that you?

18 A. I did, correct.

19 Q. So if we go about halfway down the page you say "This is a
20 call for hijra." You have that highlighted. That is supposed
21 to be from Mr. Haji, correct?

22 A. Correct.

23 Q. And then you didn't highlight where he indicated less than
24 a minute later "This place is dangerous, bro." Right?

25 A. Correct.

1 Q. And then you didn't highlight where he says a little later
2 than that, "You can't live among people who always lie and are
3 always threatening." Correct?

4 A. Correct.

5 Q. Mr. Haji had a car, right?

6 A. He did.

7 Q. Who made the decision to send money to all four individuals
8 and not just to Mr. Muse who is planning on traveling to
9 Somalia?

10 A. When you say "who made the decision," what do you mean?

11 Q. Sure. So one individual is traveling to Somalia, correct?
12 And you have to say yes or no just for the record. You're just
13 nodding your head.

14 So one individual was planning on going to Somalia,
15 correct?

16 A. I'm sorry, I thought your question was continuing. I was
17 trying to give you nonverbal cues.

18 Q. Oh, sure. Okay. So the third time is the charm.

19 A. One individual, yes.

20 Q. One individual was traveling to Somalia, correct?

21 A. Yes.

22 Q. That individual was requesting funds, correct?

23 A. Correct.

24 Q. Who made the decision to not send all the funds to that
25 individual but loop in other people?

1 A. So Muse Muse explained how much he needed and discussed
2 with the ISIS fighter basically the best way to get the money
3 to him. Like how they were going to go about doing that.

4 Q. Did he suggest sending \$300 to four people?

5 A. What they talked about was his request was for \$1,200 and
6 what would be the best way to send that money. And as
7 Muse Muse talked to Undercover Employee 2, they decided because
8 there were other ikhwa, other bay'a-sworn, pledge allegiance,
9 ISIS-sworn brothers, that maybe one of the best ways to do that
10 was to break the money up.

11 Q. Who suggested that? So -- because this seems very unusual
12 to me. Who suggested breaking it up? Was that the FBI
13 undercover employee or was that Mr. Muse?

14 A. So the undercover employee is saying -- you know, he's
15 talking to the -- basically the ISIS leadership, and they are
16 saying to him "We need to find a way to get this money to you.
17 Is it possible to send it to you and possible to send it to
18 other people? And if so, then we need to talk about who those
19 people could be."

20 Q. So it was the FBI who suggested sending it to other people
21 and not just Mr. Muse?

22 A. Explained to him, yeah, that there needed to be a method to
23 get it to him, which could include others, yes.

24 Q. Sure. But it also could have included just sending it to
25 him, correct?

1 A. Correct. But as the two talked, they were talking about
2 the best way to go about doing that.

3 Q. Well, wouldn't the best way to get one person \$1,200 would
4 be to send one person \$1,200 and not send four people \$300
5 apiece?

6 A. Right. And what they were talking about was having some
7 type of operation security. Some way to make it appear as
8 though the money wasn't concentrated to one individual, to one
9 party.

10 Q. Who was talking about that, though? It was your FBI
11 employee, correct? You're not saying that Mr. Muse, who is
12 barely 20 years old, is talking about operation security?

13 A. No, what I'm saying is the two of them were talking about
14 that. So the online covert employee says -- the undercover
15 employee says to them a way to do that could be this, but there
16 have to be trusted parties if you're going to be doing that.

17 Q. Sure. So it's the FBI employee saying a way to do this is
18 to loop in four people, one being Mr. Muse and then the other
19 three, correct?

20 A. Right. But -- I'm sorry.

21 Q. And what -- I think I know the answer to this, but why
22 don't you tell me. What's the reason for that? Why did the
23 FBI want to suggest that?

24 A. I'm sorry, I'm not following you.

25 Q. Sure. Why did the FBI suggest sending money to additional

1 people and not all to Mr. Muse?

2 A. Right. Again, so the undercover employee is saying that a
3 way to get this money to you without it being alarming could be
4 to separate it into smaller amounts not going to the same
5 concentrated party. Meaning not \$1,200 going to Muse Muse.

6 Q. Alarming to who?

7 A. To whoever is monitoring those types of -- again, you have
8 to go back to the mind-set of the people that are involved. So
9 Muse Muse thinks that he's talking to an ISIS fighter in
10 Somalia, and so they are talking about the best method to get
11 the money to him so that it isn't detected by basically, you
12 know, the money service business, isn't reported to the
13 U.S. government.

14 Q. But you are the U.S. government. Isn't the reason that you
15 suggested or had an FBI undercover agent employee suggest three
16 other people is so then there would be a step taken by Mr. Haji
17 and Mr. Muse where they give money to Mr. Muse who is traveling
18 to Somalia? Isn't that the reason why it was suggested?

19 A. It was suggested so that there was the appearance of
20 legitimacy, right? The idea that \$1,200 would look
21 problematic. So basically --

22 Q. Did he -- excuse me -- did he say --

23 *THE COURT:* The point has been made. Let's move on.

24 *MS. CHARTIER:* Okay.

25 Q. *(BY MS. CHARTIER)* I'd like to turn to Exhibit 12. A

1 portion that you did not highlight is five down.

2 A. Five including the highlighted or not?

3 Q. Five including the highlighted. So who is on this? This
4 is UCE-2?

5 A. That's correct.

6 Q. It says "You are to follow everything the Amir orders to
7 avoid the eyes of the munafiqun." What is meant by that
8 statement?

9 A. So it's basically the idea -- and again we're going back to
10 appearances here. So if you make a pledge of allegiance to
11 ISIS, you are swearing your unwavering basically allegiance to
12 the Amir, whoever the leader is of that ISIS group. And so
13 it's basically a reminder to him that whatever you're
14 instructed to do you need to follow.

15 Q. So just so I'm clear, this is an undercover FBI employee
16 saying whatever you are told to do, you need to do it, correct?

17 A. Correct. And, again, it's to create the appearance of
18 you're working with real ISIS. This is what real ISIS says.

19 Q. But this is also what the FBI is doing, correct?

20 A. Correct. And we have to balance appearance here.

21 Q. But it's also in your mind-set that you want him to take
22 some sort of action. Because you've been investigating them
23 for years, correct?

24 *THE COURT:* Ms. Chartier, I have a great love for
25 horses, so I don't like to see dead ones beaten.

1 MS. CHARTIER: Thank you. I'll move on, Your Honor.

2 Q. (BY MS. CHARTIER) If we go to Exhibit 14, this is also
3 with UCE-2, right?

4 A. Correct.

5 Q. If we look at the first full statement in here, this is
6 UCE-2 saying "When do you plan the hijra?" Correct?

7 A. I'm sorry, can you guide me here?

8 Q. Sure.

9 A. At the top?

10 Q. Right at the top.

11 A. Fine.

12 Q. It's the 11-26-2018 at 3:44:40.

13 A. I've gotcha. Correct.

14 Q. What was the response to that? This is a communication
15 with Mr. Haji. What was his response?

16 A. I don't know if it's captured in here. Eventually what it
17 comes back to is what I testified to earlier, that Mohamed Haji
18 said that he was going to be traveling shortly after Muse Muse
19 with Mohamud Muse. So they were talking about March or April
20 of this year.

21 Q. Did Mr. Haji have a ticket?

22 A. No, he did not.

23 Q. Did he give you a specific date?

24 A. No, he did not.

25 Q. Did he ask you for funds?

1 A. No, not yet. He set an expectation he would be asking but
2 nothing specific.

3 Q. Well, you said -- you had an expectation that he would be
4 asking?

5 A. No, he set an expectation. He said he may need financial
6 help.

7 Q. But he never asked for financial help, correct?

8 A. That's what I'm saying, nothing specific. Correct.

9 Q. For Exhibit 15 this is also UCE-2, and this is with
10 Mr. Muse?

11 A. It is. Mohamud Muse.

12 Q. And if we look at page 109, that's UCE-2 asking if Mr. Muse
13 knows anyone else that can support dawla, meaning ISIS,
14 correct?

15 A. That's correct.

16 Q. And then if we go up, "See if you can help him. Let me
17 know if you are." Correct?

18 A. So this is separate in that Mohamud Muse was independently
19 of his own volition on Facebook recruiting others to join ISIS.
20 So he was obtaining ISIS pledge of allegiance videos from
21 individuals in places like Ghana and Nigeria to join ISIS. So
22 these were basically like independent actions he was taking and
23 he's reporting back to UCE-2 about what he's doing.

24 Q. Well --

25 MR. ZAMBON: Your Honor, I would only ask, which

1 Mr. Muse are you talking about?

2 *THE WITNESS:* To clarify, Mohamud Muse. Your client,
3 sir.

4 Q. (BY MS. CHARTIER) Well, if we look at this page 109,
5 Mr. Mohamud Muse says "It's only us three," right?

6 A. When he's talking specifically about who are the people in
7 Michigan.

8 Q. And then it's UCE-2 who says "Your situation is holding you
9 back," right?

10 A. So this is a prior conversation where Mohamud Muse explains
11 to the fighter that he's married, his wife is pregnant, due to
12 give birth in March, and that's the timing he's anticipating
13 traveling. That's the situation as I understand it.

14 Q. Sure. But then if we look at this, I'm looking at the
15 words here -- see, I don't have the complete context of all the
16 records. But if we look here, UCE-2, the FBI undercover
17 employee, is saying to Mr. Mohamud Muse, "Your situation is
18 holding you back," correct?

19 A. Correct.

20 Q. Where was the money wired to?

21 A. Just like the physical city or the actual stores?

22 Q. The actual store.

23 A. To WalMart locations in Lansing, Michigan, with the
24 exception of one that went to Chicago.

25 Q. How did UCE-3 make contact? Was it a friend request again?

CROSS-EXAMINATION OF PAUL DUNHAM

1 A. Yes.

2 Q. Were all the communications between UCE-1 and Mr. Muse,
3 Mr. Mohamud Muse, and Mr. Haji, those were all via Facebook,
4 correct?

5 A. UCE-1?

6 Q. Yes.

7 A. So UCE-1 interacted with Mohamud Muse.

8 Q. So I just want to be -- I'm talking only about these three
9 gentlemen. So any communication between UCE-1 and these three
10 gentlemen was only by Facebook, correct? And only in writing?

11 A. But, again, UCE-1 did not have contact with Mohamed Haji or
12 Muse Muse, only with Mohamud Muse.

13 Q. Right. And I know that, but I'm just asking about --
14 because these three gentlemen are here, so any communication
15 with these three, even if two of them UCE-1 did not communicate
16 with, it was only in writing, correct?

17 A. No, in the Criminal Complaint it talks about voice
18 communications.

19 Q. Were those recorded?

20 A. Yes.

21 Q. And you have those recordings preserved?

22 A. We do.

23 Q. All communications were either recorded, if they were by
24 voice, or they are preserved in writing?

25 A. That's correct.

CROSS-EXAMINATION OF PAUL DUNHAM

1 Q. Is that the same for UCE-2, all communications were
2 recorded or preserved in writing?

3 A. That's correct.

4 Q. Is that the same for UCE-3, all communications were either
5 recorded or preserved in writing?

6 A. That's correct.

7 Q. For UCE-3's trip to WalMart, did you also have visual
8 surveillance when they were in the store?

9 A. Visual surveillance inside the actual store?

10 Q. Yes.

11 A. Not by FBI personnel, by the security system within the
12 store.

13 Q. Do you have the tape of the three of them in the store?

14 A. I do.

15 Q. Were they always together or were they at times separate?

16 A. At times separate.

17 Q. At the airport do you have audiotaped surveillance -- or
18 excuse me -- videotaped surveillance of the three of them
19 getting to the airport and going into the airport?

20 A. Yes.

21 Q. And has that been preserved?

22 A. It has.

23 Q. Did you use any other mechanisms to investigate this case?
24 So did you use -- work with any other agencies?

25 A. Nobody that was substantive.

1 Q. Well, just tell me if you did or you didn't, and then would
2 you tell me who they are.

3 A. So we have a number of folks that are assigned to the FBI's
4 Joint Terrorism Task Force, so there are a number of other
5 agencies that have personnel assigned to it. So they are
6 basically deputized deputy U.S. Marshals that have federal
7 investigative authorities. So we're talking about places like
8 the Michigan State Police in their, you know, federal
9 deputization capacity, Michigan State University Police
10 Department, the Lansing Police Department, and a host of people
11 that are on the FBI's Joint Terrorism Task Force in Detroit.

12 Q. Did those individuals participate in this investigation?

13 A. Some of them did, yes.

14 Q. Ms. Turek asked you about the oath. Was that communicated
15 in writing or via video as to what the oath would be?

16 A. So the pledge of allegiance was communicated from UCE-2 to
17 Muse Muse in the Arabic language, and he apparently couldn't
18 read it and didn't understand it, so then he sent it to
19 Mohamed Haji asking him for help with it. Mohamed Haji had
20 another party that he was friends with, separate from what's in
21 the Complaint, who was another undercover FBI employee. And
22 Mohamed Haji sent that to this person, it was an Arab female,
23 asking "Do you speak, read, and write Arabic?" To which that
24 person replied "Yes." Mohamed Haji transmitted the written
25 Arabic language bay'a to this other undercover employee that he

1 had a friendship with, and her persona responded "Oh, my gosh,
2 where did you get this? You know, this is the official ISIS
3 bay'a pledge of allegiance." And Mohamed Haji said, "I got it
4 from a mujahid." He said, "I need a favor from you." She
5 asked what that was. And he told her that "I need you to make
6 an audio recording of this bay'a pledge of allegiance and send
7 it to me so I can use it to learn to make bay'a." And so that
8 individual made an audio file, transmitted it to Mohamed Haji,
9 Mohamed Haji transmitted that to Muse Muse, and then after
10 which time bay'a videos were made by Muse Muse, Mohamud Muse,
11 and Mohamed Haji. So it started with the Arabic written
12 language pledge that went through a series of transactions that
13 ultimately resulted in bay'a videos.

14 Q. I had asked you the question about before the FBI gets
15 involved if you're aware, for example, if Mr. Haji or Mr. Muse
16 or Mr. Mohamud Muse had met with or communicated at all with an
17 ISIS recruiter. Do you have any knowledge before the FBI gets
18 involved of any of the three of them actually speaking to a
19 member of ISIS?

20 A. No, I do not.

21 Q. Did Mr. Muse Muse check a bag at the airport?

22 A. Yes, he did.

23 Q. Was that bag seized?

24 A. It was.

25 Q. And has it been searched?

CROSS-EXAMINATION OF PAUL DUNHAM

1 A. Pursuant to a search warrant, yes.

2 Q. Were any other materials seized from Mr. Haji? For
3 example, phone, computer, anything like that?

4 A. Incident to Mohamed Haji's arrest a cell phone that was on
5 his person was seized.

6 Q. Has that been searched?

7 A. Pursuant to a search warrant, yes.

8 Q. Mr. Haji and Mr. Mohamud Muse were parked in short-term
9 parking when they went to the airport, correct?

10 A. That's my understanding, yes.

11 Q. And, again, they didn't have tickets, correct?

12 A. They did not.

13 Q. The training that the UCEs undergo, you said you were not
14 familiar with that?

15 A. That's correct.

16 Q. Who is familiar with that?

17 A. The people that operate the program. As you can imagine,
18 the FBI is like a big organization.

19 Q. So there is some sort of training protocol that does exist?

20 A. It's formal, yes.

21 Q. But just you're not familiar with it?

22 A. I am not, correct.

23 Q. And you did not go through that training?

24 A. I did not.

25 Q. You indicated that you worked with other police agencies

1 during this investigation. You got search warrants for
2 Facebook. An arrest warrant for Mr. Haji. Search warrants for
3 the home?

4 A. Yes, for the residence of Muse Muse and Mohamud Muse, their
5 apartment, yes.

6 Q. Did you get a search warrant for Mr. Haji's home?

7 A. No, it was a consent search.

8 Q. So who consented to the search of the home?

9 A. I wasn't there, but it was my understanding that his
10 partner, wife, Nerta (sp) Muse.

11 Q. Did you use any other investigatory mechanisms while you
12 were investigating this case?

13 A. We used federal grand jury subpoenas.

14 Q. Did you use a FISA warrant?

15 *MR. O'CONNOR:* Objection, Your Honor. I feel like
16 we're -- this is now discovery exploration.

17 *THE COURT:* We are getting into discovery. Let's move
18 on.

19 Q. *(BY MS. CHARTIER)* Mr. Haji voluntarily spoke with you for
20 approximately three hours you said when he was arrested?

21 A. That's correct.

22 Q. And he did so despite being given Miranda warnings,
23 correct?

24 A. Correct.

25 *MS. CHARTIER:* I have no additional questions. Thank

1 you.

2 *THE COURT:* Thank you, Ms. Chartier.

3 Mr. Zambon, I surmise that you have some questions.

4 *MR. ZAMBON:* I do, Your Honor.

5 *THE COURT:* Do you know -- and I'm not trying to rush
6 you -- but do you have a sense of how long you might be?

7 *MR. ZAMBON:* I think counsel asked most of the
8 questions, so I do have some, Your Honor. I think it will be
9 probably 15, 20 minutes.

10 *THE COURT:* Okay. Thank you. Here is the issue: I
11 have pretty much a hard break at 5:00. And the reason for that
12 is two-fold. Part of it has to do with the marshals and
13 security of the building, but also I teach a class that begins
14 at 6:00 and I have to drive to that location. Students are
15 traveling from around -- I don't have any way of canceling that
16 class. So I really have to be out in my car on the way by
17 about ten after five. So, unfortunately, we're going to --
18 because I don't want to rush anybody here and I want everybody
19 to have opportunity -- so what I intend to do is to adjourn
20 this hearing to resume on Monday afternoon. My Monday morning
21 is completely booked. It looks like a dentist's calendar. But
22 I do have in the afternoon -- you have a choice. We can -- we
23 can resume at noon on Monday. I have a couple of IAs at 2:00,
24 but that's the only thing. And that can be moved if necessary.
25 At least to later in the day or whatever. So we can resume at

1 noon or we can resume at 2:30.

2 *MS. TUREK:* Any time is fine with me.

3 *THE COURT:* Mr. West? Mr. O'Connor?

4 *MR. O'CONNOR:* We'll make it work.

5 *MR. WEST:* We'll make that time work, Your Honor.

6 *THE COURT:* All right.

7 *MR. WEST:* 2:30?

8 *THE COURT:* Yes. We will adjourn, we will resume the
9 hearing at 2:30 Monday afternoon at -- on -- it's January 28th.
10 Anything else that we need to take up at this time? Do you
11 want to schedule a date for the prelim, assuming one is
12 necessary?

13 *MS. CHARTIER:* I think that would be fantastic. That
14 way we'd get it on our calendar and your pseudo dentist
15 calendar.

16 *THE COURT:* I'll tell you what scares me is I look at
17 my calendar in 2020 and it's filling up pretty fast.

18 *MS. CHARTIER:* 2020. Wow.

19 *THE COURT:* All right. So the 14 days runs when?
20 Mr. O'Connor? Mr. West? When did we see the defendants first?
21 Was that the day before yesterday? Tuesday. So it looks like
22 February 5th would be the 14 days?

23 *MR. O'CONNOR:* That was our calculation as well,
24 Your Honor.

25 *THE COURT:* So if we do schedule it for -- I could do

1 the 4th. Or, let's see, the 5th. The 5th has a number of
2 things. Assuming that -- yeah, we'll still be good on the 5th;
3 is that right?

4 *MR. O'CONNOR:* Yes, Your Honor.

5 *THE COURT:* Okay.

6 *MR. O'CONNOR:* We're available either day.

7 *THE COURT:* All right. The 5th for me looks very
8 full. The 4th is very open. So does -- do counsel -- and so
9 I'm apparently able to do it at any time on the 4th.

10 *MS. CHARTIER:* Me too.

11 *THE COURT:* Do counsel have a preference?

12 *MR. O'CONNOR:* 4th.

13 *MS. CHARTIER:* No, that works. Thank you.

14 *THE COURT:* Okay. Do you have a preference as to
15 time?

16 *MS. CHARTIER:* I would say maybe begin early? If that
17 works for the Court.

18 *THE COURT:* You're driving from Lansing.

19 *MS. CHARTIER:* Right.

20 *THE COURT:* What if it's snowing? Shall we say 10:00?

21 *MS. CHARTIER:* That's great. Thank you.

22 *THE COURT:* Okay.

23 *MS. CHARTIER:* Thank you for being so considerate.

24 *MR. ZAMBON:* Your Honor?

25 *THE COURT:* Will that work?

1 MR. O'CONNOR: Yes, Your Honor.

2 THE COURT: Yes, Mr. Zambon.

3 MR. ZAMBON: A little bit after 10? I have a doctor's
4 appointment at 9. I don't know how long it will go.

5 THE COURT: Sure. Okay. Do you think 11 is safe?

6 MR. ZAMBON: Eleven would be great, Your Honor.

7 MS. CHARTIER: Yes.

8 THE COURT: Okay. We'll do it 11:00 on February 4th.

9 Now, when we resume on Monday afternoon, we will be
10 downstairs in the 6th floor courtroom. Okay? So I don't want
11 anybody coming up here and wondering why it's locked up.

12 Is there anything else we need to take up now,
13 Mr. West or Mr. O'Connor?

14 MR. O'CONNOR: No, Your Honor.

15 THE COURT: Ms. Turek?

16 MS. TUREK: No, Your Honor.

17 THE COURT: Ms. Chartier?

18 MS. CHARTIER: No. Thank you, Your Honor.

19 THE COURT: Mr. Zambon?

20 MR. ZAMBON: I don't believe so. Thank you,
21 Your Honor.

22 THE COURT: Thank you all. Have a good weekend.

23 Please drive safely.

24 Yes, Ms. Turek.

25 MS. TUREK: Your Honor, one thing. I'm not sure -- my

1 client's family is all here today, they are in the back of the
2 courtroom. I'm not sure if they will be here Monday. But I do
3 want the Court to know that the defendants have plenty of
4 support.

5 *THE COURT:* Thank you for pointing that out. And
6 please remind me of that on Monday.

7 *MS. TUREK:* Thank you.

8 *THE COURT:* All right.

9 *THE CLERK:* Court is adjourned.

10 *(Proceeding concluded at 4:57 p.m.)*

11 * * * * *

12 CERTIFICATE

13 I certify that the foregoing is a transcript from the
14 Liberty Court Recording System digital recording of the
15 proceedings in the above-entitled matter, transcribed to the
16 best of my ability.

17 I further certify that the transcript fees and format
18 comply with those prescribed by the court and the Judicial
19 Conference of the United States.

20

21 May 14, 2019

22

23

/s/ Glenda Trexler
Glenda Trexler, CSR-1436, RPR, CRR

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